

**CITY OF BALTIMORE
COUNCIL BILL 07-0717
(First Reader)**

Introduced by: Councilmembers Holton, Kraft, Middleton, Clarke, Crider, Reisinger, Welch,
President Rawlings-Blake, Councilmembers Conaway, Curran, Mitchell

Introduced and read first time: June 11, 2007

Assigned to: Public Safety Subcommittee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and
Community Development, Department of Finance, Police Department, Mayor's Office of
Criminal Justice, State's Attorney's Office

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Neighborhood Nuisances**

3 FOR the purpose of authorizing certain actions to abate certain nuisances; providing for notice
4 and opportunity for hearing; prohibiting certain conduct; imposing penalties; and generally
5 relating to abating public nuisances.

6 BY adding

7 Article 19 - Police Ordinances

8 Section(s) 43A-1 to 43A-8, to be under the new subtitle,

9 "Subtitle 43A. Neighborhood Nuisances"

10 Baltimore City 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 Code**

15 **Article 19. Police Ordinances**

16 **SUBTITLE 43A. NEIGHBORHOOD NUISANCES**

17 **§ 43A-1. DEFINITIONS.**

18 (A) *IN GENERAL.*

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

20 (B) *COMMISSIONER.*

21 "COMMISSIONER" MEANS THE POLICE COMMISSIONER OF BALTIMORE CITY OR THE
22 COMMISSIONER'S DESIGNEE.

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

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1 (C) *NEIGHBORHOOD NUISANCE.*

2 (1) “NEIGHBORHOOD NUISANCE” MEANS ANY PREMISES WHERE, ON 2 OR MORE SEPARATE
3 OCCASIONS WITHIN A 6-MONTH PERIOD BEFORE THE START OF A PROCEEDING UNDER
4 THIS SUBTITLE, AN OWNER OR TENANT OF THE PREMISES ENGAGED IN ACTS OR
5 CREATED OR MAINTAINED CONDITIONS THAT:

6 (I) SIGNIFICANTLY AFFECTED NEIGHBORING RESIDENTS BY BEING DISORDERLY IN
7 MANNER; OR

8 (II) DISTURBED THE PEACE OF NEIGHBORING RESIDENTS BY:

9 (A) MAKING AN UNREASONABLY LOUD NOISE ; OR

10 (B) THE UNREASONABLE USE OF PROFANITY, CURSING, OR SWEARING.

11 (2) THE 2ND REPORT BY A POLICE OFFICER, WRITTEN IN THE REGULAR COURSE OF
12 BUSINESS, OF BEHAVIOR OR ACTION OF THE TYPE DESCRIBED IN PARAGRAPH (1) OF
13 THIS SUBSECTION IS PRIMA FACIE EVIDENCE THAT A NEIGHBORHOOD NUISANCE HAS
14 OCCURRED.

15 (D) *OPERATOR.*

16 “OPERATOR” MEANS ANY PERSON WHO HAS CHARGE, CARE, OR CONTROL OF A PREMISES
17 OR STRUCTURE.

18 (E) *OWNER.*

19 “OWNER” MEANS THE PERSON IN WHOSE NAME A PREMISES IS RECORDED IN THE LAND
20 RECORDS OF BALTIMORE CITY.

21 (F) *PERSON.*

22 “PERSON” MEANS:

23 (1) AN INDIVIDUAL;

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

26 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
27 REPRESENTATIVE OF ANY KIND.

28 (G) *PREMISES.*

29 “PREMISES” MEANS ALL OR ANY PART OF ANY LAND, BUILDING, OR OTHER STRUCTURE.

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1 (H) *TENANT*.

2 (1) "TENANT" MEANS A LESSEE OR ANY PERSON OCCUPYING PROPERTY, WHETHER OR NOT
3 A PARTY TO A LEASE.

4 (2) "TENANT" INCLUDES A LESSEE OR A PERSON OCCUPYING A MOBILE HOME, WHETHER
5 OR NOT A PARTY TO A LEASE.

6 **§ 43A-2. NUISANCE ABATEMENT AUTHORIZED.**

7 (A) *COMMISSIONER'S AUTHORITY*.

8 ON DETERMINING THAT A NEIGHBORHOOD NUISANCE EXISTS, THE COMMISSIONER MAY:

9 (1) ORDER THE DISCONTINUANCE OF THE NEIGHBORHOOD NUISANCE IN THE PREMISES
10 WHERE THE NUISANCE EXISTS; OR

11 (2) ORDER THE CLOSING OF THE PREMISES TO THE EXTENT NECESSARY TO ABATE THE
12 NUISANCE.

