A BILL
ENTITLED

AN ACT concerning

Zoning Regulations – Live Musical Entertainment

FOR the purpose of permitting live musical entertainment in certain areas; specifying certain requirements and restrictions; providing a process for obtaining a use permit for live musical entertainment; providing a process for the suspension or revocation of a use permit; renewal of a use permit; appeals; and generally relating to live musical entertainment.

BY adding
Section 101.1, the definition of “Live Musical Entertainment,” and Section 449 Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter stricken from existing law. Strike out indicates matter stricken from bill. Underlining indicates amendments to bill.
SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

ARTICLE 1 – GENERAL PROVISIONS

Section 101 – Definitions

§ 101.1. - Word usage; definitions.
Words used in the present tense include the future; words in the singular number include the plural number; the word “shall” is mandatory. For the purposes of these regulations, certain terms and words are defined below.

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

LIVE MUSICAL ENTERTAINMENT – ANY MUSIC INVOLVING A LIVE PERFORMANCE OR DELIVERY OF MUSIC BY ONE OR MORE PERSONS AT A BUSINESS OR OTHER COMMERCIAL VENUE. LIVE MUSICAL ENTERTAINMENT MAY INCLUDE BUT NOT BE LIMITED TO A MUSICAL ENSEMBLE, SOLO PERFORMERS, THE PRESENTATION OF MUSIC PLAYED ON SOUND EQUIPMENT OPERATED BY AN OWNER, EMPLOYEE, AGENT, OR CONTRACTOR OF A VENUE COMMONLY KNOWN AS A “DISC JOCKEY” OR “DJ,” AND KARAOKE. LIVE MUSICAL ENTERTAINMENT MAY ALSO INCLUDE MUSIC THAT SOLELY OR PRIMARILY USES INSTRUMENTS THAT PRODUCE SOUND THROUGH ACOUSTIC MEANS OR WITH ELECTRIC OR ELECTRONIC ENHANCEMENT.
ARTICLE 4 – SPECIAL REGULATIONS

SECTION 449 – LIVE MUSICAL ENTERTAINMENT

§ 449.1. – FINDINGS AND PURPOSE.
LIVE MUSICAL ENTERTAINMENT PROVIDES A BENEFIT TO COUNTY CITIZENS
AND BUSINESSES, HOWEVER, IT CAN ALSO SIGNIFICANTLY IMPACT THE PUBLIC
HEALTH, SAFETY, AND GENERAL WELFARE OF A COMMUNITY. THE PURPOSE OF
THIS SECTION IS TO ESTABLISH REASONABLE REGULATIONS FOR THE
PRESENTATION OF LIVE MUSICAL ENTERTAINMENT IN THE ARBUTUS AND
CATONSVILLE COMMERCIAL REVITALIZATIONS DISTRICTS IN ORDER TO
PROTECT THE CHARACTER OF THE NEARBY NEIGHBORHOODS AND THE PUBLIC
HEALTH, SAFETY, AND GENERAL WELFARE, WHILE PROVIDING LIVE MUSICAL
ENTERTAINMENT OPTIONS FOR COUNTY CITIZENS AND ECONOMIC
DEVELOPMENT OPPORTUNITIES IN BUSINESS AND COMMERCIAL AREAS.

