

**CITY OF BALTIMORE
COUNCIL BILL 09-0395
(First Reader)**

Introduced by: Councilmembers Clarke, Kraft, D'Adamo, Branch, Cole, Curran, Middleton,
President Rawlings-Blake, Councilmembers Reisinger, Henry, Conaway, Welch, Spector
Introduced and read first time: September 14, 2009
Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning
Appeals, Planning Commission, Department of Housing and Community Development

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Zoning – Nonconforming Use – Discontinuance or Abandonment**

3 FOR the purpose of repealing certain exceptions to the general rules applicable to the
4 discontinuance or abandonment of Class III nonconforming uses; extending the periods for
5 reestablishing a Class III nonconforming use in certain Residential Districts; and generally
6 relating to the reestablishment of Class III nonconforming uses.

7 BY repealing and reordaining, with amendments

8 Article - Zoning
9 Section(s) 13-407, 13-718
10 Baltimore City Revised Code
11 (Edition 2000)

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

14 **Baltimore City Revised Code**

15 **Article – Zoning**

16 **§ 13-407. Discontinuance or abandonment.**

17 (a) *Discontinuance of use.*

18 (1) Except as specified in this section, whenever the active and continuous operation of
19 any Class III nonconforming use, or any part of that use, has been discontinued for 12
20 consecutive months:

21 (i) the discontinuance constitutes an abandonment of the discontinued
22 nonconforming use, or discontinued part of that use, regardless of any
23 reservation of an intent to resume active operations or otherwise not abandon
24 the use; and

25 (ii) the discontinued nonconforming use, or discontinued part of that use:

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

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1 (A) may not be reestablished; and

2 (B) any subsequent use of any part of the land or structure previously used
3 for the discontinued use, or discontinued part of that use, must
4 conform to the regulations of the district in which the land or structure
5 is located.

6 (2) In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this
7 title, the Board may extend the time limit for discontinuance for 1 or more additional
8 periods. In no case, however, may the total of the additional time exceed THE
9 FOLLOWING:

10 (I) FOR NONCONFORMING USES IN AN R-6, R-7, R-8, R-9, OR R-10 DISTRICT, 18
11 MONTHS; AND

12
13 (II) FOR NONCONFORMING USES IN ANY OTHER DISTRICT, 12 months.

14 (b) *Abandonment of use.*

15 Except as specified in this section, if, at any time, actual abandonment in fact is
16 evidenced by removal of structures, machinery, or equipment, or by alterations that
17 indicate a change in the use of any part of the land or structure:

18 (1) that action constitutes an abandonment of the nonconforming use, or affected part
19 of that use; and

20 (2) all rights to continue or reestablish the nonconforming use, or part of that use,
21 immediately terminate.

22 [(c) *Exceptions for R-6 to R-10 Districts.*

23 This section does not apply to any Class III nonconforming uses in an R-6, R-7, R-8, R-9,
24 or R-10 District.]

25 **§ 13-718. Continuances for Class II or III nonconforming use.**

26 (a) *Board authority.*

27 The Board may extend the time limit for the discontinuance of a Class II or a Class III
28 nonconforming use, subject to the limits stated in §§ 13-307 and 13-407
29 {"Discontinuance or abandonment"} of this title, as specified in this section.

30 (b) *Timely application required.*

31 To obtain an extension, the property owner must apply to the Board, in writing, before or
32 within THE FOLLOWING PERIODS:

33 (1) FOR NONCONFORMING USES IN A R-6, R-7, R-8, R-9, OR R-10 DISTRICT, 12
34 MONTHS AFTER THE SPECIFIED DISCONTINUANCE PERIOD LAPSES; AND

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1 (2) FOR NONCONFORMING USES IN ANY OTHER DISTRICT, 6 months after the specified
2 discontinuance period lapses.

3 (c) *General considerations.*

4 (1) In addition to the findings required by subsection (d) of this section, the Board must
5 give due regard to the age and condition of the structure and the practicability of its
6 adaption or conversion to a conforming use.

7 (2) Any relief granted by the Board:

8 (i) may only be as reasonably required to effect substantial justice;

9 (ii) may not be granted on an arbitrary or discriminatory basis; and

10 (iii) must be granted with due consideration for its effect on the value, utilization,
11 enjoyment, and ultimate development of neighborhood properties.

12 (d) *Required findings.*

13 The Board must find that:

14 (1) the nonconforming use has not in fact been abandoned;

15 (2) discontinuance of the use has been beyond the control of the owner;

16 (3) the owner has made all reasonable efforts to rent, lease, sell, or continue the use
17 of the property; and

18 (4) the enforcement of the time limit would impose on the owner or lessee of the
19 property exceptional and practical difficulties that are not:

20 (i) created by or the result of any action or lack of action by any person
21 having an interest in the property; or

22 (ii) the result of disregard for or ignorance of the provisions of this title.

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

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