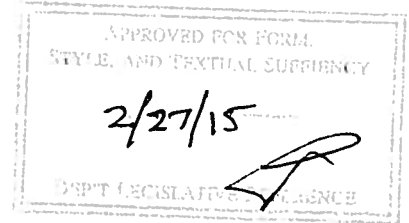


AMENDMENTS TO COUNCIL BILL 14-361
(1st Reader Copy)



By: Housing and Community Committee
{To be offered on the Council Floor}

Amendment No. 1

On page 1, in line 2, before “**Multiple**”, insert “**Applicability to**”; and, in the same line, after “**Businesses**”, insert “**– Standing to Object – Administrative Appeals**”; and, at the end of line 3, strike “application,”; and, in line 5, after the semicolon, insert “**expanding the scope of those who have standing to protest the issuance or renewal of a late-night operations license; extending the waiting period for reapplication after a denial; clarifying an exemption for certain drive-through food-service windows; providing for administrative appeals to be heard by the Finance Director; correcting, clarifying, and conforming related provisions;**”.

Amendment No. 2

On page 1, after line 7, insert:

BY repealing
Article 15 - Licensing and Regulation
Section(s) 9-1(b)
Baltimore City Code
(Edition 2000)

BY adding
Article 15 - Licensing and Regulation
Section(s) 9-1(d-1)
Baltimore City Code
(Edition 2000)”;

ADOPTED

and, in line 8, strike “repealing” and substitute “**repealing**”; and, in line 10, after “Section(s)”, insert “**9-4(b)(6)**.”; and, in the same line, strike “and” and substitute “**9-9**.”; and, in the same line, after “9-10”, insert “**, 9-12, and 9-16 through 9-19**”; and, after line 12, insert:

BY repealing and reordaining, without amendments
Article 15 - Licensing and Regulation
Section(s) 9-21
Baltimore City Code
(Edition 2000)”.

Amendment No. 3

On page 1, after line 17, insert:

“§ 9-1. Definitions.

[(b) Board.]

["Board" means the Board of Municipal and Zoning Appeals.]

(D-1) FINANCE DIRECTOR; DIRECTOR.

“FINANCE DIRECTOR” OR “DIRECTOR” MEANS THE DIRECTOR OF THE FINANCE DEPARTMENT OR THE DIRECTOR’S DESIGNEE.

§ 9-4. Scope.

(b) Exceptions.

This subtitle does not apply to:

(6) drive-through food-service windows, if:

(i) all indoor sales and dining areas are closed to the public during late-night hours; AND

(ii) NO PEDESTRIANS ARE SERVED AT THESE WINDOWS DURING LATE-NIGHT HOURS.”

Amendment No. 4

On page 1, in line 19, strike both the opening and closing brackets; and, in line 20, strike “The” and substitute “EVERY”; and, in the same line, after “for”, strike “a” and substitute “AN INITIAL OR RENEWAL”; on page 2, in line 1, strike both the opening and closing brackets; and, in line 2, after “[(1)” insert a closing bracket; and, in line 3, after “may”, insert a colon, a paragraph return, and the tabulation designation “(1)”; and, in the same line, strike “to” and substitute “FOR AN INITIAL OR RENEWAL”; and in the same line, after “license” insert “FOR”; and, in the same line, before the period, insert an opening bracket; and, at the end of the same line, after the closing bracket, insert:

“; AND

(2) REMIT IN ONE LUMP-SUM PAYMENT THE AGGREGATE FEES OWED FOR THOSE BUSINESSES.”

Amendment No. 5

On page 2, in line 24, after “application”, insert “BY EMAIL OR BY CERTIFIED OR REGISTERED MAIL”; and, on page 2, in line 29, on page 3, in line 13, and on page 4, in line 9, in each instance, before “property owners”, insert “REAL”, and after “property owners”, insert “COMMERCIAL TENANTS THAT ARE NOT THEMSELVES HOLDERS OF OR APPLICANTS FOR A LATE-NIGHT OPERATIONS LICENSE”; and, on page 3, in lines 7 and 8, line 10, lines 17 and 18, and line 20, and on page 4, in lines 13 and 14, line 16, and line 19, in each instance, strike “Board of Municipal and Zoning Appeals” or “Board”, as the case may, and substitute “FINANCE DIRECTOR”; and, on page 3, in line 10 and line 20, and on page 4, in line 16, in each instance, strike “a public hearing on” and substitute “AN ADMINISTRATIVE REVIEW OF”.

Amendment No. 6

On page 3, after line 20, insert:

“§ 9-9. Decision on [hearing] REVIEW.

(a) [Board] FINANCE DIRECTOR to decide.

Within [15] 30 days after [conclusion of the hearing] THE TIMELY FILING OF AN APPEAL, the [Board] FINANCE DIRECTOR must notify the applicant in writing of [its] HIS OR HER decision:

- (1) to affirm the denial of the license; or
- (2) to direct the Department to grant the license.

(b) Considerations.

