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Will Limiting the Number of Beer/Wine/Liquor Outlets In Baltimore City Create Healthier Residential Neighborhoods?

Research Strongly Suggests That It Will.

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Many urban areas across the United States and globally are considering policies to create healthier and safer community environments. This report presents the rationale, evidence, and mechanisms for utilizing alcohol outlet-related zoning policy and specifically, the distance, distribution (or density), definition, and existence of alcohol outlets (i.e., bars, taverns, liquor stores) as one method to create healthier and safer communities. While aspects of this report will be applicable to other urban areas, the specific focus here is on Baltimore City, which is undergoing a comprehensive update of its zoning code for the first time since 1971. The comprehensive zoning code rewrite presents Baltimore with a unique window of opportunity to increase the health-promoting potential of neighborhoods through urban planning.

The National Prevention Strategy released by the U.S. Surgeon General's Office in March 2011 serves as the nation's blueprint for advancing health and wellness. It highlights the importance of including health considerations in decision-making

across multiple sectors in order to create healthier and safer communities (National Prevention Council, 2011). Known as a *Health in All Policies* approach, public health leaders recognize that many plans, policies, and activities in non-health sectors can still influence human health and well-being. By recognizing these links, assessing possible health impacts and including health considerations in the decision-making, a more comprehensive approach to improving and maintaining health can be realized. Such efforts include assessing possible health impacts of new rail and freight transportation projects, housing plans, family- and sick-leave policies, alcohol policies, redevelopment policies, or economic policies.

Focus of this Report

This report does not address the potential personal health consequences (e.g., cirrhosis of the liver, alcohol poisoning) associated with individual behaviors such as alcohol consumption. Rather, it focuses on the potential neighborhood-level health considerations associated with alcohol outlets. The main consideration of interest is the relationship between alcohol outlets and violent crime, including homicide, aggravated

assault, rape, robbery, and burglary. Based upon our review of the body of research that has studied that relationship, we conclude that there is strong evidence to support the assertion that decreasing alcohol outlet density will lead to decreases in violent crime.

Below we provide a summary of the proposed revisions to Baltimore's zoning code specifically related to alcohol outlet location, density, definition, and existence. This report also includes a summary of the public health evidence linking alcohol outlets and crime. We provide an overview of the regulations governing alcohol outlets in Baltimore City including a description of a variety of policy tools that can be used to address public health concerns related to alcohol outlet density. We present a snapshot of some of the primary arguments against alcohol outlet control policies and reduction of alcohol outlet density. A more detailed policy brief that addresses many of these issues in greater depth is available on The Abell Foundation's website (www.abell.org).

Proposed Revisions to Baltimore's Zoning Code

The current zoning proposal includes three provisions that influence the location, density, definition,

and existence of alcohol outlets in Baltimore City. Below is an excerpt directly from Baltimore’s proposed new zoning code ordinance regarding these proposed provisions (see: City of Baltimore, City Council Bill 12-0152, 2012 for full ordinance):

1. **Distancing:** Section 14-335 RETAIL GOODS ESTABLISHMENTS – WITH ALCOHOL SALES. Subsection (C) (1) of this section of the proposed code states that “Except as otherwise provided in this subsection, a retail goods establishment with alcohol sales must be located at least 300 feet from any other existing retail goods establishment with alcohol sales.”
2. **Definition:** Section 14-336 TAVERNS. Subsections (B)(1) and (B)(2) of this section of the proposed zoning code states that “Taverns may sell alcoholic beverages for off-premises consumption only if:
 - (1) Annually, the average daily receipts from the sale of alcoholic beverages for on-premises consumption exceeds 50% of the establishment’s total average daily receipts, not including sales of novelty items, income from vending machines, cover charges, or other receipts not derived from the sale of food or beverages; and

(2) More than 50% of the establishment’s public floor space is devoted to on-premises consumption.”

3. **Existence:** Sections 18-701 and 18-702 of the proposed code detail a timeline for mandatory termination of two types of nonconforming alcohol outlets. Nonconforming outlets are existing outlets that were grandfathered in after the 1971 rewrite of the zoning code, but would have been prohibited if they were new outlets. They are legal uses that have not been aligned with the zoning code since 1971. The two sections are excerpted below:

Section 18-701. RETAIL GOODS ESTABLISHMENT – WITH ALCOHOL SALES. Subsection (A) of this section states that “Except as provided in subsection (C) of this section, retail goods establishments with alcohol sales in a residential district must be terminated as follows:

- (1) For an establishment with alcohol sales that existed as a lawful nonconforming use prior to the effective date of this Code, no later than 2 years after the effective date of this Code, notwithstanding the issuance of any prior use permit as a nonconforming package goods liquor store; and
- (2) For an establishment that becomes nonconforming on or after the effective date of this

Code, whether by the enactment of this Code, by the enactment of an amendment to this Code, or by the reclassification of the property, no later than 3 years after the date on which the use became nonconforming.”

Of note, additional considerations and waivers with respect to termination are outlined in subsequent subsections of Section 18-701.

Section 18-702. TAVERNS. Subsection (A) of this section states: “Nonconforming taverns must either:

- (1) Fully comply with § 14-336 {TAVERNS} within 2 years after they become nonconforming; or
- (2) Be terminated.”

