

ARTICLE 19
POLICE ORDINANCES

(As Last Amended by Ord. 18-144)

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SUBTITLE 43
PUBLIC NUISANCES

§ 43-1. Definitions.

(a) *In general.*

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

(b) *Assignment.*

“Assignment” means an appointment or engagement for prostitution or any act in furtherance of the appointment or engagement.

(c) *Commissioner.*

“Commissioner” means the Police Commissioner of Baltimore City or the Commissioner’s designee.

(d) *Controlled dangerous substance.*

“Controlled dangerous substance” means a substance listed in Schedule I or Schedule II under State Criminal Law Article § 5-402 or § 5-403.

(e) *Controlled paraphernalia.*

“Controlled paraphernalia” has the meaning stated in State Criminal Law Article § 5-101.

(f) *Crime of violence.*

“Crime of violence” has the meaning stated in State Criminal Law Article § 14-101.

(g) *Operator.*

“Operator” means any person who has charge, care, or control of a premises or structure.

(h) *Owner.*

“Owner” means the person in whose name a premises is recorded in the Land Records of Baltimore City.

(i) *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.

(j) *Premises.*

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

(k) *Prostitution.*

“Prostitution” means the performance of a sexual act, sexual contact, or vaginal intercourse, as these terms are defined in State Criminal Law Article § 3-301, for hire.

(l) *Public nuisance.*

(1) “Public nuisance” means any premises that, on 2 or more separate occasions within a 24-month period, were used:

(i) for prostitution, lewdness, or assignation;

(ii) for illegal adult entertainment;

(iii) by persons who assemble for the specific purpose of illegally administering a controlled dangerous substance;

(iv) for the illegal manufacture or distribution of:

(A) a controlled dangerous substance; or

(B) controlled paraphernalia;

(v) for the illegal storage or concealment of a controlled dangerous substance or controlled paraphernalia in sufficient quantity to reasonably indicate under all the circumstances an intent to manufacture, distribute, or dispense:

(A) a controlled dangerous substance; or

(B) controlled paraphernalia;

(vi) for gambling;

(vii) for storage or possession of stolen property;

(viii) for storage or possession of unregistered firearms;

(ix) for furtherance of a crime of violence;

(x) by persons who engage in a crime of violence on or near the premises; or

(xi) for criminal gang offenses prohibited under State Criminal Law Article 9, Subtitle 8.

- (2) Two reports by police officers, written in the regular course of business, of a premises' having been used for activities described in paragraph (1) of this subsection are prima facie evidence that the premises are a public nuisance.

Editor's Note: Ordinance 08-012, amended this definition to add, in what is now paragraph (1), the requirement for "2 or more ... occasions" and to add new paragraph (2). Section 2 of Ord. 08-012 elaborates:

[T]his Ordinance applies to any 2 occasions within a 24-month period of the activities described in Article 19, § 43-1(I), as amended by this Ordinance, as long as the 1st occasion occurred on or after January 2, 2007 and the 2nd occasion occurred on or after January 2, 2008.

(City Code, 1976/83, art. 19, §233.) (Ord. 86-642; Ord 89-373; Ord. 07-619; Ord. 08-012.)

§ 43-2. {Repealed by Ord. 07-619.}

§ 43-3. Nuisance abatement authorized.

- (a) *Commissioner's basic authority.*

On determining that a public nuisance exists, the Commissioner may:

- (1) order the discontinuance of the public nuisance in the premises where the public nuisance exists; or
- (2) order the closing of the premises to the extent necessary to abate the nuisance.

- (b) *Limitations.*

- (1) Except as specified in paragraph (2) of this subsection, if the premises consists entirely of residential units or mixed residential and other use units, and the public nuisance has occurred solely within 1 or more residential units, abatement authority is restricted to the residential units in which the public nuisance has occurred, and does not extend to any other unit in the premises.
- (2) The restrictions of paragraph (1) of this subsection do not apply to a public nuisance occurring in any:

(i) motel;

(ii) hotel; or

(iii) rooming house or rooming unit, as those terms are defined in the Zoning Code of Baltimore City.

(City Code, 1976/83, art. 19, §234(a).) (Ord. 86-642; Ord. 89-373; Ord. 99-547; Ord. 07-619.)

§ 43-4. Notice and opportunity for hearing.(a) *In general.*

Before issuing an order under this subtitle, the Commissioner shall give notice and an opportunity for a hearing to the owner and any operator of the premises and to any commercial tenant of the premises.

(b) *Contents of notice.*

The notice shall state:

- (1) the date, place, and time of the hearing;
- (2) the right of the persons receiving the notice to be heard and to be represented at the hearing; and
- (3) the possible consequences of failure to appear, including the possible issuance of a default order directing the premises to be closed.