13 (B) *LIMITATIONS*.

14 (1) EXCEPT AS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE PREMISES
15 CONSISTS ENTIRELY OF RESIDENTIAL UNITS OR MIXED RESIDENTIAL AND OTHER USE
16 UNITS, AND THE NEIGHBORHOOD NUISANCE HAS OCCURRED SOLELY WITHIN 1 OR
17 MORE RESIDENTIAL UNITS, ABATEMENT AUTHORITY IS RESTRICTED TO THE
18 RESIDENTIAL UNITS IN WHICH THE NEIGHBORHOOD NUISANCE HAS OCCURRED, AND
19 DOES NOT EXTEND TO ANY OTHER UNIT IN THE PREMISES.

20 (2) THE RESTRICTIONS OF PARAGRAPH (1) OF THIS SUBSECTION DO NOT APPLY TO A
21 NEIGHBORHOOD NUISANCE OCCURRING IN ANY:

22 (I) HOTEL;

23 (II) MOTEL; OR

24 (III) ROOMING HOUSE OR ROOMING UNIT, AS THOSE TERMS ARE DEFINED IN THE
25 ZONING CODE OF BALTIMORE CITY.

26 **§ 43A-3. NOTICE AND OPPORTUNITY FOR HEARING.**

27 (A) *IN GENERAL*.

28 BEFORE THE COMMISSIONER ISSUES AN ORDER UNDER THIS SUBTITLE, THE COMMISSIONER
29 SHALL GIVE NOTICE AND AN OPPORTUNITY FOR A HEARING TO THE OWNER AND TO ANY
30 OPERATOR AND TENANT OF THE PREMISES.

31 (B) *CONTENTS OF NOTICE*.

32 THE NOTICE SHALL STATE:

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- 1 (1) THE DATE, PLACE, AND TIME OF THE HEARING;
- 2 (2) THE RIGHT OF THE PERSONS RECEIVING THE NOTICE TO BE HEARD AND TO BE
3 REPRESENTED AT THE HEARING; AND
- 4 (3) THE POSSIBLE CONSEQUENCES OF FAILURE TO APPEAR, INCLUDING BUT NOT
5 LIMITED TO THE ISSUANCE OF A DEFAULT ORDER DIRECTING THE PREMISES TO BE
6 CLOSED TO THE EXTENT NECESSARY TO ABATE THE NUISANCE.

7 (C) *SERVICE AND POSTING OF NOTICE.*

8 (1) THE NOTICE SHALL BE GIVEN BY PERSONAL SERVICE OR BY CERTIFIED OR REGISTERED
9 MAIL TO THE OWNER AND TO ANY OPERATOR OR TENANT OF THE PREMISES, AS THEIR
10 NAMES AND ADDRESSES:

- 11 (i) ARE RECORDED IN THE LAND RECORDS OF BALTIMORE CITY;
- 12 (ii) APPEAR IN THE REGISTRATION STATEMENT MADE UNDER CITY CODE ARTICLE
13 13, SUBTITLE 4 {"REGISTRATION OF RESIDENTIAL PROPERTIES"}; OR
- 14 (iii) ARE OTHERWISE KNOWN OR READILY ASCERTAINABLE.

15 (2) IN ADDITION, THE NOTICE SHALL BE POSTED ON THE PREMISES.

16 **§ 43A-4. ISSUANCE AND ENFORCEMENT OF ORDER.**

17 (A) *ISSUANCE OF ORDER OR FINDING.*

18 FOLLOWING THE HEARING PROCEDURE, THE COMMISSIONER SHALL:

- 19 (1) ON DETERMINING THAT A NEIGHBORHOOD NUISANCE EXISTS, ISSUE A WRITTEN
20 ORDER IN ACCORDANCE WITH § 43A-2; OR
- 21 (2) ON DETERMINING THAT A NEIGHBORHOOD NUISANCE DOES NOT EXIST, ISSUE A
22 WRITTEN FINDING SO STATING.

23 (B) *POSTING AND NOTICE OF ORDER.*

24 FOLLOWING THE HEARING PROCEDURE, AN ORDER OF THE COMMISSIONER ISSUED UNDER
25 THIS SUBTITLE SHALL BE POSTED ON THE PREMISES AND NOTICE OF THE ORDER SHALL BE
26 GIVEN TO THOSE PERSONS AND IN THE MANNER SET FORTH IN § 43A-3 OF THIS SUBTITLE.

