

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 08-0163

Introduced by: President Rawlings-Blake, Councilmembers Henry, Young, Curran, Branch,
Middleton, Conaway, Spector

Introduced and read first time: July 21, 2008

Assigned to: Judiciary and Legislative Investigations Committee and Land Use and
Transportation Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: July 13, 2009

AN ORDINANCE CONCERNING

1 Live Entertainment and Dancing – Zoning – Conditional Uses
2 ~~Licensing and Regulation – Hospitality Services – Promotion and Coordination~~

3 FOR the purpose of deleting live entertainment and dancing as a zoning use category; requiring
4 the licensing of certain establishments that provide live entertainment or dancing;
5 establishing the Board of Licenses for Live Entertainment and providing for its powers and
6 duties; establishing an Office of Hospitality Services and providing for its powers and duties;
7 defining certain terms; imposing certain penalties; and generally relating to the licensing and
8 regulation of live entertainment and to the promotion and coordination of hospitality services
9 allowing live entertainment and dancing, in conjunction with restaurants or taverns, as a
10 conditional use in certain Business Districts; expanding the conditions to be considered
11 before granting a conditional use for restaurants or taverns to provide live entertainment or
12 dancing; requiring the Zoning Board to maintain and periodically provide to the City Council
13 certain information about all pending applications for all conditional uses; authorizing the
14 issuance of environmental citations for violations of conditions, etc., imposed on live
15 entertainment or dancing uses; imposing certain criminal penalties; correcting, conforming,
16 and clarifying related provisions; and generally relating to the zoning and related
17 requirements for restaurants and taverns providing live entertainment or dancing.

18 BY repealing and reordaining, without amendments

19 Article - Zoning

20 Section(s) 1-153.1, 1-182.2, 1-194.2, 3A-106(8), 6-306(71) and (82), 6-308(1),
21 6-406(1), (57), and (65), 6-506(1), (23), and (27), 6-606(1), 7-306(56) and (68),
22 7-307(9) and (12), 8-407(b)(4), 14-103(a)

23 Baltimore City Revised Code
24 (Edition 2000)

25 ~~BY repealing~~

26 ~~Article - Zoning~~

27 ~~Section(s) 1-153.1, 1-182.2, 1-194.2, 6-406(57) and (65), 6-506(27),~~
28 ~~7-307(9) and (12), 14-309~~

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 ~~Baltimore City Revised Code~~
2 ~~(Edition 2000)~~

3 By repealing and reordaining, with amendments
4 Article - Zoning
5 Section(s) ~~3A-106(8), 6-208(15), 6-306(71) and (82), 6-506(23),~~
6 ~~7-306(56) and (68), 8-407(b)(4)~~ 13-305(b), 13-405(b), 14-103(e), 14-309
7 Baltimore City Revised Code
8 (Edition 2000)

9 By adding
10 Article - Zoning
11 Section(s) 6-308(21), 14-201(f), 17-401(c), 17-510
12 Baltimore City Revised Code
13 (Edition 2000)

14 By repealing and reordaining, with amendments
15 Article 1. Mayor, City Council, and Municipal Agencies
16 Section(s) 40-14(e)(8)
17 Baltimore City Code
18 (Edition 2000)

19 ~~By adding~~
20 ~~Article 15 - Licensing and Regulation~~
21 ~~Section(s) 10-1 to 10-36, to be under the subtitle designation,~~
22 ~~“Subtitle 10. Live Entertainment”~~
23 ~~Baltimore City Code~~
24 ~~(Edition 2000)~~

25 ~~By adding~~
26 ~~Article 1 - Mayor, City Council, and Municipal Agencies~~
27 ~~Section(s) 29-1 to 29-4, to be under the subtitle designation,~~
28 ~~“Subtitle 29. Office of Hospitality Services”~~
29 ~~Baltimore City Code~~
30 ~~(Edition 2000)~~

31 ~~By adding~~
32 ~~Article 8 - Ethics~~
33 ~~Section(s) 7-8(17a) and (27a)~~
34 ~~Baltimore City Code~~
35 ~~(Edition 2000)~~

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

38 **Baltimore City Revised Code**

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Article – Zoning

Title 1. Definitions; General Provisions

{§ 1-153.1. Live entertainment.}

{(a) In general.

