



**BALTIMORE CITY COUNCIL
ECONOMIC AND COMMUNITY DEVELOPMENT
COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the Committee on Economic and Community Development (ECD) is responsible for supporting strong thriving communities. ECD will review proposed zoning and land use changes, tackle issues related to economic development, oversee housing policy, and promote equitable economic opportunity for all Baltimore residents.

The Honorable Sharon Green Middleton

PUBLIC HEARING

March 12, 2024

2:01 PM

CLARENCE "DU" BURNS COUNCIL CHAMBERS

22-0225

Vacant Structures - Nuisance Abatement - Penalty

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BILL SYNOPSIS

Committee: Economic and Community Development

Bill: 22-0225

Title: Vacant Structures - Nuisance Abetment

Sponsor: President Mosby

Introduced: March 21st, 2022

Purpose: FOR the purpose of increasing a certain penalty for failing to obey a nuisance abatement order at a certain type of property; providing for a special effective date; and generally relating to nuisance abatement penalties for vacant structures.

BY adding
Article 19 - Police Ordinances
Section 43A-1(h)
Baltimore City Code
(Edition 2000)

BY amending
Article 19 - Police Ordinances
Section 43A-8
Baltimore City Code
(Edition 2000)

Effective: On the 30th day after enactment

Agency Reports

City Solicitor	Approve for Form & Sufficiency
Baltimore City Police	Supports
Dept of Housing & Community Development	Defer to Baltimore Police Dept
Baltimore City Fire Department	Defers to DHCD

Analysis

Background

City Law

Article 19 Section 43A deals with nuisance abatement. It defines a neighborhood nuisance as a premises where on 2 or more separate occasions in a 6-month period an owner or tenant of the premises engaged in acts or created or maintained conditions that:

1. Significantly affected the neighboring residents by being disorderly in manner or
2. Disturbed the peace of the neighboring residents by:
 - a. Making unreasonably loud noises
 - b. The unreasonable use of profanity, cursing, or swearing.

The subtitle defines penalties for these nuisances which can include fines up to \$500, imprisonment up to 90 days or both. Each day a violation continues is defined as a separate offense.

The subtitle authorized the Police Commissioner, or their designee to:

1. Order the discontinuance of a nuisance where it exist.
2. Order the closing of the premises to the extent necessary to abate the nuisance.

Bill Analysis

This bill if enacted would:

1. Add a definition of Vacant structure to the subtitle the same as the one in the city building code: "...any structure this is subject to an unabated violation notice issued under §116 {Unsafe Structures} of the Baltimore City Building Code". The bill would also except structures not intended for occupancy such as a storage building.
2. Create a new penalty for nuisances that occur in vacant structures. This penalty would apply to the owner of the structure and include a fine of no more than \$1000, 90 days imprisonment or both.

Agency Reports

The Law Department in their report noted that the increase in fines created a classification of offense under the subtitle and that there needed to be a rational basis for this classification and difference in treatment. Though not recommending an amendment to the bill the Law department is asking that this be addressed in the hearing by way of testimony describing this basis.

The Department of Housing and Community Development notes in their report that they view this bill as unnecessary and may perhaps complicate redevelopment efforts. They view the tools they currently have to hold owners of privately owned vacant buildings accountable as sufficient but defer to the Baltimore Police Department on this bill. DHCD does have several proposed amendments including:

- Amendment 1 On page 2, strike lines 6 through 8, which excludes accessory structures from this provision.
- Amendment 2 Amend page 2, lines 19 and 20 to read “a fine of not more than \$1000 or imprisonment for more than 90 days, or to both fine and imprisonment IF THE BUILDING IS A VACANT STRUCTURE. This amendment would create a stiffer penalty for activity occurring in a vacant structure. On the same page, delete lines 21 through 24, which reads “THE OFFENDER IS THE OWNER OF THE VACANT STRUCTURE.”

Additional Information

Fiscal Note: Not Available

Information Source(s): Agency Reports, 23-0430 1st reader, Baltimore City Building Code,

Analysis by: Anthony Leva

Direct Inquiries to: 410-396-1091

Analysis Date: March 7, 2024

**CITY OF BALTIMORE
COUNCIL BILL 22-0225
(First Reader)**

Introduced by: President Mosby

Introduced and read first time: April 25, 2022

Assigned to: Economic and Community Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community Development, Baltimore Police Department

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Vacant Structures – Nuisance Abatement – Penalty**

3 FOR the purpose of increasing a certain penalty for failing to obey a nuisance abatement order at
4 a certain type of property; providing for a special effective date; and generally relating to
5 nuisance abatement penalties for vacant structures.

6 BY adding

7 Article 19 - Police Ordinances

8 Section 43A-1(h)

9 Baltimore City Code

10 (Edition 2000)

11 BY amending

12 Article 19 - Police Ordinances

13 Section 43A-8

14 Baltimore City Code

15 (Edition 2000)

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

18 **Baltimore City Code**

19 **Article 19. Police Ordinances**

20 **Subtitle 43A. Neighborhood Nuisances – Abatement**

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

Council Bill 22-0225

§ 43A-1. Definitions.

