

CITY OF BALTIMORE
COUNCIL BILL 23-0422
(First Reader)

Introduced by: Councilmembers Burnett, Ramos, Porter

Introduced and read first time: August 21, 2023

Assigned to: Public Safety and Government Operations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community Development, Baltimore Police Department, Office of the State's Attorney for Baltimore City, Mayor's Office of Neighborhood Safety and Engagement

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Public Nuisances – Modifications**

3 FOR the purpose of requiring certain people be notified of a hearing regarding a public nuisance;
4 removing prostitution from the definition of public notice; altering certain penalties; and
5 generally relating to abating public nuisance premises.

6 BY repealing and re-ordaining, with amendments

7 Article 19 - Police Ordinances

8 Sections 43-1, 43-4, and 43-12

9 Baltimore City Code

10 (Edition 2000)

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

13 **Baltimore City Code**

14 **Article 19. Police Ordinances**

15 **Subtitle 43. Public Nuisances**

16 **§ 43-1. Definitions.**

17 (a) *In general.*

18 In this subtitle, the following terms have the meanings indicated.

19 [(b) *Assignation.*]

20 [“Assignation” means an appointment or engagement for prostitution or any act in
21 furtherance of the appointment or engagement.]

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

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1 (B) [(c)] *Commissioner*.

2 “Commissioner” means the Police Commissioner of Baltimore City or the
3 Commissioner’s designee.

4 (C) [(d)] *Controlled dangerous substance*.

5 “Controlled dangerous substance” means a substance listed in Schedule I or Schedule II
6 under State Criminal Law Article § 5-402 or § 5-403.

7 (D) [(e)] *Controlled paraphernalia*.

8 “Controlled paraphernalia” has the meaning stated in State Criminal Law Article § 5-101.

9 (E) [(f)] *Crime of violence*.

10 “Crime of violence” has the meaning stated in State Criminal Law Article § 14-101.

11 (F) [(g)] *Operator*.

12 “Operator” means any person who has charge, care, or control of a premises or structure.

13 (G) [(h)] *Owner*.

14 “Owner” means the person in whose name a premises is recorded in the Land Records of
15 Baltimore City.

16 (H) [(i)] *Premises*.

17 “Premises” means all or any part of any land, building, or other structure.

18 [(j)] *Prostitution*.]

19 [“Prostitution” means the performance of a sexual act, sexual contact, or vaginal
20 intercourse, as these terms are defined in State Criminal Law Article § 3-301, for hire.]

21 (I) [(k)] *Public nuisance*.

22 (1) “Public nuisance” means any premises that, on 2 or more separate occasions within a
23 24-month period, were used:

24 [(i) for prostitution, lewdness, or assignation;]

25 [(ii) for illegal adult entertainment;]

26 (I) [(iii)] by persons who assemble for the specific purpose of illegally
27 administering a controlled dangerous substance;

28 (II) [(iv)] for the illegal manufacture or distribution of:

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1 (A) a controlled dangerous substance; or

2 (B) controlled paraphernalia;

3 (III) [(v)] for the illegal storage or concealment of a controlled dangerous
4 substance or controlled paraphernalia in sufficient quantity to reasonably
5 indicate under all the circumstances an intent to manufacture, distribute, or
6 dispense:

7 (A) a controlled dangerous substance; or

8 (B) controlled paraphernalia;

9 (IV) [(vi)] for gambling;

10 (V) [(vii)] for storage or possession of stolen property;

11 (VI) [(viii)] for storage or possession of unregistered firearms;

12 (VII) [(ix)] for furtherance of a crime of violence;

13 (VIII) [(x)] by persons who engage in a crime of violence on or near the premises;
14 or

15 (IX) [(xi)] for criminal gang offenses prohibited under State Criminal Law
16 Article 9, Subtitle 8.

17 (2) Two reports by police officers, written in the regular course of business, of a
18 premises' having been used for activities described in paragraph (1) of this subsection
19 are prima facie evidence that the premises are a public nuisance.

20 (3) "PUBLIC NUISANCE" INCLUDES ANY PREMISES THAT, WITHIN A 6-MONTH PERIOD:

21 (I) HAS BEEN ISSUED 2 OR MORE ENVIRONMENTAL CITATIONS UNDER CITY CODE
22 ARTICLE 23 § 2-1 {"*MIXED REFUSE HANDLING AND COLLECTION:*
23 *RECEPTACLES*"};

24 (II) HAS BEEN ISSUED 2 OR MORE ENVIRONMENTAL CITATIONS UNDER CITY CODE
25 ARTICLE 23 § 2-2 {"*MIXED REFUSE HANDLING AND COLLECTION: HANDLING*"};
26 OR

27 (III) HAS BEEN ISSUED 2 OR MORE ENVIRONMENTAL CITATIONS UNDER TITLE 5,
28 SUBTITLE 7 OF THE HEALTH CODE OF BALTIMORE CITY {"*WEEDS*"}.

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1 **§ 43-4. Notice and opportunity for hearing.**

2 (a) *In general.*

3 Before issuing an order under this subtitle, the Commissioner shall give notice and an
4 opportunity for a hearing to the owner and any operator of the premises and to any
5 commercial tenant of the premises.

6 (b) *Contents of notice.*

7 The notice shall state:

8 (1) the date, place, and time of the hearing;

9 (2) the right of the persons receiving the notice to be heard and to be represented at
10 the hearing; and

11 (3) the possible consequences of failure to appear, including the possible issuance of
12 a default order directing the premises to be closed.

13 (c) *Service and posting of notice.*

14 (1) The notice shall be given by personal service or by certified or registered mail to the
15 owner, operator, and commercial tenant, as their names and addresses:

16 (i) are recorded in the Land Records of Baltimore City;

17 (ii) appear in the registration statement filed under City Code Article 13, Subtitle
18 4 {“Registration of Non-Owner-Occupied Dwellings, etc.”}; or

19 (iii) are otherwise known or readily ascertainable.

20 (2) In addition, the notice shall be posted on the premises.

21 (3) TO THE EXTENT PRACTICABLE, A COPY OF THE NOTICE SHALL BE SENT TO:

22 (I) THE MEMBER OF THE CITY COUNCIL WHO REPRESENTS THE DISTRICT IN WHICH
23 THE PREMISES IS LOCATED;

24 (II) THE COMMUNITY ASSOCIATION FOR THE NEIGHBORHOOD IN WHICH THE
25 PREMISES IS LOCATED; AND

26 (III) THE DEPARTMENT OF PLANNING, WHO SHALL RECORD THE INFORMATION ON
27 CODEMAP OR ITS SUCCESSOR SYSTEM.

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1 **§ 43-12. Penalties.**

2 (a) *In general.*

3 Any person who violates a provision of § 43-11 is guilty of a misdemeanor and, on
4 conviction, is subject to the following penalties:

5 (1) for a violation of § 43-11(a) {"Prohibited conduct: Destruction, etc., of posted
6 order"}, the offender is subject to a fine of not more than [500] \$1,000; and

7 (2) for a violation of § 43-11(b) {"Prohibited conduct: Failure to obey order"}, the
8 offender is subject to a fine of not more than [500] \$1,000 or to imprisonment
9 for not more than 90 days or to both fine and imprisonment.

10 (b) *Each day a separate offense.*

11 Each day a violation continues is a separate offense.

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