

**CITY OF BALTIMORE
COUNCIL BILL 10-0503
(First Reader)**

Introduced by: Councilmembers Henry, Clarke, Curran, Branch, Middleton, Holton, President
Young, Councilmembers Cole, Welch, Stokes, Reisinger

Introduced and read first time: May 3, 2010

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning
Appeals, Planning Commission, Department of Finance, Baltimore Development Corporation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Taxes – Outdoor Advertising Excise Tax**

3 FOR the purpose of imposing a tax on the privilege of exhibiting outdoor advertising displays in
4 the City; providing for the administration and collection of the tax; defining certain terms;
5 imposing certain penalties; making the provisions of this ordinance severable; and generally
6 relating to a tax on the privilege of exhibiting outdoor advertising displays .

7 BY authority of
8 Article II - General Powers
9 Section(s) (40) and (47)
10 Baltimore City Charter
11 (1996 Edition)

12 BY adding
13 Article 28 - Taxes
14 Section(s) 29-1 to 29-14 to be under the new subtitle,
15 “Subtitle 29. Outdoor Advertising Excise Tax”
16 Baltimore City Code
17 (Edition 2000)

18 **Recitals**

19 Outdoor advertising constitutes a separate and distinct type of activity within the City that affects
20 the use of City streets, sidewalks, and other public places while impacting many private places
21 open to the public.

22 The unregulated display of outdoor advertising constitutes a public nuisance that imposes costs
23 on the City beyond those caused by other activities by harming the health, safety, convenience,
24 and welfare of the residents of the City.

25 The Council has determined that outdoor advertising endangers public safety by distracting the
26 attention of drivers from the roadway and may otherwise endanger the public health, safety, and
27 welfare. This leads to increased public safety costs for the City.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 The Council has also determined that outdoor advertising may harm the City by creating visible
2 clutter and blight, and by promoting a negative aesthetic impact in the City, in a way that reduces
3 the City’s ability to collect revenue from other sources.

4 The tax imposed by this Ordinance advances significant government interests by properly
5 allocating the potential economic burdens caused by outdoor advertising while reducing these
6 harms. This tax is the least restrictive means necessary to achieve these goals.

7 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
8 Laws of Baltimore City read as follows:

9 **Baltimore City Code**

10 **Article 28. Taxes**

11 **SUBTITLE 29. OUTDOOR ADVERTISING EXCISE TAX**

12 **§ 29-1. DEFINITIONS.**

13 (A) *IN GENERAL.*

14 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

15 (B) *ADVERTISING HOST.*

16 “ADVERTISING HOST” MEANS A PERSON WHO MAKES A SPACE AVAILABLE FOR THE
17 EXHIBITION OF AN OUTDOOR ADVERTISING DISPLAY.

18 (C) *DIRECTOR.*

19 “DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF
20 FINANCE.

21 (D) *OUTDOOR ADVERTISING DISPLAY.*

22 “OUTDOOR ADVERTISING DISPLAY” MEANS AN OUTDOOR DISPLAY OF A 50 SQUARE FOOT
23 OR LARGER IMAGE OR MESSAGE THAT DIRECTS ATTENTION TO A BUSINESS, COMMODITY,
24 SERVICE, EVENT, OR OTHER ACTIVITY THAT IS:

25 (I) SOLD, OFFERED, OR CONDUCTED SOMEWHERE OTHER THAN ON THE PREMISES ON
26 WHICH THE DISPLAY IS MADE; AND

27 (II) SOLD, OFFERED, OR CONDUCTED ON THE PREMISES ONLY INCIDENTALLY IF AT ALL.

28 (E) *PERSON.*

29 (1) *IN GENERAL.*

30 “PERSON” MEANS:

31 (I) AN INDIVIDUAL;

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(II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND; AND

(III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(2) *EXCLUSIONS.*

“PERSON” DOES NOT INCLUDE, UNLESS OTHERWISE EXPRESSLY PROVIDED, A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY.