§ 449.2. – LIVE MUSICAL ENTERTAINMENT USE PERMIT.
A. NOTWITHSTANDING OTHER PROVISIONS IN THESE REGULATIONS THAT
PERMIT LIVE OR RECORDED MUSIC IN CERTAIN ZONES BY RIGHT OR BY SPECIAL
EXCEPTION SUCH AS A NIGHTCLUB OR TAVERN USE AS A PRINCIPAL OR
ACCESSORY USE, LIVE MUSICAL ENTERTAINMENT IS PERMITTED ON PROPERTY
LOCATED IN THE ARBUTUS AND CATONSVILLE COMMERCIAL REVITALIZATION
DISTRICTS AND ASSIGNED A C.C.C. DISTRICT OVERLAY AS AN ACCESSORY USE
TO A PRIMARY PRINCIPAL USE ON PROPERTY IN THE ARBUTUS OR CATONSVILLE
COMMERCIAL REVITALIZATION DISTRICTS PROVIDED A PROPERTY IS ALSO
ASSIGNED A C.C.C. DISTRICT OVERLAY IN ACCORDANCE WITH THIS SECTION. A
BUSINESS OR OTHER COMMERCIAL. THE OWNER OF A PROPERTY OR
ESTABLISHMENT OR LESSOR IF AUTHORIZED IN WRITING BY AN OWNER THAT
QUALIFIES UNDER THIS SECTION SHALL OBTAIN A LIVE MUSICAL
ENTERTAINMENT USE PERMIT ISSUED FREE OF CHARGE BY THE DIRECTOR OF
THE DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS (THE
"DIRECTOR").

B. THE APPLICANT SHALL PAY A FEE ESTABLISHED FOR THE USE PERMIT AT
THE TIME THE APPLICATION IS SUBMITTED. A USE PERMIT SHALL BE REQUIRED
REGARDLESS OF THE FREQUENCY OF LIVE MUSICAL ENTERTAINMENT OR THE
TOTAL NUMBER OF TIMES THAT LIVE MUSIC IS PROVIDED AS AN ACCESSORY
USE AT THE ESTABLISHMENT OR LOCATION.

C. FOR LIVE MUSICAL ENTERTAINMENT THAT IS PROPOSED AS AN ACCESSORY
USE SOLELY OUTDOORS, AN APPLICANT SHALL SUBMIT AN APPLICATION FOR A
PROVISIONAL USE PERMIT FOR EACH EVENT, NOT TO EXCEED SIX (6) EVENTS IN
A CALENDAR YEAR. THE APPLICANT SHALL PAY A FEE FOR EACH USE PERMIT
AND SHALL ALSO BE SUBJECT TO ANY APPLICABLE AMUSEMENT TAX.

§449.3.–LIVE MUSICAL ENTERTAINMENT USE PERMIT—APPLICATION.

A. THE APPLICATION FOR A LIVE MUSICAL ENTERTAINMENT USE PERMIT SHALL
BE SUBMITTED ON A FORM APPROVED BY THE DIRECTOR AND SHALL INCLUDE
THE FOLLOWING INFORMATION: SUPPORTING INFORMATION REQUIRED BY THE
DIRECTOR.
1. NAME AND CONTACT INFORMATION FOR ALL OWNERS AND
PRINCIPALS OF A BUSINESS ENTITY, OPERATORS, AND MANAGERS OF THE
ESTABLISHMENT OR PROPERTY, INCLUDING A RESPONSIBLE PARTY LISTED AND
AVAILABLE BY PHONE AT ALL TIMES.

2. STREET ADDRESS OF THE BUILDING OR FACILITY WHERE ALL LIVE
MUSICAL ENTERTAINMENT WILL OCCUR.

3. DETAILED SITE PLAN OF THE PROPERTY, INCLUDING THE PLACEMENT
OF BUILDINGS AND PARKING.

4. DETAILED INTERIOR FLOOR PLAN, INCLUDING THE LOCATION AND THE
SQUARE FOOTAGE OF ALL LIVE MUSICAL ENTERTAINMENT AND DANCE FLOOR
AREAS.

5. DESCRIPTION OF THE PRIMARY USE AT THE PROPERTY AND PROPOSED
TYPES OF ACCESSORY LIVE MUSICAL ENTERTAINMENT.

6. DAYS OF THE WEEK AND HOURS THAT LIVE MUSICAL ENTERTAINMENT
WILL BE PROVIDED, AND THE FREQUENCY.

7. LEVEL OF ANY PROPOSED SOUND AMPLIFICATION OF THE LIVE MUSIC.

8. WHETHER THERE IS A COVER CHARGE, ADMISSION FEE, OR ANY OTHER
REQUIRED FEE, CHARGE, PURCHASE, OR DONATION.

9. CAPACITY OF THE BUILDING ACCORDING TO THE FIRE MARSHAL’S
OFFICE AND THE MAXIMUM PROPOSED AUDIENCE SIZE FOR THE LIVE MUSICAL
ENTERTAINMENT, WHICH SHALL NOT EXCEED SUCH CAPACITY. FOR OUTDOOR
LIVE MUSICAL ENTERTAINMENT, THE MAXIMUM AUDIENCE SIZE SHALL BE
Determined by the Director in consultation with the Fire Marshal’s office.

