



Legislation Text

File #: 15-0540, Version: 0

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

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER
COPY.
INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmembers Clarke and Henry

A BILL ENTITLED

AN ORDINANCE concerning
Social Host Regulation - Neighborhood Nuisances and Unruly Social Events
FOR the purpose of extending the provisions governing the issuance of citations for certain "neighborhood nuisances" to include various types of "unruly social events"; specifying the responsibilities of owners, operators, tenants, and occupants of and persons with possessory interests in a premises to prevent use of those premises for neighborhood nuisances and unruly social events; prohibiting these persons from conducting, causing, permitting, aiding, or condoning neighborhood nuisances and unruly social events on their premises; providing for the civil liability of the parents and legal guardians of juveniles who violate this prohibition; repealing criminal penalties for violations and providing for enforcement by civil citations; defining certain terms; providing for a special effective date; and generally relating to the civil enforcement of certain activities involving conduct that disturbs the quiet enjoyment by others of private or public property or that includes underage consumption of alcoholic beverages.

BY repealing and reordaining, with amendments

Article 19. Police Ordinances

Subtitle 43B. Neighborhood Nuisances ♦ Citations, in its entirety, to be under the
new subtitle designation, Subtitle 43B. Neighborhood Nuisances and Unruly Social Events

Baltimore City Code
(Edition 2000)

BY repealing

Article 1 - Mayor, City Council, and Municipal Agencies

Section(s) 40-14(e)(3)(♦ 43B-1)

Baltimore City Code
(Edition 2000)

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 41-14(2)(Subtitle 43B)
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 19. Police Ordinances

Subtitle 43B. Neighborhood Nuisances [- Citations] AND UNRULY SOCIAL EVENTS

◆◆43B▲1. Definitions.

(a) In general.

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

(b) Neighborhood nuisance.

◆Neighborhood nuisance◆ means any PRIVATELY OWNED premises on or in which an owner, operator, tenant, or occupant of OR THE HOLDER OF ANY POSSESSORY INTEREST IN [the] THOSE premises:

- (1) acts in a disorderly manner that disturbs the public peace; or
- (2) creates or maintains conditions that [lets] LET others [to] act in a disorderly manner that disturbs the public peace.

(C) ADULT.

◆ADULT◆ MEANS AN INDIVIDUAL WHO IS 21 YEARS OLD OR OLDER.

(D) ALCOHOLIC BEVERAGE.

(1) IN GENERAL.

◆ALCOHOLIC BEVERAGE◆ HAS THE MEANING STATED IN STATE CODE ARTICLE 2B, ◆◆1▲102.

(2) INCLUSIONS.

◆ALCOHOLIC BEVERAGE◆ INCLUDES ANY MIXTURE OF AN ALCOHOLIC BEVERAGE WITH A NON-ALCOHOLIC BEVERAGE.

(E) FAMILY EVENT.

◆FAMILY EVENT◆ MEANS A PARTY OR GATHERING WHERE EACH UNDERAGE PERSON PRESENT IS DIRECTLY SUPERVISED BY AN ADULT MEMBER OF HIS OR HER FAMILY.

(F) INCLUDES; INCLUDING.

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

(G) [(c)] Occupant.

◆Occupant◆ means any person occupying a premises, whether or not a party to a lease.

(H) [(d)] Operator.

◆Operator◆ means any person who has charge, care, or control of all or any part of a premises.

(I) [(e)] Owner.

(1) IN GENERAL.

◆Owner◆ means:

(i) the person in whose name a premises is recorded in the Land Records of Baltimore City; and

(ii) any other person with a legal or equitable interest in a premises.

(2) INCLUSIONS.

◆Owner◆ includes a person who has [in] AN interest as a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(3) EXCLUSIONS.

◆OWNER◆ DOES NOT INCLUDE THE HOLDER OF A TAX SALE CERTIFICATE UNTIL A JUDGMENT FORECLOSING ALL RIGHTS OF REDEMPTION HAS BEEN ENTERED.

(J) [(f)] Person.

◆Person◆ means:

(1) an individual;

(2) a partnership, firm, association, corporation, or other entity of any kind; and

(3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(K) PERSON RESPONSIBLE.