“Live entertainment” means any one or more of any of the following, performed live by one or more persons, whether or not done for compensation and whether or not admission is charged:

- a. musical act (including karaoke);
- b. theatrical act (including stand-up comedy);
- c. play;
- d. revue;
- e. dance;
- f. magic act;
- g. disc jockey; or
- h. similar activity.

{(b) Exclusions.

“Live entertainment” does not include adult entertainment, as defined in § 1-106 of this subtitle.

{§ 1-182.2. Restaurant – including live entertainment or dancing.}

{“Restaurant – including live entertainment or dancing” means a restaurant at which live entertainment, dancing, or both may be provided as an accessory use.}

{§ 1-194.2. Tavern – including live entertainment or dancing.}

{“Tavern – including live entertainment or dancing” means a tavern at which live entertainment, dancing, or both may be provided as an accessory use.}

Title 3A. Open Space Districts

§ 3A-106. Conditional uses – Board approval required.

In an Open Space District, conditional uses that require Board approval are as follows:

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1 (8) Restaurants – including ~~live entertainment or dancing, and~~ accessory outdoor table
2 service – but only if located in a public park.

3 **Title 6. Business Districts**

4 **§ 6-208 {B-1} Conditional use — Board approval required.**

5 In a B-1 District, conditional uses that require Board approval are as follows:

6 (15) Restaurants – including LIVE ENTERTAINMENT AND DANCING, AND INCLUDING
7 accessory outdoor table service[, but not including live entertainment or dancing].

8 **§ 6-306. {B-2} Permitted uses.**

9 In a B-2 District, permitted uses are as follows:

10 (71) Restaurants – but not including ~~live entertainment or dancing, and not including~~
11 accessory outdoor table service.

12 (82) Taverns ~~– but not including live entertainment or dancing~~.

13 **§ 6-308. {B-2} Conditional uses — Board approval required.**

14 In a B-2 District, conditional uses that require Board approval are as follows:

15 (1) As in a B-1 District (unless it is a permitted use under § 6-306).

16 (21) TAVERNS – INCLUDING LIVE ENTERTAINMENT AND DANCING.

17 **§ 6-406. {B-3} Permitted uses.**

18 In a B-3 District, permitted uses are as follows:

19 (1) As in a B-2 District, except that business establishments are not limited to primarily
20 retail or service establishments.

21 ~~{(57) Restaurants – including live entertainment and dancing, but not including~~
22 accessory outdoor table service.~~}~~

23 ~~{(65) Taverns – including live entertainment and dancing.}~~

24 **§ 6-506. {B-4} Permitted uses.**

25 In a B-4 District, permitted uses are as follows:

26 (1) As in a B-2 District, except that business establishments are not limited to primarily
27 retail or service establishments.

28 (23) Restaurants – including ~~live entertainment and dancing, and including~~ accessory
29 outdoor table service.

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1 (1) In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this
2 title, the Board may authorize a Class II nonconforming use in a Residence or
3 Office-Residence District to be changed as follows:

4
5 (i) [(1)] to a use permitted in an M-1 District, if the nonconforming use is located
6 in a structure all or substantially all of which is designed and erected for an
7 industrial use; or

8
9 (ii) [(2)] to a use permitted in a B-1 District, if the nonconforming use is located
10 in a structure all or substantially all of which is designed and erected for a
11 business or other nonconforming use.

12 (2) IN NO EVENT, HOWEVER, MAY A CLASS II NONCONFORMING USE IN A RESIDENCE OR
13 OFFICE-RESIDENCE DISTRICT BE CHANGED TO ANY USE IN CONNECTION WITH WHICH
14 LIVE ENTERTAINMENT OR DANCING IS PROVIDED.

15
16 **§ 13-405. Changes in use.**

17
18 (b) In Residence and Office-Residence Districts.

19
20 (1) In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this
21 title, the Board may authorize a Class III nonconforming use in a Residence or
22 Office-Residence District to be changed to a use permitted in a B-1 District.

23 (2) IN NO EVENT, HOWEVER, MAY A CLASS III NONCONFORMING USE IN A RESIDENCE OR
24 OFFICE-RESIDENCE DISTRICT BE CHANGED TO ANY USE IN CONNECTION WITH WHICH
25 LIVE ENTERTAINMENT OR DANCING IS PROVIDED.