(c) *Service and posting of notice.*

(1) The notice shall be given by personal service or by certified or registered mail to the owner, operator, and commercial tenant, as their names and addresses:

- (i) are recorded in the Land Records of Baltimore City;
- (ii) appear in the registration statement filed under City Code Article 13, Subtitle 4 {"Registration of Non-Owner-Occupied Dwellings, etc."}; or
- (iii) are otherwise known or readily ascertainable.

(2) In addition, the notice shall be posted on the premises.

(City Code, 1976/83, art. 19, §234(b)(1) - (3).) (Ord. 86-642; Ord. 02-475; Ord. 07-619; Ord. 18-130.)

§ 43-5. Applicable standards.(a) *Proof of knowledge not required.*

The Commissioner may order appropriate relief under § 43-3 of this subtitle without proof that an owner, operator, or tenant knew of the existence of the public nuisance.

(b) *Discontinuance not a bar to relief.*

Evidence that the nuisance has been discontinued at the time notice was provided or at the time of the hearing does not bar the Commissioner from imposing appropriate relief under § 43-3 of this subtitle.

(City Code, 1976/83, art. 19, §234(d).) (Ord. 86-642; Ord. 07-619.)

§ 43-6. Issuance and enforcement of order.*(a) Issuance of order or finding.*

Following the hearing procedure, the Commissioner shall:

- (1) on determining that a public nuisance exists, issue a written order in accordance with § 43-3 of this subtitle; or
- (2) on determining that a public nuisance does not exist, issue a written finding to that effect.

(b) Posting and notice of order.

Following the hearing procedure, an order issued under this subtitle shall be posted on the premises and notice of the order shall be given to the persons and in the manner set forth in § 43-4 of this subtitle.

(c) Enforcement; period of closing.

- (1) After the order has been posted, as set forth in subsection (b) of this section, the order may be enforced on written directive of the Commissioner.
- (2) A closing shall be for the period that the Commissioner reasonably may direct, but in no event may the closing be for longer than 1 year.

(d) Nature of closing.

A closing directed by the Commissioner under this subtitle is not an act of possession, ownership, or control by the City of Baltimore.

(e) Modification.

- (1) The Commissioner may modify or rescind an order issued under this subtitle:
 - (i) an owner or tenant affected by the order submits to the Commissioner a written request for modification or rescission; and
 - (ii) a hearing is held on the request.
- (2) An owner or tenant submitting a request under this subsection shall attach to the request any documents or other evidence that the owner or tenant wishes the Commissioner to consider in ruling on the request.
- (3) The Commissioner may grant the request if the Commissioner determines that the nuisance has been abated.

(City Code, 1976/83, art. 19, §234(b)(4), (c), (e), (g).) (Ord. 86-642; Ord. 07-619.)

§ 43-7. {Repealed by Ord. 07-619.}

§ 43-8. Rules and regulations.

(a) *Commissioner to adopt.*

The Commissioner shall adopt rules, regulations, and hearing procedures as necessary or proper to carry out this subtitle.

(b) *Filing with Legislative Reference.*

A copy of all rules, regulations, and procedures must be filed with the Department of Legislative Reference before they take effect.

(City Code, 1976/83, art. 19, §237.) (Ord. 86-642; Ord. 89-373; Ord. 07-619.)

§ 43-9. Judicial and appellate review.

(a) *Judicial review.*

Any person aggrieved by any act of the Commissioner taken under this subtitle may seek judicial review of that act by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *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.

(City Code, 1976/83, art. 19, §238.) (Ord. 86-642; Ord. 04-672; Ord. 07-619.)

§ 43-10. {Reserved}

§ 43-11. Prohibited conduct.

(a) *Destruction, etc., of posted order.*

No person may destroy, remove, or deface an order posted by the Commissioner under this subtitle.

(b) *Failure to obey order.*

No person may:

- (1) intentionally disobey any proper order issued by the Commissioner under this subtitle; or
- (2) use or occupy or permit any other person to use or occupy any premises ordered closed under this subtitle.

(c) *Liability for unauthorized occupancy.*

If any person uses or occupies or permits any other person to use or occupy any premises ordered closed by the Commissioner:

(1) the Commissioner may execute the terms of the order to close the premises; and

(2) the person is liable for all costs incurred by the Commissioner in executing the terms of the order to close the premises.

(City Code, 1976/83, art. 19, §236.) (Ord. 86-642; Ord. 07-619.)

§ 43-12. Penalties.

(a) *In general.*

Any person who violates a provision of § 43-11 is guilty of a misdemeanor and, on conviction, is subject to the following penalties:

(1) for a violation of § 43-11(a) {"Prohibited conduct: Destruction, etc., of posted order"}, the offender is subject to a fine of not more than \$500; and

(2) for a violation of § 43-11(b) {"Prohibited conduct: Failure to obey order"}, the offender is subject to a fine of not more than \$500 or to imprisonment for not more than 90 days or to both fine and imprisonment.

(b) *Each day a separate offense.*

Each day a violation continues is a separate offense.

(City Code, 1976/83, art. 19, §236.) (Ord. 86-642; Ord. 07-619; Ord. 08-063.)