

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 14-0361**

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Introduced by: Councilmembers Kraft, Stokes, Reisinger, Branch, Middleton, Henry,  
President Young, Councilmembers Holton, Scott, Mosby  
Introduced and read first time: April 7, 2014  
Assigned to: Housing and Community Development Committee  
Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: March 2, 2014

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**AN ORDINANCE CONCERNING**

**Late-Night Commercial Operations – Applicability to Multiple Businesses –  
Standing to Object – Administrative Appeals**

FOR the purpose of repealing exceptions for certain multiple businesses from the ~~application,~~  
notice, objections, and hearing processes otherwise required to obtain and renew late-night  
operations licenses; 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; providing for the application of this Ordinance  
to multiple businesses previously licensed under these exceptions; providing for a special  
effective date; and generally relating to the licensing and regulation of late-night commercial  
operations.

**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)

**BY ~~repealing~~ repealing and reordaining, with amendments**

Article 15 - Licensing and Regulation  
Section(s) ~~9-4(b)(6), 9-7, 9-8, and 9-9,~~ 9-10, 9-12, and 9-16 through 9-19  
Baltimore City Code  
(Edition 2000)

**EXPLANATION:** CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by  
amendment or deleted from existing law by amendment.

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1 BY repealing and reordaining, without amendments

2 Article 15 - Licensing and Regulation

3 Section(s) 9-21

4 Baltimore City Code

5 (Edition 2000)

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

8 **Baltimore City Code**

9 **Article 15. Licensing and Regulation**

10 **Subtitle 9. Late-Night Commercial Operations**

11 **§ 9-1. Definitions.**

12 [(b) Board.]

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

14 (D-1) FINANCE DIRECTOR; DIRECTOR.

15 "FINANCE DIRECTOR" OR "DIRECTOR" MEANS THE DIRECTOR OF THE FINANCE  
16 DEPARTMENT OR THE DIRECTOR'S DESIGNEE.

17 **§ 9-4. Scope.**

18 (b) Exceptions.

19 This subtitle does not apply to:

20 ...  
21 (6) drive-through food-service windows, if:

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

24 (II) NO PEDESTRIANS ARE SERVED AT THESE WINDOWS DURING LATE-NIGHT  
25 HOURS.

26 **§ 9-7. Applications.**

27 {(a) In general.}

28 The EVERY application for a AN INITIAL OR RENEWAL license must be in the form and  
29 contain the information that the Finance Department requires.

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1       {(b) *Multiple businesses owned or franchised by same person.*}

2           [(1)] Any person that owns or is the franchisor of 2 or more businesses subject to this  
3 subtitle may:

4                   (1) submit a joint application ~~to~~ FOR AN INITIAL OR RENEWAL license FOR each of  
5 those businesses[.]; AND

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

8           [(2) On compliance with paragraph (3) of this subsection, the applicant is entitled to  
9 immediately obtain and annually renew these licenses, without the posting, notice,  
10 objections, and hearing processes of § 9-8 and § 9-10(d) of this subtitle.]

11           [(3) The applicant must agree, in a form satisfactory to the Finance Director, that a  
12 business covered by the joint application will become subject to the renewal protest  
13 and hearing process of § 9-10(d) of this subtitle if that business:

14                   (i) fails to abate within 30 days of receipt any notice or citation for violating any  
15 provision of the Building, Fire, and Related Codes of Baltimore City, the  
16 Health Code of Baltimore City, or the Zoning Code of Baltimore City; or

17                   (ii) fails to pay when due any fee, fine, or penalty to the City for the license issued  
18 under this subtitle or for any other license issued by the City.]

19       **§ 9-8. Posting and notice; Objections.**

20       [(a) *Scope of section.*

21           This section does not apply to multiple businesses that have applied jointly under  
22 § 9-7(b)(1) of this subtitle and have entered into the agreement described in § 9-7(b)(3) of  
23 this subtitle.]

24       (A) [(b)] *Posting and notice required.*

25           On filing an application for an initial license, the applicant must, in accordance with the  
26 Finance Department’s rules and regulations:

27                   (1) post the premises for 15 days; and

28                   (2) within 5 days of the filing, send notice of the application BY EMAIL OR BY  
29 CERTIFIED OR REGISTERED MAIL to the City Councilmember who represents the  
30 Councilmanic District in which the business is located.

31       (B) [(c)] *9 or fewer objections.*

32           (1) If, within the 15-day posting period, the Department receives no more than 9 written  
33 objections from REAL property owners, COMMERCIAL TENANTS THAT ARE NOT  
34 THEMSELVES HOLDERS OF OR APPLICANTS FOR A LATE-NIGHT OPERATIONS LICENSE, or

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1 residents within the impact area of the business, the Department must grant or deny  
2 the license within 15 days after the last day of the 15-day posting period.

3 (2) A denial must be based solely on one or more of the following factors:

4 (i) any cause for denial that is specified in § 9-16 {"Denial, suspension, or  
5 revocation"} of this subtitle;

6 (ii) the specific days and hours proposed for late-night operations;

7 (iii) the lack or inadequacy of an indoor and outdoor security plan; and

8 (iv) the inability or unwillingness of the applicant to accept reasonable conditions  
9 on the license to protect the public health, safety, and welfare.