◆PERSON RESPONSIBLE◆, WHEN USED WITH REFERENCE TO ANY PREMISES, MEANS THE OWNER, OPERATOR, TENANT, OR OCCUPANT OF OR THE HOLDER OF ANY POSSESSORY INTEREST IN THOSE PREMISES, WHETHER ALONE OR JOINTLY WITH ANY OTHER PERSON.

(L) [(g)] Premises.

◆Premises◆ means all or any part of any land, building, or other structure.

(M) [(h)] Tenant.

◆Tenant◆ means [a] any tenant or lessee, whether under a written or oral lease.

(N) UNDERAGE PERSON.

◆UNDERAGE PERSON◆ MEANS ANY INDIVIDUAL WHO IS UNDER THE AGE OF 21.

(O) UNRULY SOCIAL EVENT.

◆UNRULY SOCIAL EVENT◆ MEANS A PARTY OR GATHERING OF 2 OR MORE INDIVIDUALS ON OR IN ANY PRIVATELY OWNED PREMISES AT WHICH:

(1) ALCOHOLIC BEVERAGE ARE CONSUMED BY, FURNISHED TO, OR POSSESSED BY ANY UNDERAGE PERSON IN VIOLATION OF LAW; OR

(2) THE CONDUCT CONSTITUTES A DISTURBANCE OF THE QUIET ENJOYMENT BY OTHERS OF PRIVATE OR PUBLIC PROPERTY, INCLUDING:

(I) NOISE IN EXCESS OF THE LEVELS SET BY CITY CODE HEALTH ARTICLE, TITLE 9 {◆NOISE REGULATION◆}, OR OTHER LAW;

(II) OBSTRUCTION OF PUBLIC RIGHTS-OF-WAY BY UNRULY CROWDS;

(III) PUBLIC DRUNKENNESS;

(IV) ASSAULTS, BATTERIES, OR OTHER DISORDERLY CONDUCT THAT DISTURBS THE PUBLIC PEACE;

(V) VANDALISM OF PUBLIC OR PRIVATE PROPERTY;

(VI) LITTERING; OR

(VII) ANY OTHER CONDUCT THAT CONSTITUTES A THREAT TO THE PUBLIC HEALTH, SAFETY.

RIGHT TO QUIET ENJOYMENT, OR GENERAL WELFARE.

◆ 43B-2. EXEMPTIONS FROM SUBTITLE.

THE ACTIVITIES DESCRIBED IN ◆ 43B-1(O)(1) THIS SUBTITLE {UNDERAGE CONSUMPTION, POSSESSION, ETC., OF ALCOHOLIC BEVERAGES} DO NOT APPLY TO:

- (1) LEGALLY-PROTECTED RELIGIOUS ACTIVITIES; OR
- (2) FAMILY EVENTS.

◆ 43B-3. {RESERVED}

◆ 43B-4. [◆ 43B-3.] DUTIES OF PERSONS RESPONSIBLE.

(A) IN GENERAL.

(1) EVERY PERSON RESPONSIBLE FOR ANY PREMISES IS REQUIRED TO MAINTAIN, MANAGE, AND SUPERVISE THE PREMISES AND ALL PERSONS ON OR IN THE PREMISES IN A MANNER SO AS NOT TO VIOLATE THE PROVISIONS OF THIS SUBTITLE.

(2) A PERSON RESPONSIBLE FOR A NEIGHBORHOOD NUISANCE OR AN UNRULY SOCIAL EVENT REMAINS LIABLE FOR VIOLATING THIS SUBTITLE EVEN IF THAT PERSON WAS NOT PRESENT DURING THE NUISANCE ACTIVITY OR THE SOCIAL EVENT.

(B) OWNER OR OPERATOR.

AN OWNER OR OPERATOR OF THE PREMISES REMAINS LIABLE FOR VIOLATING THIS SUBTITLE REGARDLESS OF ANY CONTRACT OR AGREEMENT WITH ANY THIRD PARTY REGARDING THE PREMISES.

(C) PARENTS OF JUVENILES.

(1) DEFINITIONS.

(I) IN GENERAL.

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

(II) JUVENILE.

◆JUVENILE◆ MEANS ANY INDIVIDUAL WHO IS UNDER THE AGE OF 18.

(III) PARENT.

◆PARENT◆ MEANS ANY NATURAL PARENT, ADOPTIVE PARENT, STEP-PARENT, OR FOSTER PARENT.

(2) JOINT LIABILITY.

