

**CITY OF BALTIMORE
COUNCIL BILL 08-0112
(First Reader)**

Introduced by: Councilmembers Henry, Holton, D’Adamo, Branch, Middleton, Clarke,
Conaway, Curran

Introduced and read first time: April 28, 2008

Assigned to: Community Development Subcommittee

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Late-Night Commercial Operations – Licensing**

3 FOR the purpose of requiring certain late-night commercial operations to be licensed; defining
4 certain terms; imposing certain penalties; providing for a special effective date; and generally
5 relating to the licensing and regulation of late-night commercial operations.

6 BY adding

7 Article 15 - Licensing and Regulation

8 Section(s) 9-1 to 9-21, to be under the subtitle designation,

9 “Subtitle 9. Late-Night Commercial Operations”

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 15. Licensing and Regulation**

16 **SUBTITLE 9. LATE-NIGHT COMMERCIAL OPERATIONS**

17 ***PART 1. DEFINITIONS; GENERAL PROVISIONS***

18 **§ 9-1. DEFINITIONS.**

19 (A) *IN GENERAL.*

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

21 (B) *BOARD.*

22 “BOARD” MEANS THE BOARD OF MUNICIPAL AND ZONING APPEALS.

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

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1 (C) *BUSINESS.*

2 "BUSINESS" MEANS ANY COMMERCIAL ACTIVITY CONDUCTED BY A PERSON, WHETHER
3 SALES, SERVICE, RENTAL, PROFESSIONAL, OR OTHERWISE.

4 (D) *INCLUDES; INCLUDING.*

5 "INCLUDES" OR "INCLUDING" MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
6 LIMITATION.

7 (E) *LATE-NIGHT OPERATIONS LICENSE; LICENSE.*

8 "LATE-NIGHT OPERATIONS LICENSE" OR "LICENSE" MEANS A LICENSE ISSUED UNDER THIS
9 SUBTITLE.

10 (F) *PERSON.*

11 (1) *IN GENERAL.*

12 "PERSON" MEANS:

13 (I) AN INDIVIDUAL;

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

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

18 (2) *EXCLUSIONS.*

19 "PERSON" DOES NOT INCLUDE, UNLESS OTHERWISE EXPRESSLY PROVIDED, A
20 GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL
21 ENTITY.

22 **§ 9-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

23 (A) *MANDATORY TERMS.*

24 "MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
25 OR TO IMPOSE A DUTY.

26 (B) *PROHIBITORY TERMS.*

27 "MUST NOT" AND "MAY NOT" ARE EACH MANDATORY NEGATIVE TERMS USED TO
28 ESTABLISH A PROHIBITION.

29 (C) *PERMISSIVE TERMS.*

30 "MAY" IS PERMISSIVE.

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1 **§ 9-3. RULES, REGULATIONS, AND FORMS.**

2 (A) *BOARD TO ADOPT.*

3 THE BOARD OF MUNICIPAL AND ZONING APPEALS MUST ADOPT RULES, REGULATIONS,
4 AND FORMS TO CARRY OUT THIS SUBTITLE.

5 (B) *FILING.*

6 A COPY OF THE RULES, REGULATIONS, AND FORMS AND OF ANY AMENDMENTS TO THEM
7 MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE
8 EFFECT.

9 **§ 9-4. SCOPE.**

10 (A) *IN GENERAL.*

11 EXCEPT AS SPECIFIED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE APPLIES TO ALL
12 BUSINESSES THAT ARE LOCATED IN ANY RESIDENCE ZONING DISTRICT, OFFICE-
13 RESIDENCE ZONING DISTRICT, OR B-1 OR B-2 BUSINESS ZONING DISTRICT.

14 (B) *EXCEPTIONS.*

15 THIS SUBTITLE DOES NOT APPLY TO:

- 16 (1) THE SALE OF PHARMACEUTICALS AND RELATED HEALTH NEEDS;
17 (2) A RESTAURANT OR TAVERN OPERATING DURING HOURS AUTHORIZED BY ITS
18 ALCOHOLIC BEVERAGE LICENSE;
19 (3) THE SALE OF MOTOR VEHICLE FUELS AND RELATED AUTOMOTIVE NEEDS; OR
20 (4) THE PROVISION OF EMERGENCY MEDICAL OR VETERINARY CARE.

21 **§ 9-5. {RESERVED}**

22 ***PART 2. LICENSING***

23 **§ 9-6. LICENSE REQUIRED FOR LATE-NIGHT OPERATIONS.**

24 NO BUSINESS IN AN R, O-R, B-1, OR B-2 ZONING DISTRICT MAY BE OPEN TO THE PUBLIC
25 BETWEEN THE HOURS OF MIDNIGHT AND 6 A.M. WITHOUT HAVING FIRST OBTAINED A LATE-
26 NIGHT OPERATIONS LICENSE UNDER THIS SUBTITLE.

27 **§ 9-7. APPLICATIONS.**

28 THE APPLICATION FOR A LICENSE MUST BE IN THE FORM AND CONTAIN THE INFORMATION
29 THAT THE BOARD REQUIRES.

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§ 9-8. POSTING AND NOTICE; OBJECTIONS.

