

Chapter 66

(House Bill 95)

AN ACT concerning

**City of Gaithersburg – Licensed Alcoholic Beverages Restaurants – Distance
from Churches or Other Places of Worship**

MC 23–15

FOR the purpose of authorizing the Montgomery County Board of License Commissioners by unanimous vote to approve an application for a Class B beer, wine and liquor license for a restaurant located in the City of Gaithersburg in Montgomery County that meets certain requirements, including a requirement concerning the distance of the restaurant from a church or other place of worship; specifying that the Class B beer, wine and liquor license authorizes the license holder to keep for sale and sell alcoholic beverages for consumption on the premises only; and generally relating to alcoholic beverages licenses in the City of Gaithersburg in Montgomery County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–216
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–216.

(a) (1) Except as provided in paragraph (3) of this subsection, the Montgomery County Board of License Commissioners may not issue any license to sell alcoholic beverages within 750 feet of any secondary or elementary school, church or other place of worship, or youth center sponsored or conducted by any governmental agency.

(2) Measurement of the required distance shall be made from the nearest point of the building of the proposed establishment for which the license is requested to the nearest point of the building of the school, church or other place of worship, or youth center.

(3) The Montgomery County Board of License Commissioners may by majority vote approve the application for any license to sell alcoholic beverages more than 300 feet from any elementary or secondary school, church or other place of worship, or youth center sponsored or conducted by any governmental agency provided that the land upon which the building is situated in which the licensee would operate is classified in a

commercial or industrial zone under the applicable zoning ordinance and is adjacent or contiguous to other land which is similarly classified under the zoning ordinance.

(4) Nothing in this section shall apply to or affect or prohibit, in any manner, the renewal, transfer, or reissuance of a prior license of any license of any establishment where subsequent to the original granting of the license a school, church or other place of worship, or youth center was erected within 750 feet of the establishment.

(5) For the purposes of this section, reissuance shall be limited to a new license for the establishment issued within 1 year from the date of expiration or revocation of a prior license provided the revocation did not result from acts of the owner of the establishment.

(6) This subsection does not apply to a special culinary school license issued under § 8–216.3 of this article.

(b) (1) In this subsection, “Takoma Park Transit Impact Area” means the Takoma Park Transit Impact Area as approved and adopted in the sector plan for Takoma Park, Montgomery County, Maryland.

(2) Notwithstanding the provisions of subsection (a) of this section, the Montgomery County Board of License Commissioners by unanimous vote may approve an application for an alcoholic beverages license of an applicant for a restaurant establishment which is located on land classified in or near a CBD zone (central business district zone), in or near the Rockville Town Center Performance District, in or near the Takoma Park Transit Impact Area, or in or near the Kensington commercial areas specified in § 8–216(a)(2)(iv)1 of this article, if the following conditions are satisfied:

(i) 1. If the restaurant building is outside the respective zone, district, or area the measurement of the distance of the nearest point of the restaurant building to the nearest boundary line of the respective zone, district, or area is 500 feet or less; or

2. The restaurant building is entirely contained in land classified in the respective zone, district, or area;

(ii) The issuance of the requested license will not adversely affect nearby schools, churches, youth centers or the nearest residential community; and

(iii) Except for the distance restrictions provided in subsection (a) of this section, the restaurant otherwise qualifies under this article for the issuance of the license requested.

(3) Any license issued under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(c) (1) Notwithstanding the provisions of subsection (a) of this section, the Montgomery County Board of License Commissioners by unanimous vote may approve an application for an alcoholic beverages license of an applicant for a restaurant that is in existence as of June 1, 2004, and located in the Rockshire Planned Residential Unit development of the City of Rockville, if the following conditions are satisfied:

(i) The restaurant building is entirely contained on land located within the Rockshire Planned Residential Unit development area;

(ii) The issuance of the license will not adversely affect nearby schools, churches, youth centers, or the nearest residential community; and

(iii) Except for the distance restrictions provided in subsection (a) of this section, the restaurant otherwise qualifies under this article for the issuance of the license requested.