27 (C) *ENFORCEMENT; PERIOD OF CLOSING.*

- 28 (1) AFTER THE ORDER HAS BEEN POSTED, AS SET FORTH IN § 43A-3 OF THIS SUBTITLE, THE
29 ORDER MAY BE ENFORCED.
- 30 (2) A CLOSING SHALL BE FOR THE PERIOD THAT THE COMMISSIONER REASONABLY MAY
31 DIRECT, BUT IN NO EVENT MAY THE CLOSING BE FOR LONGER THAN 1 YEAR.

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1 (D) *NATURE OF CLOSING.*

2 A CLOSING DIRECTED BY THE COMMISSIONER UNDER THIS SUBTITLE IS NOT AN ACT OF
3 POSSESSION, OWNERSHIP, OR CONTROL BY THE CITY OF BALTIMORE.

4 (E) *MODIFICATION*

5 (1) THE COMMISSIONER MAY MODIFY OR RESCIND AN ORDER ISSUED UNDER THIS
6 SUBTITLE IF:

7 (I) AN OWNER OR TENANT AFFECTED BY THE ORDER SUBMITS A WRITTEN REQUEST
8 TO THE COMMISSIONER ASKING FOR THE ORDER TO BE MODIFIED OR
9 RESCINDED; AND

10 (II) A HEARING IS HELD ON THE REQUEST.

11 (2) AN OWNER OR TENANT SUBMITTING A REQUEST UNDER THIS SUBSECTION SHALL
12 ATTACH AS AN EXHIBIT ANY DOCUMENTS OR OTHER EVIDENCE THAT THE OWNER OR
13 TENANT WISHES THE COMMISSIONER TO CONSIDER IN RULING ON THE REQUEST.

14 (3) THE COMMISSIONER MAY GRANT A REQUEST SUBMITTED UNDER THIS SUBSECTION IF
15 THE COMMISSIONER DETERMINES THAT THE NUISANCE HAS BEEN ABATED.

16 **§ 43A-5. RULES AND REGULATIONS.**

17 (A) *COMMISSIONER TO ADOPT.*

18 THE COMMISSIONER SHALL ADOPT RULES, REGULATIONS, AND HEARING PROCEDURES AS
19 NECESSARY OR PROPER TO CARRY OUT THIS SUBTITLE.

20 (B) *FILING WITH LEGISLATIVE REFERENCE.*

21 A COPY OF ALL RULES, REGULATIONS, AND PROCEDURES MUST BE FILED WITH THE
22 DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

23 **§ 43A-6. JUDICIAL REVIEW.**

24 (A) *JUDICIAL REVIEW.*

25 ANY PERSON AGGRIEVED BY ANY ACT OF THE COMMISSIONER UNDER THIS SUBTITLE MAY
26 SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR
27 BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

28 (B) *APPELLATE REVIEW.*

29 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE
30 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
31 PROCEDURE.

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1 **§ 43A-7. PROHIBITED CONDUCT.**

2 (A) *DESTRUCTION, ETC., OF POSTED ORDER.*

3 NO PERSON MAY DESTROY, REMOVE, OR DEFACE AN ORDER POSTED BY THE
4 COMMISSIONER UNDER THIS SUBTITLE

5 (B) *FAILURE TO OBEY ORDER.*

6 NO PERSON MAY:

7 (1) INTENTIONALLY DISOBEY ANY PROPER ORDER ISSUED BY THE COMMISSIONER
8 UNDER THIS SUBTITLE; OR

9 (2) USE OR OCCUPY OR PERMIT ANY OTHER PERSON TO USE OR OCCUPY ANY PREMISES
10 ORDERED CLOSED UNDER THIS SUBTITLE.

11 **§ 43A-8. PENALTIES.**

12 (A) *IN GENERAL.*

13 ANY PERSON WHO VIOLATES A PROVISION OF § 43A-7 IS GUILTY OF A MISDEMEANOR AND,
14 ON CONVICTION, IS SUBJECT TO THE FOLLOWING PENALTIES:

15 (1) FOR A VIOLATION OF § 43A-7(A) {"PROHIBITED CONDUCT: DESTRUCTION, ETC.,
16 OF POSTED ORDER"}, THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN
17 \$500; AND

18 (2) FOR A VIOLATION OF § 43A-7(B) {"PROHIBITED CONDUCT: FAILURE TO OBEY
19 ORDER"}, THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR TO
20 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR TO BOTH FINE AND
21 IMPRISONMENT.

22 (B) *EACH DAY A SEPARATE OFFENSE.*

23 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

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

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