IF THE PERSON RESPONSIBLE FOR A NEIGHBORHOOD NUISANCE OR AN UNRULY SOCIAL EVENT , OR FOR THE PREMISES ON OR IN WHICH EITHER OCCURS, IS A JUVENILE, THEN THE JUVENILE AND THE PARENTS OR LEGAL GUARDIANS OF THE JUVENILE ARE JOINTLY AND SEVERALLY LIABLE FOR THE CIVIL PENALTIES IMPOSED BY THIS SUBTITLE.

◆ 43B-5. [◆ 43B-2.] Prohibited conduct.

[(a) In general.]

No [owner, operator, tenant, or occupant of] PERSON RESPONSIBLE FOR any premises may CONDUCT, cause, [or] permit, AID, OR CONDONE a neighborhood nuisance OR ANY UNRULY SOCIAL EVENT on or in [any] THOSE premises [that the person owns, operates, leases, or occupies].

[(b) Police report as prima facie evidence.]

[A police report, written in the regular course of business, of a premises having been used for activities described in ◆ 43B-1(b) {◆Definitions: Neighborhood Nuisance◆} of this subtitle is prima facie evidence that the premises are a neighborhood nuisance.]

◆◆ 43B-6 TO 43B-7. [◆◆ 43B-3 to 43B-5.] {Reserved}

◆ 43B-8. [◆ 43B-6.] Enforcement by citation.

(a) In general.

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of [an environmental citation] A CIVIL CITATION, as authorized by City Code Article 1, [Subtitle 40 {◆Environmental Control Board◆}] SUBTITLE 41 {◆CIVIL CITATIONS◆}.

(b) Process not exclusive.

The issuance of [an environmental] A CIVIL citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

(c) Applicable standards.

(1) [An environmental] A CIVIL citation may be [used] ISSUED under this subtitle without proof that the CITED owner, operator, tenant, [or] occupant, OR HOLDER OF A POSSESSORY INTEREST knew of [the existence of] OR PARTICIPATED IN the neighborhood nuisance OR UNRULY SOCIAL EVENT.

(2) [Where the] FOR A CIVIL citation [is] issued UNDER THIS SUBTITLE to the owner or operator of leased property, it is a [complete] defense to any fine [or other penalty] imposed [under this

subtitle] on the owner or operator that:

(i) the owner or operator [has provided notice to the tenants or occupants of the property in accordance with applicable law] NEITHER AUTHORIZED, KNEW IN ADVANCE OF, NOR PARTICIPATED IN THE NEIGHBORHOOD NUISANCE OR UNRULY SOCIAL EVENT; and

(ii) the owner or operator provides proof:

(A) that the owner or operator has regained possession of the leased property; or

(B) that the owner or operator has filed court proceedings under State Real Property Article \diamond 8-402.1 { \diamond Breach of lease \diamond } to regain possession of the leased property and that:

1. the court has entered a judgment IN FAVOR OF THE OWNER OR OPERATOR; or

2. [the] THOSE court proceedings are still pending at the time the [Environmental Control Board is considering the] citation IS BEING ADJUDICATED, in which case the [Board shall] COURT ADJUDICATING THE CITATION MAY postpone its proceedings until THE CONCLUSION OF the court proceedings [have concluded] TO REGAIN POSSESSION.

[\diamond 43B-7. Penalties.]

[Any person who violates a provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 60 days or both fine and imprisonment for each offense.]

\diamond 43B-9. {RESERVED}

\diamond 43B-10. SEVERABILITY.

ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

$\diamond\diamond$ 40 \blacktriangle 14. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(3) Article 19. Police Ordinances

...
[◆ 43B-1 Neighborhood Nuisances: Prohibited conduct
1st offense
\$500
2nd or subsequent offense (within 12 months of previous offense) \$1,000]
...

Subtitle 41. Civil Citations

◆◆41▲14. Violations to which subtitle applies.

(2) Article 19. Police Ordinances

...
SUBTITLE 43B. NEIGHBORHOOD NUISANCES AND UNRULY SOCIAL EVENTS
1ST OFFENSE
\$500
2ND OR SUBSEQUENT OFFENSE WITHIN 12 MONTHS OF PREVIOUS OFFENSE \$1,000
...

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 when it is enacted.

dlr14-1060(7)~intro/27May15
art19/UnrulyGatherings/aa:me

dlr14-1060(7)~intro/27May15
????
art19/UnrulyGatherings/aa:me