(A) POSTING AND NOTICE REQUIRED.

ON FILING AN APPLICATION FOR AN INITIAL LICENSE, THE APPLICANT MUST, IN ACCORDANCE WITH THE BOARD'S RULES AND REGULATIONS:

(1) POST THE PREMISES FOR 15 DAYS; AND

(2) WITHIN 5 DAYS OF THE FILING, SEND NOTICE OF THE APPLICATION TO THE CITY COUNCILMEMBER WHO REPRESENTS THE COUNCILMANIC DISTRICT IN WHICH THE BUSINESS IS LOCATED.

(B) 9 OR FEWER OBJECTIONS.

IF, WITHIN THE 15-DAY POSTING PERIOD, THE BOARD RECEIVES NO OBJECTION FROM THE COUNCILMEMBER AND NO MORE THAN 9 WRITTEN OBJECTIONS FROM PROPERTY OWNERS OR RESIDENTS WITHIN THE SAME ELECTION PRECINCT AS THE BUSINESS, THE LICENSE MAY BE ISSUED.

(C) 10 OR MORE OBJECTIONS.

(1) IF, WITHIN THE 15-DAY POSTING PERIOD, THE BOARD RECEIVES AN OBJECTION FROM THE COUNCILMEMBER OR 10 OR MORE WRITTEN OBJECTIONS FROM PROPERTY OWNERS OR RESIDENTS WITHIN THE SAME ELECTION PRECINCT AS THE BUSINESS, THE BOARD MUST HOLD A HEARING ON THE MATTER.

(2) UNLESS THE APPLICANT AGREES TO A LATER DATE, THE HEARING MUST BE HELD WITHIN 15 DAYS AFTER THE LAST DAY OF THE 15-DAY POSTING PERIOD.

(3) AT THE HEARING, PARTIES IN INTEREST AND CITIZENS MUST BE GIVEN AN OPPORTUNITY TO BE HEARD.

§ 9-9. DECISION ON APPLICATION.

(A) BOARD TO DECIDE.

THE BOARD MUST NOTIFY THE APPLICANT IN WRITING OF ITS DECISION TO GRANT OR DENY THE LICENSE AS FOLLOWS:

(1) IF NO HEARING IS REQUIRED TO BE HELD UNDER § 9-8(C) OF THIS SUBTITLE OR UNDER SUBSECTION (C) OF THIS SECTION, WITHIN 15 DAYS AFTER THE LAST DAY OF THE 15-DAY POSTING PERIOD; AND

(2) IF A HEARING IS REQUIRED, WITHIN 15 DAYS AFTER CONCLUSION OF THE HEARING.

(B) CONSIDERATIONS.

IN REVIEWING AN APPLICATION, THE BOARD MUST CONSIDER:

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1 (1) IF A HEARING WAS HELD UNDER THIS SUBTITLE, THE TESTIMONY GIVEN AT THE
2 HEARING;

3 (2) THE SPECIFIC DAYS AND HOURS PROPOSED FOR LATE-NIGHT OPERATIONS; AND

4 (2) THE ESTABLISHMENT AND MAINTENANCE OF AN INDOOR AND OUTDOOR SECURITY
5 PLAN.

6 (C) *CONDITIONS.*

7 ON NOTICE TO THE APPLICANT AND AN OPPORTUNITY TO BE HEARD, THE BOARD MAY
8 IMPOSE REASONABLE CONDITIONS ON A LICENSE TO PROTECT THE PUBLIC HEALTH,
9 SAFETY, AND WELFARE.

10 **§ 9-10. TERM AND RENEWAL OF LICENSES.**

11 (A) *TERM.*

12 EACH LATE-NIGHT OPERATIONS LICENSE EXPIRES ANNUALLY ON THE ANNIVERSARY OF ITS
13 ISSUANCE AND IS RENEWABLE AS PROVIDED IN THIS SECTION.

14 (B) *APPLICATION FOR RENEWAL.*

15 (1) TO RENEW A LICENSE, THE LICENSEE MUST APPLY NO LESS THAN 30 DAYS NOR MORE
16 THAN 60 DAYS BEFORE THE LICENSE EXPIRES.

17 (2) THE RENEWAL APPLICATION MUST BE IN THE FORM AND CONTAIN THE INFORMATION
18 THAT THE BOARD REQUIRES.

19 (C) *APPROVAL.*

20 ON FILING THE RENEWAL APPLICATION AND PAYMENT OF THE RENEWAL FEE, THE BOARD
21 MAY APPROVE THE APPLICATION, EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS
22 SECTION.

23 (D) *PROTEST AND HEARING.*

24 (1) IF, BEFORE THE END OF THE RENEWAL PERIOD, 10 OR MORE WRITTEN OBJECTIONS
25 FROM PROPERTY OWNERS OR RESIDENTS WITHIN THE SAME ELECTION PRECINCT AS THE
26 LICENSED PREMISES ARE FILED WITH THE BOARD, THE BOARD MUST HOLD A PUBLIC
27 HEARING ON THE PROPOSED RENEWAL.