10. Emergency evacuation plan approved by the Fire Marshal’s office.

11. Whether alcohol will be served prior to, during, or after any live music, and copies of any liquor licenses.

B. The Director may require an applicant to submit a proposed security plan as part of an application for a live musical entertainment use permit. If required by the Director, the proposed security plan shall address and include, at a minimum, sufficient information on the following issues:

1. Security personnel on-duty during the live music.

2. Interior and exterior monitoring of the facility, including any security cameras and inspections by security personnel.

3. Access points, including points of emergency ingress and egress.

§ 449.4. Live Musical Entertainment Use Permit—Approval; Denial.

C. Based on the information contained in the application and any other information which the Director deems relevant, the Director may administratively approve the application and issue a one-year live musical entertainment use permit for indoor use or a provisional live musical entertainment use permit for each outdoor
EVENT. IN DECIDING WHETHER TO APPROVE THE APPLICATION AND ISSUE A USE PERMIT, THE DIRECTOR SHALL CONSIDER THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE SURROUNDING COMMUNITY, INCLUDING RESIDENTIAL PROPERTIES IN PROXIMITY TO THE PROPOSED LOCATION OF THE LIVE MUSICAL ENTERTAINMENT.


C. THE DIRECTOR SHALL NOTIFY THE APPLICANT IN WRITING OF THE DECISION TO EITHER APPROVE OR DENY THE APPLICATION.

D. DURING THE COURSE OF A YEAR, THE HOLDER OF A LIVE MUSICAL ENTERTAINMENT USE PERMIT SHALL IMMEDIATELY NOTIFY THE DIRECTOR IF ANY INFORMATION IN THE APPLICATION OR USE PERMIT MATERIALLY CHANGES, INCLUDING, BUT NOT LIMITED TO, OWNERSHIP, SECURITY, LIQUOR LICENSURE, AND FLOOR PLAN AND LAYOUT. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN DENIAL OF A USE PERMIT APPLICATION OR IMMEDIATE SUSPENSION OF A LIVE MUSICAL ENTERTAINMENT USE PERMIT.

E. ALL USE PERMIT HOLDERS SHALL ENSURE THAT THE LIVE MUSICAL ENTERTAINMENT COMPLIES WITH THE COUNTY’S NOISE LAW AT ALL TIMES ALL LAWS, REGULATIONS, AND REQUIREMENTS, INCLUDING THE APPLICABLE NOISE LEVELS SET FORTH IN COMAR.
F. A LIVE MUSICAL ENTERTAINMENT USE PERMIT SHALL NOT BE TRANSFERRED, CONVEYED, OR SOLD TO ANOTHER PERSON, BUSINESS, OR OTHER CORPORATE ENTITY.

G. THE DECISION OF THE DIRECTOR IN THIS SECTION MAY BE APPEALED ONLY BY THE USE PERMIT APPLICANT IN ACCORDANCE WITH SECTION 449.5.

§ 449.5. IMMEDIATE CLOSURE.
A. THE CHIEF OF POLICE MAY TEMPORARILY ORDER AN ESTABLISHMENT AT WHICH LIVE MUSICAL ENTERTAINMENT IS PLANNED, IS OR WAS BEING PERFORMED, TO IMMEDIATELY CLOSE, CEASE ALL OPERATIONS, AND DISBURSE ANYONE ON THE PREMISES WHEN IT IS DETERMINED THAT THERE IS AN IMMEDIATE THREAT TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PATRONS OF THE ESTABLISHMENT AND THE GENERAL PUBLIC.

