



Legislation Text

File #: 13-0214, **Version:** 0

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: The Council President
At the request of: The Administration (Department of Finance)

A BILL ENTITLED

AN ORDINANCE concerning
Change to Grow: 10-Year Plan - Excise Tax on Outdoor Advertising

FOR the purpose of imposing a tax on the privilege of exhibiting outdoor advertising displays in the City; providing for the administration and collection of the tax; defining certain terms; imposing certain penalties; making the provisions of this ordinance severable; and generally relating to a tax on the privilege of exhibiting outdoor advertising displays.

BY authority of
Article II - General Powers
Section(s) (40) and (47)
Baltimore City Charter
(1996 Edition)

BY adding
Article 28 - Taxes
Section(s) 29-1 to 29-14 to be under the new subtitle designation,
"Subtitle 29. Outdoor Advertising Excise Tax"
Baltimore City Code
(Edition 2000)

Recitals

Outdoor advertising constitutes a separate and distinct type of activity within the City that affects the use of City streets, sidewalks, and other public places while impacting many private places open to the public.

The unregulated display of outdoor advertising constitutes a public nuisance that imposes costs on the City beyond those caused by other activities by harming the health, safety, convenience, and welfare of the residents of the City.

The Council has determined that outdoor advertising endangers public safety by distracting the attention of drivers from the roadway and may otherwise endanger the public health, safety, and welfare. This leads to increased public safety costs for the City.

The Council has also determined that outdoor advertising may harm the City by creating visible clutter and blight, and by promoting a negative aesthetic impact in the City, in a way that reduces the City's ability to collect revenue from other sources.

The tax imposed by this Ordinance advances significant government interests by properly allocating the potential economic burdens caused by outdoor advertising while reducing these harms. This tax is the least restrictive means necessary to achieve these goals.

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 28. Taxes

SUBTITLE 29. OUTDOOR ADVERTISING

§ 29-1. DEFINITIONS.

(A) IN GENERAL.

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

(B) ADVERTISING HOST.

“ADVERTISING HOST” MEANS A PERSON WHO:

- (1) OWNS OR CONTROLS A BILLBOARD, POSTERBOARD, OR OTHER SIGN; AND
- (2) CHARGES FEES FOR ITS USE AS AN OUTDOOR ADVERTISING DISPLAY.

(C) FINANCE DIRECTOR; DIRECTOR.

“FINANCE DIRECTOR” OR “DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF FINANCE.

(D) OUTDOOR ADVERTISING DISPLAY.

“OUTDOOR ADVERTISING DISPLAY” MEANS AN OUTDOOR DISPLAY OF A 10 SQUARE FOOT OR LARGER IMAGE OR MESSAGE THAT DIRECTS ATTENTION TO A BUSINESS, COMMODITY, SERVICE, EVENT, OR OTHER ACTIVITY THAT IS:

(I) SOLD, OFFERED, OR CONDUCTED SOMEWHERE OTHER THAN ON THE PREMISES ON WHICH

THE DISPLAY IS MADE; AND

(II) SOLD, OFFERED, OR CONDUCTED ON THE PREMISES ONLY INCIDENTALLY IF AT ALL.

(E) PERSON.

(1) IN GENERAL.

“PERSON” MEANS:

(I) AN INDIVIDUAL;

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

(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.

(F) SQUARE FOOT OF ADVERTISING IMAGERY.

“SQUARE FOOT OF ADVERTISING IMAGERY” MEANS A SQUARE FOOT OF SPACE OCCUPIED BY AN OUTDOOR ADVERTISING DISPLAY.

§ 292. TAX IMPOSED.

AN EXCISE TAX IS IMPOSED ON THE PRIVILEGE OF EXHIBITING OUTDOOR ADVERTISING DISPLAYS IN THE CITY.

§ 293. AMOUNT OF TAX.

(A) IN GENERAL.

THE ANNUAL AMOUNT OF THE TAX IMPOSED IS AT THE FOLLOWING RATES PER SQUARE FOOT OF ADVERTISING IMAGERY:

(1) \$15 PER SQUARE FOOT OF ADVERTISING IMAGERY FOR AN ELECTRONIC OUTDOOR ADVERTISING DISPLAY THAT CHANGES IMAGES MORE THAN ONCE A DAY; AND

(2) \$5 PER SQUARE FOOT OF ADVERTISING IMAGERY FOR ANY OTHER OUTDOOR ADVERTISING DISPLAY.

(B) TAX FOR A SINGLE SPACE.

IF A SINGLE SPACE IS USED FOR MULTIPLE OUTDOOR ADVERTISING DISPLAYS DURING THE COURSE OF ONE REPORTING PERIOD, THE ADVERTISING HOST WHO MAKES THAT SPACE

AVAILABLE:

(1) MUST PAY THE ANNUAL TAX AS IF THE DISPLAY THAT WOULD GENERATE THE HIGHEST TAX LIABILITY HAD BEEN IN PLACE FOR THE ENTIRE YEAR; AND

(2) NEED NOT PAY AN ADDITIONAL TAX FOR ANY OTHER DISPLAYS IN THAT SPACE.

§ 294. {RESERVED}

§ 295. ANNUAL REPORTS; PAYMENT OF TAX.

(A) REPORT.

(1) EACH ADVERTISING HOST MUST FILE A REPORT WITH THE FINANCE DIRECTOR ON OR BEFORE JANUARY 1 OF EACH YEAR.