26 **Title 14. Conditional Uses**

27 **§ 14-103. Imposition of conditions.**

28 (a) When authorized.

29 Before the Board or City Council, as the case may be, approves any conditional use, it
30 may impose on the establishment, location, construction, maintenance, and operation of
31 the conditional use any conditions, restrictions, or limitations that the Board or City
32 Council considers necessary or desirable to:

33 (1) reduce or minimize any effect of the use on other properties in the neighborhood;

34 (2) secure compliance with the standards and requirements of this title; and

35 (3) better carry out the intent and purposes of this article.

36 (e) Compliance required.

37 Failure to comply with any condition, restriction, or limitation imposed under this
38 [section] TITLE constitutes a violation of this article.

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1 **§ 14-201. Applications.**

2 (F) LIST OF PENDING APPLICATIONS.

3 (1) THE BOARD MUST MAINTAIN A LIST OF ALL PENDING APPLICATIONS FOR A
4 CONDITIONAL USE.

5 (2) THE LIST MUST BE ARRANGED BY COUNCIL DISTRICT AND INCLUDE, FOR EACH
6 APPLICATION:

7 (I) THE PROPERTY’S ADDRESS AND ZONING DISTRICT;

8 (II) THE APPLICANT’S NAME AND CONTACT INFORMATION;

9 (III) THE PROPOSED USE OF THE PROPERTY;

10 (IV) THE DATE THE APPLICATION WAS FILED; AND

11 (V) THE DATE OF THE HEARING BEFORE THE BOARD.

12 (3) AT LEAST MONTHLY, THE BOARD MUST SUBMIT A COPY OF THE CURRENT LIST TO THE
13 PRESIDENT AND MEMBERS OF THE CITY COUNCIL.

14 **{§ 14-309. Live RESTAURANTS OR TAVERNS WITH LIVE entertainment or dancing.}**

15 (A) SCOPE.

16 THIS SECTION APPLIES TO ANY RESTAURANT OR TAVERN THAT SEEKS A CONDITIONAL-USE
17 AUTHORIZATION TO PROVIDE LIVE ENTERTAINMENT, DANCING, OR BOTH AS AN
18 ACCESSORY USE.

19 (B) APPLICATION.

20 (1) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 14-201 {“APPLICATIONS”} OF
21 THIS TITLE OR OTHERWISE REQUIRED BY THE BOARD, THE APPLICATION FOR
22 CONDITIONAL USE MUST INCLUDE:

23 (I) A DESCRIPTION OF THE TYPE OF LIVE ENTERTAINMENT OR DANCING TO BE
24 PROVIDED; AND

25 (II) A FLOOR PLAN, IN THE FORM AND WITH THE DETAIL THAT THE BOARD
26 REQUIRES, OF:

27 (A) THE ESTABLISHMENT GENERALLY; AND

28 (B) THE LIVE ENTERTAINMENT OR DANCING VENUE WITHIN THE
29 ESTABLISHMENT.

30 (2) IF DANCING IS TO BE PROVIDED, THE FLOOR PLAN MUST SHOW:

31 (i) THE LOCATION AND DIMENSIONS OF THE DANCE FLOOR; AND

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1 (II) THE MAXIMUM AUTHORIZED OCCUPANT LOAD, AS APPROVED BY THE FIRE
2 DEPARTMENT, FOR ALL CONFIGURATIONS OF:

3 (A) THE ESTABLISHMENT GENERALLY; AND

4 (B) THE DANCING VENUE WITHIN THE ESTABLISHMENT.

5 (C) IMPOSITION OF CONDITIONS.