B. THE ESTABLISHMENT MAY RESUME OPERATIONS WITHOUT LIVE MUSICAL ENTERTAINMENT WHEN THE CHIEF OF POLICE DETERMINES THAT THERE IS NO LONGER AN IMMEDIATE THREAT TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF PATRONS AND THE GENERAL PUBLIC. THE RESUMPTION OF LIVE MUSICAL ENTERTAINMENT SHALL BE SUBJECT TO § 449.6.

§ 449.6 SUSPENSION OR REVOCATION OF A LIVE MUSICAL ENTERTAINMENT USE PERMIT.
A. THE DIRECTOR, IN CONSULTATION WITH THE CHIEF OF POLICE, MAY SUSPEND OR REVOKE A LIVE MUSICAL ENTERTAINMENT USE PERMIT WHEN IT IS
DEEMED IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, AND GENERAL
WELFARE TO DO SO INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING
CIRCUMSTANCES:

1. VIOLATIONS OF ANY APPLICABLE FEDERAL, STATE, OR COUNTY LAW,
REGULATION, OR REQUIREMENT BY ANY USE PERMIT HOLDER OR ANY OWNER,
APPLICANT, MANAGER, PRINCIPAL, OR ANY OTHER PERSON MATERIALLY
INVOLVED IN THE ESTABLISHMENT; AND

2. THE NUMBER AND SEVERITY OF CALLS FOR POLICE SERVICE
INVOLVING THE ESTABLISHMENT.

B. THE DIRECTOR SHALL PROVIDE WRITTEN NOTICE OF AND THE REASONS FOR
THE SUSPENSION OR REVOCATION.

C. UPON A FINDING BY A PREPONDERANCE OF THE EVIDENCE OF FACTS AND
CIRCUMSTANCES THAT SUPPORT THE SUSPENSION OR REVOCATION, A LIVE
MUSICAL ENTERTAINMENT USE PERMIT MAY BE SUSPENDED FOR A PERIOD NOT
TO EXCEED 90 CALENDAR DAYS OR REVOKED INDEFINITELY.

D. THE DIRECTOR MAY IMPOSE REASONABLE CONDITIONS, INCLUDING
PREVIOUSLY IMPOSED CONDITIONS OR ADDITIONAL CONDITIONS, ON A LIVE
MUSICAL ENTERTAINMENT USE PERMIT WHICH IS SUSPENDED OR REVOKED TO
ENSURE THE HEALTH, SAFETY, AND WELFARE OF THE PATRONS OF THE
ESTABLISHMENT AND THE GENERAL PUBLIC. THE USE PERMIT HOLDER SHALL
COMPLY WITH THESE CONDITIONS WHEN THE SUSPENSION PERIOD ENDS OR
THE REVOCATION IS LIFTED, AND IF THEY ARE PERMITTED TO RESUME LIVE
MUSICAL ENTERTAINMENT.
A USE PERMIT HOLDER MAY APPEAL THE SUSPENSION OR REVOCATION OF
THE LIVE MUSICAL ENTERTAINMENT USE PERMIT TO THE DIRECTOR WITHIN 30
CALENDAR DAYS OF HAND-DELIVERY OF THE NOTICE OF SUSPENSION OR
REVOCATION OR THE DATE OF MAILING OF THE NOTICE, WHICHEVER OCCURS
FIRST. THE DIRECTOR WILL HOLD A HEARING ON THE APPEAL WITHIN 30 DAYS
OF THE DATE THE APPEAL IS FILED AND THE HOLDER OF THE SUSPENDED OR
REVOKED LIVE MUSICAL ENTERTAINMENT USE PERMIT WILL BE PROVIDED
NOTICE OF THE HEARING DATE AND TIME. AT THE HEARING, THE HOLDER WILL
HAVE AN OPPORTUNITY TO PROVIDE ORAL TESTIMONY, TO INCLUDE
WITNESSES, AND OTHER RELEVANT DOCUMENTATION. THE SUSPENSION OR
REVOCATION SHALL REMAIN IN EFFECT DURING THE APPEAL PROCESS, UNLESS:
1. THE SUSPENSION PERIOD ENDS DURING THE APPEAL PROCESS, OR
2. THE DIRECTOR DETERMINES, IN WRITING, THAT THE LIVE MUSICAL
ENTERTAINMENT MAY RESUME.

