

**CITY OF BALTIMORE
COUNCIL BILL 09-0387
(First Reader)**

Introduced by: Councilmember Spector, President Rawlings Blake, Councilmembers Holton,
Henry, Curran, Middleton, Kraft, Conaway, Welch, Clarke, Reisinger, Cole, Young
Introduced and read first time: August 10, 2009
Assigned to: Land Use and Transportation Committee

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Zoning – Conditional Uses – Suspension, Revocation, etc.**

3 FOR the purpose of authorizing the nonrenewal, modification, suspension, or revocation of a
4 conditional use for failure to comply with a condition, restriction, or limitation imposed on
5 that use; providing for the automatic lapse of a conditional use that has been discontinued for
6 a certain continuous period; authorizing the grant of a conditional use subject to a time limit
7 and periodic renewal; and generally relating to the imposition and enforcement of conditions,
8 restrictions, and limitations on conditional uses.

9 BY repealing and reordaining, with amendment

10 Article - Zoning
11 Section(s) 14-103
12 Baltimore City Revised Code
13 (Edition 2000)

14 BY adding

15 Article - Zoning
16 Section(s) 14-104
17 Baltimore City Revised Code
18 (Edition 2000)

19 BY adding

20 Article - Zoning
21 Section(s) 14-501 to 14-505, to be under the new subtitle,
22 “Subtitle 5. Suspension, Revocation, etc.”
23 Baltimore City Revised Code
24 (Edition 2000)

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

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

Council Bill 09-0387

Baltimore City Revised Code

Article – Zoning

Title 14. Conditional Uses

Subtitle 1. Overview; General Requirements

§ 14-103. Imposition of conditions.

(a) [*When authorized*] *IN GENERAL.*

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

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

(ii) [(2)] secure compliance with the standards and requirements of this title; and

(iii) [(3)] better carry out the intent and purposes of this article.

[(b) *When required.*]

(2) The Board must impose these conditions, restrictions, and limitations whenever it approves a conditional use relating to automotive repair or recycling collection stations.

(B) [(c)] *Guarantees – GENERAL.*

(1) [The] WHEN APPROVING A CONDITIONAL USE, THE Board or City Council, as the case may be, may require whatever evidence and guarantees it considers necessary to assure that the conditions, restrictions, and limitations imposed will be met and complied with.

(C) *GUARANTEES – PERIODIC RENEWAL.*

(1) THE BOARD OR CITY COUNCIL, AS THE CASE MAY BE, MAY PLACE A TIME LIMIT ON A CONDITIONAL USE OR MAY REQUIRE RENEWAL OF THE USE AFTER A CERTAIN TIME PERIOD AS A CONDITION OF APPROVAL.

(2) AN APPLICATION FOR RENEWAL OF THE CONDITIONAL USE MUST BE FIRST SUBMITTED TO THE BOARD FOR ITS DETERMINATION OF WHETHER THE APPLICANT HAS COMPLIED WITH THE CONDITIONS, RESTRICTIONS, AND LIMITATIONS IMPOSED FOR THE PRIOR TERM.

(3) IF THE BOARD FINDS THAT THE APPLICANT HAS BEEN IN SUBSTANTIAL OR REPEATED VIOLATION OF A CONDITION, RESTRICTION, OR LIMITATIONS, IT MUST DENY THE APPLICATION FOR RENEWAL.

Council Bill 09-0387

1 (d) *Record of conditions.*

2 (1) All conditions, restrictions, or limitations imposed by the Board must be set forth in
3 the Board’s written decision approving the conditional use.

4 (2) All conditions, restrictions, or limitations imposed by the City Council must be set
5 forth in the ordinance approving the conditional use.

6 (e) *Compliance required.*

7 Failure to comply with any condition, restriction, or limitation imposed under this
8 [section] TITLE:

9 (1) constitutes a violation of this article; AND

10 (2) IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT
11 PROCEDURE, IS GROUNDS FOR MODIFICATION, SUSPENSION, OR REVOCATION OF
12 THE CONDITIONAL USE, AS PROVIDED IN SUBTITLE 5 {“SUSPENSIONS,
13 REVOCATIONS, ETC.”} OF THIS TITLE.

14 **§ 14-104. FAILURE TO EXERCISE; ABANDONMENT.**

15 (A) *LAPSE ON FAILURE TO EXERCISE.*

16 UNLESS EXTENDED UNDER § 2-604 {“EXTENSIONS BY BOARD”} OF THIS ARTICLE , IF A
17 CONDITIONAL USE APPROVAL IS NOT EXERCISED WITHIN THE TIME SPECIFIED IN § 2-602
18 {“EXERCISE WITHIN 12 MONTHS REQUIRED”} OF THIS ARTICLE, THE APPROVAL
19 AUTOMATICALLY LAPSES AND IS VOID.