(F) *SQUARE FOOT OF ADVERTISING IMAGERY.*

“SQUARE FOOT OF ADVERTISING IMAGERY” MEANS:

(1) 1 SQUARE FOOT OF SPACE OCCUPIED BY A FIXED OUTDOOR ADVERTISING DISPLAY;
OR

(2) FOR A DISPLAY THAT ALTERNATES IMAGES EVERY 15 MINUTES OR LESS, 1 SQUARE FOOT PER DISTINCT IMAGE DISPLAYED EVERY 15 MINUTES IN EACH SQUARE FOOT OF SPACE OCCUPIED BY THE OUTDOOR ADVERTISING DISPLAY.

§ 29-2. TAX IMPOSED.

A TAX IS IMPOSED ON THE PRIVILEGE OF EXHIBITING OUTDOOR ADVERTISING DISPLAYS IN THE CITY.

§ 29-3. AMOUNT OF TAX.

(A) *IN GENERAL.*

THE ANNUAL AMOUNT OF THE TAX IMPOSED IS \$5 PER SQUARE FOOT OF ADVERTISING IMAGERY IN EACH OUTDOOR ADVERTISING DISPLAY EXHIBITED IN THE CITY.

(B) *TAX FOR A SINGLE SPACE.*

IF A SINGLE SPACE IS USED FOR MULTIPLE OUTDOOR ADVERTISING DISPLAYS IN ONE REPORTING PERIOD THE ADVERTISING HOST WHO MAKES THAT SPACE AVAILABLE:

(1) MUST PAY THE ANNUAL TAX AS IF THE DISPLAY THAT WOULD GENERATE THE HIGHEST TAX LIABILITY HAD BEEN IN PLACE FOR THE ENTIRE YEAR; AND

(2) NEED NOT PAY AN ADDITIONAL TAX FOR ANY OTHER DISPLAYS IN THAT SPACE.

§ 29-4. RULES AND REGULATIONS.

(A) *DIRECTOR MAY ADOPT.*

THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO:

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- 1 (1) GOVERN THE PAYMENT, COLLECTION, AND ACCOUNTING OF THE TAX IMPOSED BY
2 THIS SUBTITLE;
- 3 (2) DEFINE ANY TERMS USED IN CONNECTION WITH THE IMPOSITION AND COLLECTION
4 OF THE TAX IMPOSED UNDER THIS SUBTITLE;
- 5 (3) PROVIDE FOR THE REFUND OF ANY TAX, INTEREST, OR PENALTY ERRONEOUSLY OR
6 ILLEGALLY PAID; AND
- 7 (4) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

8 (B) *COPIES TO BE FILED WITH LEGISLATIVE REFERENCE.*

9 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED
10 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

11 **§ 29-5. {RESERVED}**

12 **§ 29-6. ANNUAL REPORTS; PAYMENT OF TAX.**

13 (A) *REPORT.*

14 (1) EACH ADVERTISING HOST MUST FILE A REPORT WITH THE DIRECTOR ON OR BEFORE
15 JANUARY 1ST OF EACH YEAR.

16 (2) THE REPORT MUST:

17 (I) SPECIFY THE NUMBER OF SEPARATE SPACES MADE AVAILABLE BY THE
18 ADVERTISING HOST FOR THE EXHIBITION OF OUTDOOR ADVERTISING DISPLAYS;

19 (II) INDICATE THE LOCATION AND SIZE OF EACH OUTDOOR ADVERTISING DISPLAY
20 EXHIBITED IN THE PREVIOUS 12 MONTHS;

21 (III) INDICATE THE NUMBER OF DISTINCT IMAGES SHOWN EVERY 15 MINUTES IN
22 EACH OUTDOOR ADVERTISING DISPLAY;

23 (IV) BE IN A FORM THE DIRECTOR APPROVES; AND

24 (V) CONTAIN ANY ADDITIONAL INFORMATION REQUIRED BY THE DIRECTOR.