AFTER THE HEARING, THE DIRECTOR SHALL ISSUE A WRITTEN DECISION
WITHIN 30 CALENDAR DAYS OF THE HEARING DATE. AS PART OF THE DECISION,
THE DIRECTOR MAY IMPOSE REASONABLE CONDITIONS, INCLUDING
PREVIOUSLY IMPOSED CONDITIONS OR ADDITIONAL CONDITIONS, ON A LIVE
MUSICAL ENTERTAINMENT USE PERMIT TO ENSURE THE HEALTH, SAFETY, AND
WELFARE OF THE PATRONS OF THE ESTABLISHMENT AND THE GENERAL
PUBLIC. THE USE PERMIT HOLDER SHALL COMPLY WITH THESE CONDITIONS
WHEN THE SUSPENSION PERIOD ENDS OR THE REVOCATION IS LIFTED, AND IF
THEY ARE PERMITTED TO RESUME LIVE MUSICAL ENTERTAINMENT.
§ 449.7 449.4. – RENEWAL OF USE PERMIT.

A. UPON APPROVAL OF THE INITIAL LIVE MUSICAL ENTERTAINMENT USE PERMIT FOR INDOOR USE, THE APPLICANT SHALL BE REQUIRED TO RENEW THE USE PERMIT ANNUALLY, TO BE DATED FROM THE MONTH OF THE INITIAL APPROVAL.

B. IF CONDITIONS OR OTHER INFORMATION SUBMITTED TO THE DIRECTOR FOR THE INITIAL USE PERMIT HAVE NOT MATERIALLY CHANGED SINCE THE INITIAL APPROVAL, SUCH RENEWAL MAY BE APPROVED ADMINISTRATIVELY AND SHALL NOT BE SUBJECT TO THE APPROVAL REQUIREMENTS OF §§ 449.3 AND 449.4.

C. IF CONDITIONS OR OTHER INFORMATION SUBMITTED TO THE DIRECTOR FOR THE INITIAL USE PERMIT VARY MATERIALLY FROM THE INITIAL APPROVAL, THE RENEWAL SHALL BE SUBJECT TO THE APPROVAL REQUIREMENTS OF §§ 449.3 AND 449.4 § 449.2.

§ 449.8 449.5. – APPEALS.

APPEALS OF THE DECISION OF THE DIRECTOR RELATED TO THE ISSUANCE OF A USE PERMIT OR FROM ANY DECISION OR ORDER OF THE DIRECTOR TO SUSPEND OR REVOKE A USE PERMIT MAY BE TAKEN TO THE BOARD OF APPEALS IN ACCORDANCE WITH § 32-3-401 OF THE BALTIMORE COUNTY CODE AND HEARD DE NOVO.
SECTION 2. AND BE IT FURTHER ENACTED, that the provisions and requirements of this Act shall not apply to a property in which live musical entertainment is permitted as a principal or accessory use under the Baltimore County Zoning Regulations, or in which the Zoning Commissioner/Office of Administrative Hearings has previously granted permission for a property to provide live musical entertainment as a principal or accessory use prior to the effective date of this Act; and this Act shall not apply to seasonal, outdoor events in which live musical entertainment is provided such as “Feet on the Street,” “Music on Main Street,” “Frederick Road Fridays,” or similar events held by local non-profit Chambers of Commerce and in which a gathering permit and other applicable permits are obtained.

SECTION 3. AND BE IT FURTHER ENACTED, that a business or other commercial property or establishment located within the Catonsville and Arbutus Commercial Revitalization Districts and assigned a C.C.C. District Overlay in which live musical entertainment is permitted under this Act shall be in compliance with the requirements of this Section within six (6) months of the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on October 21, 2019.