



Legislation Details (With Text)

File #: 08-0112 **Version:** 0 **Name:** Late-Night Commercial Operations - Licensing
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File created: 4/28/2008 **In control:** City Council
On agenda: **Final action:**
Enactment date: **Enactment #:**
Title: Late-Night Commercial Operations - Licensing

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

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Indexes: Late-Night Commercial Operations, Licensing

Code sections:

Attachments: 1. 08-0112 - 1st Reader.pdf, 2. HCD - 08-0112.pdf, 3. Law - 08-0112.pdf, 4. Finance - 08-0112.pdf, 5. BMZA - 08-0112.pdf, 6. Planning - 08-0112.pdf, 7. Police - 08-0112.pdf

Date	Ver.	Action By	Action	Result
12/4/2008	0	Community Development Subcommittee	Scheduled for a Public Hearing	
5/1/2008	0	The City Council	Referred for a Report	
5/1/2008	0	The City Council	Referred for a Report	
5/1/2008	0	The City Council	Referred for a Report	
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5/1/2008	0	The City Council	Referred for a Report	
5/1/2008	0	The City Council	Referred for a Report	
4/28/2008	0	City Council	Assigned	
4/28/2008	0	City Council	Introduced	

EXPLANATION: CAPITALS indicate matter added to existing law.

[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Henry

A BILL ENTITLED

AN ORDINANCE concerning
Late-Night Commercial Operations - Licensing

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

BY adding

Article 15 - Licensing and Regulation

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

“Subtitle 9. Late-Night Commercial Operations”

Baltimore City Code

(Edition 2000)

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

Baltimore City Code

Article 15. Licensing and Regulation

SUBTITLE 9. LATE-NIGHT COMMERCIAL OPERATIONS

PART 1. DEFINITIONS; GENERAL PROVISIONS

§ 9-1. DEFINITIONS.

(A) IN GENERAL.

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

(B) BOARD.

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

(C) BUSINESS.

“BUSINESS” MEANS ANY COMMERCIAL ACTIVITY CONDUCTED BY A PERSON, WHETHER SALES, SERVICE, RENTAL, PROFESSIONAL, OR OTHERWISE.

(D) INCLUDES; INCLUDING.

“INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF LIMITATION.

(E) LATE-NIGHT OPERATIONS LICENSE; LICENSE.

“LATE-NIGHT OPERATIONS LICENSE” OR “LICENSE” MEANS A LICENSE ISSUED UNDER THIS SUBTITLE.

(F) PERSON.

(1) IN GENERAL.

“PERSON” MEANS:

(I) AN INDIVIDUAL;

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

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

(2) EXCLUSIONS.

“PERSON” DOES NOT INCLUDE, UNLESS OTHERWISE EXPRESSLY PROVIDED, A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY.

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

(A) MANDATORY TERMS.

“MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT OR TO IMPOSE A DUTY.

(B) PROHIBITORY TERMS.

“MUST NOT” AND “MAY NOT” ARE EACH MANDATORY NEGATIVE TERMS USED TO ESTABLISH A PROHIBITION.

(C) PERMISSIVE TERMS.

“MAY” IS PERMISSIVE.

§ 93. RULES, REGULATIONS, AND FORMS.

(A) BOARD TO ADOPT.

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

(B) FILING.

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

§ 94. SCOPE.

(A) IN GENERAL.

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

(B) EXCEPTIONS.

THIS SUBTITLE DOES NOT APPLY TO:

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

§ 95. {RESERVED}

PART 2. LICENSING

§ 96. LICENSE REQUIRED FOR LATE-NIGHT OPERATIONS.

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

§ 97. APPLICATIONS.

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

§ 98. 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 15DAY 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 15DAY 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 15DAY POSTING PERIOD.

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

§ 99. 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 § 98(C) OF THIS SUBTITLE OR UNDER SUBSECTION (C) OF THIS SECTION, WITHIN 15 DAYS AFTER THE LAST DAY OF THE 15DAY 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:

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

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

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

(C) CONDITIONS.

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

§ 910. TERM AND RENEWAL OF LICENSES.

(A) TERM.

EACH LATE-NIGHT OPERATIONS LICENSE EXPIRES ANNUALLY ON THE ANNIVERSARY OF ITS

ISSUANCE AND IS RENEWABLE AS PROVIDED IN THIS SECTION.

(B) APPLICATION FOR RENEWAL.

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

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

(C) APPROVAL.

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

(D) PROTEST AND HEARING.

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

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

§ 911. FEE FOR LICENSE.

THE ANNUAL LICENSE FEE IS \$250.

§ 912. WAITING PERIOD AFTER DENIAL.

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

§§ 913 TO 915. {RESERVED}

PART 3. ADMINISTRATIVE SANCTIONS

§ 916. DENIAL, SUSPENSION, OR REVOCATION.

THE BOARD 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 COMPLY WITH 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 THIS SUBTITLE OR OF ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE.

§ 917. FINES.

FOR ANY VIOLATION THAT IS CAUSE FOR SUSPENDING OR REVOKING A LICENSE, THE BOARD 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.

§ 918. NOTICE AND HEARING.

(A) IN GENERAL.

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

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

(B) DENIAL OF INITIAL LICENSE.

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

§ 919. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

A PERSON AGGRIEVED BY A DECISION OF THE BOARD 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.

(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.

§ 920. {RESERVED}

PART 4. PENALTIES

§ 921. 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.

(B) EACH DAY A SEPARATE OFFENSE.

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

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

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

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