In reviewing an application, the [Board] FINANCE DIRECTOR must consider:

- (1) [the testimony given at the hearing] ALL LETTERS SUBMITTED IN OPPOSITION TO OR SUPPORT OF THE APPLICATION;
- (2) any cause for denial that is specified in § 9-16 {“Denial, suspension, or revocation”} of this subtitle;
- (3) the specific days and hours proposed for late-night operations;
- (4) the adequacy of an indoor and outdoor security plan, INCLUDING ANY EVALUATION MADE BY THE POLICE COMMISSIONER OR HIS OR HER DESIGNEE; and
- (5) the ability and willingness of the applicant to accept reasonable conditions on the license to protect the public health, safety, and welfare.”.

Amendment No. 7

On page 3, in line 26, strike “(1)”; and, in the same line, after “must”, insert a colon, a paragraph return, and the tabulation designation “(1)”; and, in the same line strike “30” and “60” and substitute “60” and “90”, respectively; and, in line 27, before the period, insert:

“; AND

(2) IN ACCORDANCE WITH THE FINANCE DEPARTMENT’S RULES AND REGULATIONS, POST THE PREMISES FOR 15 DAYS”;

and strike lines 28 and 29, in their entireties; and, on page 4, in line 8, strike “before the end of the renewal period” and substitute “WITHIN THE 15-DAY POSTING PERIOD”; and, on page 4, strike lines 17 and 18, in their entireties, and substitute:

“(3) THE FILING OF AN APPEAL TO THE FINANCE DIRECTOR DOES NOT STAY THE DECISION OF THE DEPARTMENT PENDING THE DIRECTOR’S DECISION.”.

Amendment No. 8

On page 4, after line 20, insert:

“§ 9-12. Waiting period after denial.

If a license or renewal license is denied under this subtitle, the applicant may not reapply for at least [9] 12 months from the date of the final decision of the Department [or the Board, as the case may be,] or, if judicial review of that decision was obtained, from the date of the final court decision.

§ 9-16. Denial, suspension, or revocation.

The FINANCE Department or, on appeal, the [Board] FINANCE DIRECTOR may deny, suspend, or revoke a late-night operations license or renewal license for any of the following causes:

- (1) failing to pay the applicable license fee on or before the due date;
- (2) making any material false statement in any application for an initial or renewal license;
- (3) failing to abate within 30 days of receipt any notice or citation for violating any provision of the Building, Fire, and Related Codes of Baltimore City, the Health Code of Baltimore City, or the Zoning Code of Baltimore City; or
- (4) failing to comply with any provision of:
 - (i) this subtitle;

(ii) a rule or regulation adopted under this subtitle; or

(iii) a condition imposed under this subtitle on the license.

§ 9-17. Fines.

For any violation that is cause for suspending or revoking a license, the FINANCE Department or, on appeal, the [Board] FINANCE DIRECTOR may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

(1) for a 1st offense, not more than \$500; and

(2) for any subsequent offense, not more than \$1,000.

§ 9-18. Appeal to [BMZA] FINANCE DIRECTOR.

(a) Scope of section.

This section does not apply to the denial of a license or a renewal license under § 9-8 or § 9-10(d).

(b) Appeal [to Board].

(1) Within 30 days of receiving the Department's decision to deny, suspend, or revoke a license or to impose a civil fine, an aggrieved applicant or licensee may appeal the sanction imposed to the [Board of Municipal and Zoning Appeals] FINANCE DIRECTOR for [a public hearing] ADMINISTRATIVE REVIEW.

(2) The filing of an appeal to the [Board] FINANCE DIRECTOR stays the decision of the Department pending the [Board's] DIRECTOR'S decision.

(3) Within [15] 30 days after [conclusion of the hearing] THE TIMELY FILING OF AN APPEAL, the [Board] FINANCE DIRECTOR must notify the applicant or licensee in writing of [its] HIS OR HER decision.

(4) The [Board] FINANCE DIRECTOR may affirm, reject, increase, or otherwise modify any or all of the sanctions from which the appeal was taken.

§ 9-19. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a decision of the [Board] FINANCE DIRECTOR may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Stays.

(1) The filing of a petition for judicial review does not stay the decision of the [Board] FINANCE DIRECTOR.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

§ 9-21. Penalties.

(a) In general.

Any person who violates or who neglects or refuses to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 or imprisonment for not more than 6 months or both fine and imprisonment.

(b) Each day a separate offense.

Each day that a violation continues after notification constitutes a separate offense.”.

Amendment No. 9

On page 4, in line 25, strike “business” and substitute “businesses”; and, in the same line, strike “9-7(b),”; and, in the same line, after “9-8(a)”, strike the comma; and, in line 26, strike “application,”; and, at the end of the same line, strike the comma; and, in line 27, strike “the 30th day after”; and, in line 28, after the period, insert “If the expiration occurs within the 1st 30 days after the effective date of this Ordinance, the Finance Department shall grant an extension of not more than an additional 30 days, as needed to allow for the required posting.”.