(2) THE REPORT MUST:

(I) SPECIFY THE NUMBER OF SEPARATE SPACES MADE AVAILABLE BY THE ADVERTISING HOST FOR THE EXHIBITION OF OUTDOOR ADVERTISING DISPLAYS;

(II) INDICATE THE LOCATION AND SIZE OF EACH OUTDOOR ADVERTISING DISPLAY EXHIBITED IN THE PREVIOUS 12 MONTHS;

(III) BE IN A FORM THE DIRECTOR APPROVES; AND

(IV) CONTAIN ANY ADDITIONAL INFORMATION REQUIRED BY THE DIRECTOR.

(B) PAYMENT DUE WITH REPORT.

THE TAX IMPOSED BY THIS SUBTITLE IS DUE AT THE TIME THE REPORT IS FILED.

§ 296. INTEREST AND CIVIL PENALTIES.

IF AN ADVERTISING HOST FAILS TO PAY THE TAX IMPOSED BY THIS SUBTITLE WHEN DUE, THE ADVERTISING HOST MUST PAY THE FINANCE DIRECTOR, IN ADDITION TO THE TAX DUE:

(1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE TAX IS OVERDUE; AND

(2) A PENALTY OF 10% OF THE AMOUNT OF THE TAX DUE.

§ 297. RECORDS.

EVERY ADVERTISING HOST MUST:

(1) KEEP AND MAINTAIN COMPLETE AND ACCURATE RECORDS OF ALL OF ITS OUTDOOR ADVERTISING DISPLAYS, AS NECESSARY OR OTHERWISE REQUIRED BY THE FINANCE DIRECTOR; AND

(2) MAKE THESE RECORDS AVAILABLE, AT ALL TIMES DURING BUSINESS HOURS, FOR INSPECTION AND AUDIT BY THE FINANCE DIRECTOR OR OTHER AUTHORIZED AGENT, EMPLOYEE, OR REPRESENTATIVE OF THE CITY.

§ 298: TAX DETERMINATION BY DIRECTOR.

(A) DIRECTOR TO OBTAIN INFORMATION.

IF ANY ADVERTISING HOST FAILS TO MAKE THE REPORT, REMIT THE TAX DUE, OR KEEP RECORDS AS REQUIRED BY THIS SUBTITLE, THE FINANCE DIRECTOR MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE AN ESTIMATE OF THE TAX DUE.

(B) DIRECTOR TO ESTIMATE TAX.

AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO DETERMINE THE TAX DUE AND ASSESS THAT TAX, PLUS INTEREST AND PENALTIES, AGAINST THE ADVERTISING HOST LIABLE FOR THE TAX.

(C) NOTICE AND PAYMENT.

(1) THE DIRECTOR MAY THEN NOTIFY THE ADVERTISING HOST BY MAIL, SENT TO THAT ADVERTISING HOST'S LAST KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE TAX, INTEREST, AND PENALTIES.

(2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

§ 299: SALE OR CLOSING OF BUSINESS.

IF AN ADVERTISING HOST SELLS OR OTHERWISE CLOSES ALL OR PART OF ITS OPERATIONS:

(1) ANY TAX ATTRIBUTABLE TO THE OPERATIONS SOLD OR CLOSED BECOMES IMMEDIATELY DUE AND PAYABLE; AND

(2) WITHIN 3 DAYS OF THE SALE OR CLOSING, THAT ADVERTISING HOST MUST SUBMIT THE REQUIRED REPORT AND REMIT THE TOTAL AMOUNT OF THE TAX DUE.

§ 2910. LIEN ON PROPERTY.

THE TAX, INTEREST, AND PENALTIES IMPOSED BY THIS SUBTITLE ARE A LIEN ON ALL PROPERTY, REAL AND PERSONAL, OF ANY ADVERTISING HOST LIABLE FOR THEIR PAYMENT.

§ 2911. RULES AND REGULATIONS.

(A) DIRECTOR MAY ADOPT.

THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO:

(1) GOVERN THE PAYMENT, COLLECTION, AND ACCOUNTING OF THE TAX IMPOSED BY THIS

SUBTITLE;

(2) DEFINE ANY TERMS USED IN CONNECTION WITH THE IMPOSITION AND COLLECTION OF THE TAX IMPOSED UNDER THIS SUBTITLE;

(3) PROVIDE FOR THE COMPROMISE OF DISPUTED CLAIMS AND, FOR GOOD AND SUFFICIENT CAUSE SHOWN, THE WAIVER OF INTEREST AND PENALTIES;

(4) PROVIDE FOR THE REFUND OF ANY TAX, INTEREST, OR PENALTY ERRONEOUSLY OR ILLEGALLY PAID; AND

(5) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

(B) COPIES TO BE FILED WITH LEGISLATIVE REFERENCE.

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

§ 2912. SEVERABILITY.

IF ANY PART, SECTION, PARAGRAPH, CLAUSE, SENTENCE, OR PROVISION OF THIS SUBTITLE IS HELD INVALID FOR ANY REASON, OR INAPPLICABLE TO ANY PERSON OR ENTITY, THE REMAINDER OF THIS SUBTITLE, OR OTHER APPLICATIONS OF ANY PORTION HELD INAPPLICABLE IN CERTAIN CIRCUMSTANCES, WILL NOT BE AFFECTED, AND TO THIS END THE PROVISIONS OF THIS SUBTITLE ARE DECLARED SEVERABLE.

§ 2913. {RESERVED}

§ 2914. PENALTIES.

ANY PERSON WHO VIOLATES 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 \$1,000 OR TO IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH 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 30th day after the date it is enacted.

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