25 (B) *PAYMENT DUE WITH REPORT.*

26 THE TAX IMPOSED BY THIS SUBTITLE IS DUE AT THE TIME THE REPORT IS FILED.

27 **§ 29-7. INTEREST AND CIVIL PENALTIES.**

28 IF AN ADVERTISING HOST FAILS TO PAY THE TAX IMPOSED BY THIS SUBTITLE WHEN DUE, THE
29 ADVERTISING HOST MUST PAY THE DIRECTOR, IN ADDITION TO THE TAX DUE:

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1 (1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE
2 TAX IS OVERDUE; AND

3 (2) A PENALTY OF 10% OF THE AMOUNT OF THE TAX DUE.

4 **§ 29-8. TAX DETERMINATION BY DIRECTOR.**

5 (A) *DIRECTOR TO OBTAIN INFORMATION.*

6 IF ANY ADVERTISING HOST FAILS TO MAKE THE REPORT AND REMIT THE TAX WHEN DUE
7 THE DIRECTOR OF FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION
8 ON WHICH TO BASE AN ESTIMATE OF THE TAX DUE.

9 (B) *DIRECTOR TO ESTIMATE TAX.*

10 AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO
11 DETERMINE THE TAX DUE AND ASSESS THAT TAX, PLUS INTEREST AND PENALTIES,
12 AGAINST THE ADVERTISING HOST LIABLE FOR THE TAX.

13 (C) *NOTICE AND PAYMENT.*

14 (1) THE DIRECTOR MAY THEN NOTIFY THE ADVERTISING HOST BY MAIL, SENT TO THAT
15 ADVERTISING HOST'S LAST KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE TAX,
16 INTEREST, AND PENALTIES.

17 (2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

18 **§ 29-9. CESSATION OF OPERATIONS .**

19 IF AN ADVERTISING HOST REQUIRED TO PAY A TAX UNDER THIS SUBTITLE CEASES TO OPERATE
20 OR DO BUSINESS:

21 (1) ANY TAX PAYABLE UNDER THIS SUBTITLE BECOMES IMMEDIATELY DUE AND PAYABLE;
22 AND

23 (2) WITHIN 3 DAYS OF THE CESSATION OF OPERATIONS OR BUSINESS, THAT ADVERTISING
24 HOST MUST SUBMIT THE REQUIRED REPORT AND REMIT THE TOTAL AMOUNT OF THE
25 TAX DUE.

26 **§ 29-10. LIEN ON PROPERTY.**

27 THE TAX, INTEREST, AND PENALTIES IMPOSED BY THIS SUBTITLE ARE A LIEN ON ALL
28 PROPERTY, REAL AND PERSONAL, OF ANY ADVERTISING HOST LIABLE FOR THEIR PAYMENT.

29 **§§ 29-11 TO 29-12. {RESERVED}**

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1 **§ 29-13. PENALTIES.**

2 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR
3 REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON
4 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT
5 MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

6 **§ 29-14. SEVERABILITY.**

7 IF ANY PART, SECTION, PARAGRAPH, CLAUSE, SENTENCE, OR PROVISION OF THIS SUBTITLE IS
8 HELD INVALID FOR ANY REASON, OR INAPPLICABLE TO ANY PERSON OR ENTITY, THE
9 REMAINDER OF THIS SUBTITLE, OR OTHER APPLICATIONS OF ANY PORTION HELD INAPPLICABLE
10 IN CERTAIN CIRCUMSTANCES, WILL NOT BE AFFECTED, AND TO THIS END THE PROVISIONS OF
11 THIS SUBTITLE ARE DECLARED SEVERABLE.

12 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
13 are not law and may not be considered to have been enacted as a part of this or any prior
14 Ordinance.

15 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
16 after the date it is enacted.