20 (B) *LAPSE ON ABANDONMENT.*

21 IF ANY CONDITIONAL USE IS DISCONTINUED FOR A CONTINUOUS PERIOD OF AT LEAST 2
22 YEARS, THE CONDITIONAL USE APPROVAL AUTOMATICALLY LAPSES AND IS VOID. A NEW
23 APPLICATION AND AUTHORIZATION IS REQUIRED BEFORE THE USE MAY BE RE-
24 ESTABLISHED.

25 ***SUBTITLE 5. SUSPENSION, REVOCATION, ETC.***

26 **§ 14-501. SCOPE OF SUBTITLE.**

27 THIS SUBTITLE APPLIES TO ALL CONDITIONAL USES APPROVED UNDER THIS TITLE, WHETHER
28 BY THE BOARD OR BY ORDINANCE.

29 **§ 14-502. ATTEMPTED RESOLUTION.**

30 WHENEVER THE ZONING ADMINISTRATOR LEARNS OF A VIOLATION OF A CONDITION,
31 RESTRICTION, OR LIMITATION IMPOSED UNDER THIS TITLE, THE ADMINISTRATOR MUST
32 ATTEMPT TO RESOLVE IT INFORMALLY AND PROMPTLY.

Council Bill 09-0387

§ 14-503. NOTICE OF PROPOSED REVOCATION.

(A) *ISSUANCE.*

IF THE ZONING ADMINISTRATOR IS UNABLE TO RESOLVE THE VIOLATION, THE ZONING ADMINISTRATOR MUST ISSUE A NOTICE OF PROPOSED REVOCATION TO:

(1) THE OWNERS OF RECORD OF THE PROPERTY, AS SHOWN ON THE TAX RECORDS OF BALTIMORE CITY; AND

(2) THE PERSONS TO WHOM THE CONDITIONAL USE APPROVAL WAS GRANTED.

(B) *CONTENTS OF NOTICE.*

THE NOTICE MUST:

(1) SPECIFY THE NATURE OF THE VIOLATION; AND

(2) WARN THE RECIPIENT THAT, UNLESS THE VIOLATION IS CORRECTED WITHIN 30 DAYS, OR SUCH OTHER TIME AS IS SPECIFIED IN THE NOTICE, THE MATTER WILL BE REFERRED TO THE BOARD FOR REVOCATION OF THE CONDITIONAL USE.

(C) *HOW SERVED.*

ALL NOTICES MUST BE SERVED BY:

(1) FIRST CLASS MAIL; OR

(2) PERSONAL SERVICE BY AN AUTHORIZED REPRESENTATIVE OF THE CITY, WHICH SERVICE MUST BE CERTIFIED ON THE RECORDS OF THE ZONING ADMINISTRATOR.

§ 14-504. REFERRAL TO BOARD.

(A) *ADMINISTRATOR MAY REQUEST HEARING.*

IF THE VIOLATION IS NOT CORRECTED WITHIN THE TIME SPECIFIED, THE ZONING ADMINISTRATOR MAY FORWARD THE RECORD OF THIS MATTER TO THE BOARD AND REQUEST THE BOARD TO SCHEDULE A REVOCATION HEARING.

(B) *SCHEDULING.*

ON RECEIPT OF THE REQUEST, THE BOARD MUST PROMPTLY SET THE MATTER IN FOR A HEARING, TO BE HELD AS SOON AS PRACTICABLE.

§ 14-505. DECISION.

IF, AFTER NOTICE TO THE PARTIES AND AN OPPORTUNITY TO BE HEARD, THE BOARD FINDS THAT A CONDITION, RESTRICTION, OR LIMITATION IMPOSED UNDER THIS TITLE HAS BEEN VIOLATED, THE BOARD MAY TAKE ANY 1 OR COMBINATION OF THE FOLLOWING ACTIONS:

Council Bill 09-0387

- 1 (1) REVOKE THE CONDITIONAL USE;
- 2 (2) SUSPEND THE CONDITIONAL USE PENDING COMPLETION OF CORRECTIVE ACTION;
- 3 (3) AFFIRM THE CONDITIONAL USE, SUBJECT TO A SCHEDULE FOR CORRECTIVE ACTION,
4 WITH PROVISION FOR AUTOMATIC TERMINATION IF THE SCHEDULE IS NOT MET;
- 5 (4) MODIFY, ADD TO, DELETE, OR OTHERWISE AMEND ANY OF THE CONDITIONS,
6 RESTRICTIONS, OR LIMITATIONS ORIGINALLY IMPOSED ON THE CONDITIONAL USE; AND
- 7 (5) MAKE ANY OTHER ORDER, REQUIREMENT, DECISION, OR DETERMINATION AS OUGHT TO
8 BE MADE.

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

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