(H) *VACANT STRUCTURE.*

(1) *IN GENERAL.*

“VACANT STRUCTURE” HAS THE MEANING STATED IN § 116.4.1.2 OF THE BALTIMORE CITY BUILDING CODE.

(2) *EXCLUSIONS.*

“VACANT STRUCTURE” DOES NOT INCLUDE AN ACCESSORY STRUCTURE THAT IS NOT INTENDED FOR OCCUPANCY, SUCH AS A GARAGE, SHED, OR STORAGE BUILDING.

§ 43A-8. Penalties.

(a) *In general.*

Any person who violates a provision of § 43A-7 is guilty of a misdemeanor and, on conviction, is subject to the following penalties:

(1) for a violation of § 43A-7(a) {“Prohibited conduct: Destruction, etc., of posted order”}, the offender is subject to a fine of not more than \$500; and

(2) for a violation of § 43A-7(b) {“Prohibited conduct: Failure to obey order”}, the offender is subject to:

(I) a fine of not more than \$500 or to imprisonment for not more than 90 days or to both fine and imprisonment[.] ; OR

(II) A FINE OF NOT MORE THAN \$1000 OR TO IMPRISONMENT FOR NOT MORE THAN 90 DAY OR TO BOTH FINE AND IMPRISONMENT IF:

(A) THE PREMISIS SUBJECT TO THE ORDER ISSUED UNDER § 43A-2 {“NUISANCE ABATEMENT AUTHORIZED”} IS A VACANT STRUCTURE;
AND

(B) THE OFFENDER IS THE OWNER OF THE VACANT STRUCTURE.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.

SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

Economic and Community Development Committee

22-0225

**Vacant Structures - Nuisance Abatement -
Penalty**

Agency Reports

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON
ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

January 18, 2024

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 22-0225 Vacant Structures – Nuisance Abatement – Penalty

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0225, which is for the purpose of increasing a certain penalty for failing to obey a nuisance abatement order at a certain type of property; providing for a special effective date; and generally relating to nuisance abatement penalties for vacant structures.

The bill increases the penalty for owners of vacant structures for a certain offense, thereby creating a classification resulting in differential treatment which could be challenged under the Equal Protection Clause. *See, e.g., Rinaldi v. Yeager*, 384 U.S. 305, 309 (1966) (“legislation may impose special burdens upon defined classes in order to achieve permissible ends. But the Equal Protection Clause does require that, in defining a class subject to legislation, the distinctions that are drawn have ‘some relevance to the purpose for which the classification is made.’”).

In other words, there must be a rational basis for the differential treatment of owners of vacant structures that serves a governmental interest. If the policy concern is that vacant structures pose a greater threat to the neighborhood as a repeat nuisance, a more legally defensible way to structure the bill would be to increase the penalty for all repeat offenders. This would achieve the same policy goal without presenting the same legal vulnerabilities.

Thus, if the differential treatment of owners of vacant properties can be founded on a rational basis that serves a purpose that treating all owners the same would not serve, or, in the

alternative, the bill is amended to apply the increased penalties to repeat offenders of the neighborhood nuisance law, regardless of whether they are owners of vacant structures, the Law Department would approve Council Bill 22-0225 for form and legal sufficiency.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ashlea Brown', enclosed in a thin blue rectangular border.

Ashlea Brown
Chief Solicitor

cc: Ebony Thompson, City Solicitor
Stephen Salsbury
Matthew Bradford
Nikki Thompson, President's Office
Nina Themelis, MOGR
Hilary Ruley
Jeff Hochstetler,
Ashlea Brown
Michele Toth
Teresa Cummings
Ahleah Knapp



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

Date: March 12, 2024

Re: City Council Ordinance 22-0225 Vacant Structures – Nuisance Abatement – Penalty

The Department of Housing and Community Development (DHCD) has reviewed City Council ordinance 22-0225 for the purpose of increasing a certain penalty for failing to obey a nuisance abatement order at a certain type of property; providing for a special effective date; and generally relating to nuisance abatement penalties for vacant structures.

Introduction

The existing neighborhood nuisance laws were intended for use by the Police Commissioner on occupied nuisance properties in City neighborhoods, such as problem homes or businesses, like a “Party House” for example. 43A-1 defines neighborhood nuisance as any premises where, on 2 or more separate occasions within a 6-month period, an owner or tenant of the premises engaged in acts or created or maintained conditions that: significantly affected neighboring residents by being disorderly in manner or disturbing the peace of neighboring residents by making an unreasonably loud noise or the unreasonable use of profanity, cursing, or swearing.

DHCD Analysis

If enacted, City Council ordinance 22-0225 would expand the authority of the Police Commissioner, or their designee, related to addressing neighborhood nuisance abatement, by expanding the application of *City Code Article 19 Police Ordinances* to include vacant structures.

