

## **Live Entertainment: Targeted Expansion with Neighborhood Safeguards**

Under the amended legislation, a restaurant in a B1 or B2 business district or a tavern in a B2 business district would be able to obtain that privilege by applying for a conditional use before the Board of Municipal Zoning Appeals (BMZA) as well as **obtaining a live entertainment license from the Liquor Board.**\*\*\*

The key to creating community safeguards is by having proper conditions in place at the time of the application for the use or license. This provides a mechanism for agencies to enforce compliance by the establishment. The BMZA, the Liquor Board, Code Enforcement and other City Agencies will be tasked with providing the necessary enforcement and safeguards for the Community.

### **BMZA**

Before establishment may obtain a conditional use from the BMZA, they must go through a rigorous application process:

- Notice of the application must be posted on the site for 10 days prior to submission of the application.
- Once the application is submitted it will be available for review online by the public before a hearing is even scheduled.
- The application for conditional use must have a written statement and supporting evidence to show how the conditional use will conform with the conditions set.
- Within 15 business days of receiving a completed application, the Zoning Administrator must refer the application and all accompanying documents to the Director of Transportation for review and, if required, a traffic-impact study.
- The Zoning Administrator must then transmit the application, all relevant information and the results of the traffic impact study to the Board as well as the Department of Planning for its report and recommendations.
- Within 15 working days after the Department of Planning has received the application, it must forward its written report and recommendations to the Board.
- The Board may also extend this time period to 30 days so that all City agencies will have the ability comment.
- From the time the application is submitted to the time of the hearing, communities could have 2 months notice before a hearing is held.

The Board may not approve a conditional use unless, after public notice and hearing of the application, they weigh the evidence and take into account the following standards:

- The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- The resulting traffic patterns and adequacy of proposed off-street parking and loading;
- The nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- The proximity of dwellings, churches, schools, public structures, and other places of public gathering;

- Accessibility of the premises for fire and police protection;
- Accessibility of light and air to the premises and to the property in the vicinity;
- The type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- The preservation of cultural and historic landmarks;
- The provisions of the City Master Plan;
- The provisions of any applicable Urban Renewal Plan;
- Any other matters to be considered in the interest of the general welfare.

Furthermore, in addition to those considerations, when the Board considers granting a conditional use for live entertainment, it must also consider the following:

- Days and hours of operation;
- Use of amplification, noise levels, and need for noise proofing;
- Limits on the size of the establishment or on the size, location, or configuration of the entertainment or dancing venue within the establishment;
- Number of live entertainers;
- Number of seats proposed for outdoor table service;
- Exterior lighting;
- Whether to limit the accessory use to live entertainment only or dancing only;
- The establishment and maintenance of: Traffic and parking management plan, Indoor and outdoor security plan, sanitation plan.
- Proximity of residences, schools, religious institutions, or parks to the establishment
- Maximum authorized occupant load of the establishment.
- Volume of vehicular and pedestrian traffic in the area.

After the formal process has taken course and the Board has heard the application and taken into account the above considerations they may grant the conditional use only if:

- The use will not be detrimental to or endanger the public health, security, general welfare, or morals;
- The use is not in any way precluded by any other law, including an applicable Urban Renewal Plan;
- The use is not otherwise in any way contrary to the public interest.

Should the Board grant the conditional use, it may impose conditions, restrictions it considers necessary or desirable in order to:

- Reduce or minimize any effect of the use on other properties in the neighborhood;
- Secure compliance with the standards and requirements of this title; and
- Better carry out the intent and purposes of the Zoning Code.

The conditional use permit will have the conditions that have been imposed printed on the permit and copies will be forwarded to the Liquor Board, the Commander of the police district where the establishment lies as well as available online for the public.

# LIQUOR BOARD

After obtaining the necessary conditional use zoning, the establishment must also **obtain a live entertainment license**\*\*\* from the Board of Liquor License Commissioners for Baltimore City.

- **The notice shall be posted on the premises described in the application.**\*\*\*
- Notice must be published two times in two successive weeks in three newspapers of general circulation in Baltimore City
- **The Board shall hold a public hearing on the application for live entertainment.**\*\*\*
- **The license may be protested with the signatures of 10 residents.** \*\*\*
- **The Board has the power to revoke or suspend a license for non-compliance of any rule of the Board or violations of local, state or federal laws.** \*\*\*
- The Board may also place additional conditions on the license with the consent of the licensee.

Before approving an application and issuing a license, the board shall consider:

- The public need and desire for the license
- The number and location of existing licensees and the potential effect on existing licensees of the license applied for;
- The potential commonality or uniqueness of the services and products to be offered by the applicant's business;
- The impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and
- Any other necessary factors as determined by the board.

The application shall be disapproved and the license for which application is made shall be refused if the Board of License Commissioners determines that:

- The granting of the license is not necessary for the accommodation of the public;
- The applicant is not a fit person to receive the license for which application is made;
- The applicant has made a material false statement in his application;
- The applicant has practiced fraud in connection with the application;
- The operation of the business, if the license is granted, will unduly disturb the peace of the neighborhood residents in which the place of business is to be located; or there are other reasons, in the discretion of the board, why the license should not be issued.

## CODE ENFORCEMENT AND CITATION

Should an establishment obtain a conditional use permit from the BMZA as well as a live entertainment permit from the Liquor Board, an additional enforcement tool is added:

- Should an establishment violate any of the conditions that were imposed by the BMZA, they will be subject to an Environmental Citation of \$500 for each offense.
- The citations also include with it the possibility of treble damages.
- These citations when issued will then be forwarded to the file to both the BMZA and the Liquor Board to be kept on file.

- Should the establishment receive several citations, they could also be eligible for loss of their health license.

## **CITY COUNCIL OVERSIGHT**

The legislation adds a provision in Title 14 that a list of pending Conditional Use applications must be maintained and arranged by Council District and submitted monthly to the Council that includes:

- The property's address and zoning district
- The applicant's name and contact information.
- The proposed use of the property.
- The Date the application was filed.
- The Date the application was heard before the Board.

***\*\*\* The licensure process that the Liquor Board requires is similar to the process that was proposed in the original version of this Bill.***