28 (2) PARTIES IN INTEREST AND CITIZENS MUST BE GIVEN AN OPPORTUNITY TO BE HEARD.

29 **§ 9-11. FEE FOR LICENSE.**

30 THE ANNUAL LICENSE FEE IS \$250.

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1 **§ 9-12. WAITING PERIOD AFTER DENIAL.**

2 IF THE BOARD DENIES A LICENSE OR RENEWAL LICENSE, THE APPLICANT MAY NOT REAPPLY
3 FOR AT LEAST 9 MONTHS FROM THE DATE OF THE BOARD'S FINAL DECISION OR, IF THAT
4 DECISION WAS APPEALED, FROM THE DATE OF THE FINAL COURT DECISION.

5 **§§ 9-13 TO 9-15. {RESERVED}**

6 ***PART 3. ADMINISTRATIVE SANCTIONS***

7 **§ 9-16. DENIAL, SUSPENSION, OR REVOCATION.**

8 THE BOARD MAY DENY, SUSPEND, OR REVOKE A LATE-NIGHT OPERATIONS LICENSE OR
9 RENEWAL LICENSE FOR ANY OF THE FOLLOWING CAUSES:

- 10 (1) FAILING TO PAY THE APPLICABLE LICENSE FEE ON OR BEFORE THE DUE DATE;
- 11 (2) MAKING ANY MATERIAL FALSE STATEMENT IN ANY APPLICATION FOR AN INITIAL OR
12 RENEWAL LICENSE;
- 13 (3) FAILING TO COMPLY WITH ANY PROVISION OF THE BUILDING, FIRE, AND RELATED
14 CODES OF BALTIMORE CITY, THE HEALTH CODE OF BALTIMORE CITY, OR THE ZONING
15 CODE OF BALTIMORE CITY; OR
- 16 (4) FAILING TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR
17 REGULATION ADOPTED UNDER THIS SUBTITLE.

18 **§ 9-17. FINES.**

19 FOR ANY VIOLATION THAT IS CAUSE FOR SUSPENDING OR REVOKING A LICENSE, THE
20 BOARD MAY, INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE,
21 IMPOSE A CIVIL FINE OF:

- 22 (1) FOR A 1ST OFFENSE, NOT MORE THAN \$500; AND
- 23 (2) FOR ANY SUBSEQUENT OFFENSE, NOT MORE THAN \$1,000.

24 **§ 9-18. NOTICE AND HEARING.**

25 (A) *IN GENERAL.*

26 NO LICENSE OR RENEWAL LICENSE MAY BE DENIED, SUSPENDED, OR REVOKED AND NO
27 FINE MAY BE IMPOSED UNLESS THE BOARD GIVES THE APPLICANT OR LICENSEE:

- 28 (1) AT LEAST 10 DAYS' WRITTEN NOTICE OF THE INTENT TO IMPOSE SANCTIONS; AND
- 29 (2) AN OPPORTUNITY TO BE HEARD AS TO WHY SANCTIONS SHOULD NOT BE IMPOSED.

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1 (B) *DENIAL OF INITIAL LICENSE.*

2 FOR THE PROPOSED DENIAL OF AN INITIAL LICENSE, A HEARING MUST BE HELD WITHIN 90
3 DAYS OF A TIMELY REQUEST, UNLESS THE APPLICANT AGREES TO A LATER DATE.

4 **§ 9-19. JUDICIAL AND APPELLATE REVIEW.**

5 (A) *JUDICIAL REVIEW.*

6 A PERSON AGGRIEVED BY A DECISION OF THE BOARD MAY SEEK JUDICIAL REVIEW OF THAT
7 DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE
8 WITH THE MARYLAND RULES OF PROCEDURE.

9 (B) *STAYS.*

10 (1) THE FILING OF A PETITION FOR JUDICIAL REVIEW DOES NOT STAY THE DECISION OF THE
11 BOARD.

12 (2) HOWEVER, ON MOTION AND AFTER HEARING, THE COURT MAY GRANT A STAY AS
13 PROVIDED IN THE MARYLAND RULES OF PROCEDURE.

14 (C) *APPELLATE REVIEW.*

15 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO THE
16 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
17 PROCEDURE.

18 **§ 9-20. {RESERVED}**

19 ***PART 4. PENALTIES***

20 **§ 9-21. PENALTIES.**

21 (A) *IN GENERAL.*

22 ANY PERSON WHO VIOLATES OR WHO NEGLECTS OR REFUSES TO COMPLY WITH ANY
23 PROVISION OF THIS SUBTITLE OR OF ANY RULE OR REGULATION ADOPTED UNDER THIS
24 SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF
25 NOT MORE THAN \$500.

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

27 EACH DAY THAT A VIOLATION CONTINUES AFTER NOTIFICATION CONSTITUTES A SEPARATE
28 OFFENSE.

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

32 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 90th day
33 after the date it is enacted.