10 (3) The notice of a denial must:

11 (i) state the reasons for the denial; and

12 (ii) notify the applicant of the applicant's right to appeal to the ~~Board of~~  
13 ~~Municipal and Zoning Appeals~~ FINANCE DIRECTOR.

14 (4) Within 30 days of receiving the notice of denial, the applicant may appeal to the  
15 ~~Board of Municipal and Zoning Appeals~~ FINANCE DIRECTOR for a ~~public hearing on~~  
16 AN ADMINISTRATIVE REVIEW OF the application.

17 (C) [(d)] *10 or more objections.*

18 (1) If, within the 15-day posting period, the Department receives 10 or more written  
19 objections from REAL property owners, COMMERCIAL TENANTS THAT ARE NOT  
20 THEMSELVES HOLDERS OF OR APPLICANTS FOR A LATE-NIGHT OPERATIONS LICENSE, or  
21 residents within the impact area of the business, the Department must:

22 (i) deny the application; and

23 (ii) within 7 days after the last day of the 15-day posting period, notify the  
24 applicant of the denial and of the applicant's right to appeal to the ~~Board of~~  
25 ~~Municipal and Zoning Appeals~~ FINANCE DIRECTOR.

26 (2) Within 30 days of receiving the notice of denial, the applicant may appeal to the  
27 ~~Board of Municipal and Zoning Appeals~~ FINANCE DIRECTOR for a ~~public hearing on~~  
28 AN ADMINISTRATIVE REVIEW OF the application.

### 29 § 9-9. Decision on [hearing] REVIEW.

30 (a) [~~Board~~] *FINANCE DIRECTOR to decide.*

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

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

3       **(b) Considerations.**

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

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

14       **§ 9-10. Term and renewal of license.**

15       **(a) Term.**

16           Each late-night operations license expires annually on the anniversary of its issuance and  
17           is renewable as provided in this section.

18       **(b) Application for renewal.**

19           ~~(1)~~ To renew a license, the licensee must:

- 20           (1) apply no less than 30 60 days nor more than 60 90 days before the license expires;  
21           AND
- 22           (2) IN ACCORDANCE WITH THE FINANCE DEPARTMENT’S RULES AND REGULATIONS,  
23           POST THE PREMISES FOR 15 DAYS.

24           ~~(2) The renewal application must be in the form and contain the information that the~~  
25           ~~Finance Department requires.~~

26       **(c) Approval.**

27           On filing the renewal application and payment of the renewal fee, the Finance  
28           Department may approve the application, except as provided in subsection (d) of this  
29           section.

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### (d) *Protest and hearing.*

[(1) This subsection does not apply to multiple businesses that have applied jointly under § 9-7(b) of this subtitle, except as specified in that section.]

(1) [(2)] If, ~~before the end of the renewal period~~ WITHIN THE 15-DAY POSTING PERIOD, 10 or more written objections from REAL property owners, COMMERCIAL TENANTS THAT ARE NOT THEMSELVES HOLDERS OF OR APPLICANTS FOR A LATE-NIGHT OPERATIONS LICENSE, or residents within the impact area of the business, the Department must:

(I) [1.] deny the application; and

(II) [2.] within 7 days after the last day of the 15-day posting period, notify the applicant of the denial and of the applicant's right to appeal to the ~~Board of Municipal and Zoning Appeals~~ FINANCE DIRECTOR.

(2) [(3)] Within 30 days of receiving the notice of denial, the applicant may appeal to the ~~Board of Municipal and Zoning Appeals~~ FINANCE DIRECTOR for a ~~public hearing on~~ AN ADMINISTRATIVE REVIEW OF the application.

(3) [(4)] If the applicant timely appeals to the Board, the applicant may continue its hours of operation pending a hearing and decision by the Board.

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

(4) [(5)] The considerations and decision of the [Board] FINANCE DIRECTOR shall be as provided in § 9-9 of this subtitle.

### **§ 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

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1           (4) failing to comply with any provision of:

2                   (i) this subtitle;

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

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

5    **§ 9-17. Fines.**

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

9                   (1) for a 1<sup>st</sup> offense, not more than \$500; and

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

11   **§ 9-18. Appeal to [BMZA] FINANCE DIRECTOR.**

12           (a) Scope of section.

13                   This section does not apply to the denial of a license or a renewal license under § 9-8 or  
14                   § 9-10(d).

15           (b) Appeal [to Board].

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

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

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

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

27   **§ 9-19. Judicial and appellate review.**

28           (a) Judicial review.

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

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1        (b) Stays.

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

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

6        (c) Appellate review.

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

9        **§ 9-21. Penalties.**

10       (a) In general.

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

15       (b) Each day a separate offense.

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

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

20        **SECTION 3. AND BE IT FURTHER ORDAINED,** That, for a business previously licensed under  
21        the repealed exceptions for multiple ~~business~~ businesses (former §§ ~~9-7(b)~~, 9-8(a); and  
22        9-10(d)(1) of Article 15), this Ordinance and the ~~application~~, notice, objections, and hearing  
23        processes required by it; will apply to the renewal of any license that is due to expire on or after  
24        ~~the 30<sup>th</sup> day after~~ the effective date of this Ordinance. If the expiration occurs within the 1<sup>st</sup> 30  
25        days after the effective date of this Ordinance, the Finance Department shall grant an extension  
26        of not more than an additional 30 days, as needed to allow for the required posting.

27        **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is  
28        enacted.



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Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City