(2) Any license under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(d) (1) In this subsection, "Burtonsville Town Square" means the shopping center located in Montgomery County at the northwest corner of MD 198 and US 29a.

(2) Notwithstanding the provisions of subsection (a) of this section, the Montgomery County Board of License Commissioners by unanimous vote may approve an application for an alcoholic beverages license of an applicant for a restaurant that is located in Burtonsville Town Square if the following conditions are satisfied:

(i) The issuance of the license will not adversely affect nearby schools, churches, youth centers, or the nearest residential community; and

(ii) Except for the distance restrictions provided in subsection (a) of this section, the restaurant otherwise qualifies under this article for the issuance of the license requested.

(3) Any license under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(e) (1) In this subsection, "Hillandale Shopping Center" means the shopping center located in Montgomery County at the northeast corner of MD 650 and Interstate 495.

(2) Notwithstanding the provisions of subsection (a) of this section, the Montgomery County Board of License Commissioners by unanimous vote may approve an application for an alcoholic beverages license of an applicant for a restaurant that is located in the Hillandale Shopping Center if the following conditions are satisfied:

(i) The issuance of the license will not adversely affect nearby schools, churches, youth centers, or the nearest residential community; and

(ii) Except for the distance restrictions provided in subsection (a) of this section, the restaurant otherwise qualifies under this article for the issuance of the license requested.

(3) Any license under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(f) (1) In this subsection, “Rock Spring Centre” means the mixed use center located in Montgomery County bordered by Rock Spring Drive, Rockledge Drive, Interstate 270, and Old Georgetown Road in Bethesda.

(2) Notwithstanding the provisions of subsection (a) of this section, the Montgomery County Board of License Commissioners by unanimous vote may approve an application for an alcoholic beverages license of an applicant for an establishment that is located in the Rock Spring Centre if the following conditions are satisfied:

(i) The issuance of the license will not adversely affect nearby schools, churches, youth centers, or the nearest residential community; and

(ii) Except for the distance restrictions provided in subsection (a) of this section, the establishment otherwise qualifies under this article for the issuance of the license requested.

(3) Any license under this subsection authorizes its holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

(G) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS BY MAJORITY VOTE MAY APPROVE AN APPLICATION FOR A RESTAURANT FOR A CLASS B BEER, WINE AND LIQUOR LICENSE IF THE FOLLOWING CONDITIONS ARE SATISFIED:

(I) THE RESTAURANT IS LOCATED IN A SHOPPING CENTER IN THE CITY OF GAITHERSBURG IN MONTGOMERY COUNTY THAT IS BORDERED BY MARYLAND ROUTE 355, CENTRAL AVENUE, POPLARWOOD PLACE, AND NORTH WESTLAND DRIVE;

(II) THE RESTAURANT IS LOCATED MORE THAN 275 FEET FROM ANY CHURCH OR OTHER PLACE OF WORSHIP; AND

(III) A PRIOR OWNER OR TENANT AT THE SITE OF THE RESTAURANT HELD AN ALCOHOLIC BEVERAGES LICENSE.

(2) THE CLASS B BEER, WINE AND LIQUOR LICENSE UNDER THIS SUBSECTION AUTHORIZES ITS HOLDER TO KEEP FOR SALE AND SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES ONLY.

[(g)](H) (1) Subject to the provisions of paragraph (2) of this subsection, the Montgomery County Board of License Commissioners may not issue any class of alcoholic beverages license for use in a business establishment that sells motor vehicle fuel to motorists from a fuel pump that is located on the premises.

(2) The Montgomery County Board of License Commissioners may renew an alcoholic beverages license that has been issued for use in a business establishment that sells motor vehicle fuel to motorists from a fuel pump that is located on the premises if the license was in existence on January 1, 1989.

[(h)](I) (1) The Montgomery County Board of License Commissioners may issue and renew an alcoholic beverages license that the board previously issued for premises on which a lawful nonconforming use exists.

(2) The Board of License Commissioners may not issue a license that is less restrictive than any license that the board previously issued for the premises.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, April 14, 2015.