The penalty for any person who violates the current provision is a fine of not more than \$500 or imprisonment for not more than 90 days, or both fine and imprisonment. This Bill would add a fine of not more than \$1000 or imprisonment for not more than 90 days, or both fine and imprisonment, if a neighborhood nuisance is found to exist in a vacant structure and the offender is the owner of the vacant structure.

Unlike problem homes or businesses which can be closed to the extent necessary to abate the nuisance, vacant buildings are not supposed to have any activity occurring within them and they are to be properly maintained and secured at all times. Under the Building Code, DHCD already has tools to address vacant buildings by issuance of a vacant building notice and the issuance of



a citation for failure to abate a vacant building notice. Those citations are issued at the discretion of the building official until the notice is abated and carry a \$1,000 penalty for each citation.

If the intent of this Bill is to discourage nuisance activity occurring in vacant structures by creating a stiffer penalty, DHCD would recommend the following amendments:

Amendment 1

On page 2, strike lines 6 through 8, which excludes accessory structures from this provision. We do not need to include this exclusion as some nuisance activities can occur in garages, sheds, ect.

Amendment 2

Amend page 2, lines 19 and 20 to read “a fine of not more than \$1000 or imprisonment for more than 90 days, or to both fine and imprisonment IF THE BUILDING IS A VACANT STRUCTURE. This amendment would create a stiffer penalty for activity occurring in a vacant structure.

On the same page, delete lines 21 through 24, which reads “THE OFFENDER IS THE OWNER OF THE VACANT STRUCTURE.” This language is not necessary if the intent of the Bill is to target the owner of the vacant structure rather than the offender.

Conclusion

DHCD already has tools available to compel property owners to abate vacant building notices which in turn should help reduce the occurrence of nuisance activity at these locations. This legislation is unnecessary and may complicate redevelopment efforts already in place for some vacant properties.

The conditions being added by this Bill to the existing neighborhood nuisance law may not necessarily curb nuisance activity occurring in vacant structures that are not properly secured however, it would create a stiffer financial penalty. It is unclear if this would compel property owners to undertake the abatement of a VBN to avoid future fines or if the fines would be recouped. The lack of clear title of many privately owned vacant properties could pose a challenge around implementation.

DHCD is opposed to the changes outlined in this legislation however have included amendments to align the definition of vacant structure with the building code and remove the exclusions. DHCD defers to the Police Department as to the changes proposed in this Bill and if they would assist them in addressing nuisance activity occurring in vacant structures.

DHCD is committed to working with the Council President, the City Council and the Mayor’s Office to collaboratively find legislative solutions that can support our shared goal of eliminating vacants and blight across Baltimore City.



DHCD respectfully **defers** to the Police Department on Council Bill 22-0225.

AK/sm

*cc: Ms. Nina Themelis, Mayor's Office of Government Relations
Ms. Natawna Austin, Executive Secretary of the City Council*



BALTIMORE POLICE DEPARTMENT



Brandon M. Scott
Mayor

Richard J. Worley
Police Commissioner

March 12, 2024

Honorable President and Members of the Baltimore City Council
Room 400, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

RE: City Council Bill #22-0225
Vacant Structures—Nuisance Abatement—Penalty

Dear Council President Mosby and Members of the City Council:

The Baltimore Police Department (BPD) has reviewed Council Bill 22-0225 for the purpose of increasing a penalty for failing to obey a nuisance abatement order on a certain type of property generally relating to vacant structures.

Vacant Structures are defined in the Baltimore City Building Code and excludes accessory structures such as garage, sheds, and storage space. City Council Bill #22-0225 provides a list of increasing penalties and fees for infractions, further destruction, and failure to obey the order.

The BPD recognizes the dangers that unkempt vacant structures pose for communities and the role that these properties play in overall blight in a neighborhood.

The BPD supports City Council Bill 22-0225. We look forward to working with additional city agencies to tackle this issue. Thank you for allowing us to comment on this important piece of legislation.

Sincerely,

Erin Murphy, Esq.
Director of Government Affairs

cc: Natwana Austin, Executive Secretary of the Baltimore City Council
Nina Themelis, Director of Mayor's Office of Government Affairs
Andrew Smullian, BPD Deputy Chief of Staff

**F
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M**

Name & Title	James W. Wallace, Fire Chief 
Agency Name & Address	Baltimore City Fire Department 401 E. Fayette Street, Mezzanine
Subject	City Council Bill #22-0225 – Vacant Structures – Nuisance Abatement - Penalty

CITY OF
BALTIMORE
MEMO



TO: The Honorable Nick J. Mosby, President
And All Members of the Baltimore City Council
City Hall, Room 408

DATE: March 8, 2024

The proposed legislation increases the penalty for failing to obey an order to abate a nuisance at a vacant structure.

The Baltimore City Fire Department defers to the Department of Housing and Community Development on Council Bill 22-0225.

JW/kw