6 [For a restaurant or tavern operating with live entertainment or dancing as an accessory
7 use] IN APPROVING A CONDITIONAL USE, the Board must ~~consider imposing~~ SPECIFY
8 PRECISELY THE TYPES OF LIVE ENTERTAINMENT OR DANCING TO WHICH THE USE IS
9 LIMITED AND IMPOSE conditions, as appropriate, concerning:

10 (1) days and hours ~~of operation~~:

11 (i) OF THE ESTABLISHMENT'S GENERAL OPERATIONS AS A RESTAURANT OR
12 TAVERN; AND

13 (ii) OF THE LIVE ENTERTAINMENT OR DANCING TO BE PROVIDED;

14 (2) use of amplification, noise levels, and need for noise proofing;

15 (3) limits on the size of the establishment or on the size, location, or configuration of
16 the entertainment or dancing venue within the establishment;

17 (4) number of live entertainers;

18 (5) number of seats proposed for outdoor table service;

19 (6) exterior lighting;

20 ~~(7) whether to limit the accessory use to live entertainment only or dancing only;~~

21 (7) PUBLIC NEED AND DESIRE FOR THE ESTABLISHMENT;

22 (8) NUMBER AND LOCATION OF OTHER, SIMILAR ESTABLISHMENTS IN THE AREA AND
23 POTENTIAL EFFECT OF THE NEW USE ON THOSE ESTABLISHMENTS;

24 (9) PROXIMITY OF RESIDENCES, SCHOOLS, RELIGIOUS INSTITUTIONS, OR PARKS TO THE
25 ESTABLISHMENT;

26 (10) MAXIMUM AUTHORIZED OCCUPANT LOADS OF THE ESTABLISHMENT AND OF THE
27 LIVE ENTERTAINMENT OR DANCING VENUE WITHIN THE ESTABLISHMENT;

28 (11) VOLUME AND TYPES OF VEHICULAR AND PEDESTRIAN TRAFFIC IN THE AREA OF
29 THE ESTABLISHMENT; and

30 (12) ~~(8)~~ the establishment and maintenance of:

31 (i) a traffic ~~and parking~~ management plan; ~~and~~

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1 (II) A PARKING MANAGEMENT PLAN;

2 (III) (ii)-an indoor and outdoor security plan.}; AND

3 (IV) A SANITATION PLAN.

4 **Title 17. Enforcement and Penalties**

5 **Subtitle 4. Enforcement by Civil Citation**

6 **§ 17-401. In general.**

7 (C) CONDITIONAL-USE LIVE ENTERTAINMENT.

8 IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
9 § 14-103 {"CONDITIONAL USES: IMPOSITION OF CONDITIONS"}, AS APPLIED TO
10 RESTAURANTS OR TAVERNS WITH LIVE ENTERTAINMENT OR DANCING, AND § 14-309
11 {"CONDITIONAL USES: RESTAURANTS, TAVERNS WITH LIVE ENTERTAINMENT AND
12 DANCING"} OF THIS ARTICLE, MAY BE ENFORCED BY ISSUANCE OF AN ENVIRONMENTAL
13 CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40 {"ENVIRONMENTAL CONTROL
14 BOARD"}.

15 **§ 17-510. CONDITIONAL-USE LIVE ENTERTAINMENT: \$1,000 AND 12 MONTHS.**

16 FOR VIOLATING ANY CONDITION IMPOSED UNDER § 14-103 {"CONDITIONAL USES: IMPOSITION
17 OF CONDITIONS"}, AS APPLIED TO RESTAURANTS OR TAVERNS WITH LIVE ENTERTAINMENT OR
18 DANCING, OR UNDER § 14-309 {"CONDITIONAL USES: RESTAURANTS, TAVERNS WITH LIVE
19 ENTERTAINMENT AND DANCING"} OF THIS ARTICLE, THE PENALTY IS A FINE OF NOT MORE
20 THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR BOTH FINE AND
21 IMPRISONMENT FOR EACH OFFENSE.

22 **Baltimore City Code**

23 **Article 1. Mayor, City Council, and Municipal Agencies**

24 **Subtitle 40. Environmental Control Board**

25 **§ 40-14. Violations to which subtitle applies.**

26 (e) Provisions and penalties enumerated.

27 (8) Zoning Code

28 § 2-402. Use permit required \$500

29 § 3-107. Prohibited uses - storage, etc., of vehicles \$ 50

30 § 17-401(C). CONDITIONAL-USE LIVE ENTERTAINMENT \$500

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~~Article 15. Licensing and Regulation~~

~~SUBTITLE 10. LIVE ENTERTAINMENT~~

....

~~Article 1. Mayor, City Council, and Municipal Agencies~~

~~SUBTITLE 29. OFFICE OF HOSPITALITY SERVICES~~

....

~~Article 8. Ethics~~

....

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

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

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City