These three mechanisms have the potential to result in short- and long-term changes to alcohol outlets in Baltimore City. Distancing has the potential to affect any new alcohol outlets. Definition and existence have the potential to create short-term impacts in that they will affect existing alcohol outlets.

Evidence from Public Health Research Supports Efforts to Reduce the Density of Alcohol Outlets

In preparing this report, we reviewed scientific, peer-reviewed research conducted in urban areas similar to Baltimore (i.e., U.S. urban areas with a population size >200,000)

regarding the relationship between the location and density of alcohol outlets and violent crime. In considering the research evidence presented, it is important to note that the ultimate goal is to ascertain cause and effect. Toward this end, we conclude that—given the strength, coherence, temporality, consistency, and specificity of the research evidence—alcohol outlet density and location may *cause* increased violent crime.

In brief, reducing alcohol outlet density is an evidence-based approach to community prevention that has been recommended by the Task Force on Community Preventive Services (Guide to Community Preventive Services). The members of this independent, volunteer expert advisory group are appointed by the Director of the Centers for Disease Control and Prevention to review the effectiveness of interventions. A systematic review by Campbell and colleagues (2009) conducted in collaboration with this task force identifies a consistent association between increasing alcohol outlet density and crime (as well as other health outcomes such as alcohol-related harms including injury and violence). In particular, all seven time-series studies included in this review that examined the association between alcohol outlet density and interpersonal violence found a positive association (i.e., interpersonal violence increases with increasing alcohol outlet density). The one study in this review that examined the association between alcohol outlet density and crime suggests that there is an independent relationship between alcohol outlet density and crime such that crime increases with increasing

alcohol outlet density, independent of alcohol consumption. This suggests there is something about the alcohol outlets themselves that is associated with increased crime.



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Furthermore, several other recent studies conducted in U.S. urban areas (specifically focusing on cities with populations greater than or equal to 200,000 residents) also show that alcohol outlet density is associated with violent crime. They present evidence of the strength, coherence, temporality, consistency, and specificity of this association, suggesting that alcohol outlet density and location may, in fact, *cause* increased violent crime. Here is a brief summary of some of these research findings:

- **Alcohol Outlet Density** – In Los Angeles, Yu and colleagues (2009) found that higher liquor outlet density was associated with higher assault rates. Reduction in the number of outlets over a nine-year period was associated with a statistically significant drop in assaultive violence over time as well. In New Orleans, Scribner and colleagues

(2007) predicted that a 10 percent increase in the density of outlets selling alcohol for off-premises consumption would increase the homicide rate by 2.4 percent.

- **Independent Effect of Alcohol Outlets on Violent Crime** – In Washington D.C., Franklin and colleagues (2010) found that community-level alcohol outlet density is significantly associated with assaultive violence, independent of other neighborhood factors including neighborhood violent crime rates and the prevalence of weapons and illicit drugs. The number of alcohol outlets in a census tract was significantly related to robbery, assault, and sexual offenses.
- **Outlet Type and Crime** – In Philadelphia, Branas (2009) demonstrated that being in an area of high off-premise alcohol outlet availability doubled the risk of being shot in an assault, while being in an area of high on-premise alcohol outlet availability did not change this risk.
- **Location of Alcohol Outlets** – In Baltimore, LaVeist and Wallace (2000) found that liquor stores are disproportionately located in predominantly African-American census tracts. Work by Milam and colleagues (2012) in Baltimore suggests that children who live in close proximity to alcohol outlets are at increased risk of seeing people selling drugs. This work also found that an estimated 54.8 percent of Baltimore City Public School children have at least one liquor store within a quarter mile

of their home while only 13.1 percent have a grocery store within a quarter mile.

Regulations Governing Alcohol Outlets

Two sets of regulations govern the sale of alcohol in Baltimore City: 1) the zoning code, and 2) Maryland State Law as administered through the Baltimore City Board of Liquor License Commissioners (i.e., the Liquor Board).

The Zoning Code and Associated Hearings

Baltimore City’s zoning code details where different alcohol outlets may locate and remain (i.e., in business districts, industrial districts, and residential districts). If an alcohol-related use is permitted in a district, the zoning code also may dictate whether that use is permitted “by right” or “conditionally.” If a type of alcohol outlet (i.e., a bar) is permitted by right, then a hearing with the Board of Municipal Zoning Appeals (BMZA) is not required to develop the property as a bar. If the use (i.e., a bar) is allowed conditionally, a hearing is required with the BMZA. This process is to ensure that certain conditions about the proposed use are being met, such as not being detrimental to or endangering the public health, safety, and welfare, and not being contrary to the public interest (Baltimore City Council, Council Bill, 12-0152, 2012).

The Baltimore City Liquor Board

While the zoning code governs the location of an alcohol outlet, the Board of Liquor License Commissioners

for Baltimore City (“the Liquor Board”) is responsible for regulating the sale, storage, and distribution of retail alcoholic beverages (though an outlet must have the proper zoning in order to obtain a liquor license). While the Liquor Board has



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power only in Baltimore City, it is created by state law and considered a state entity. Each local jurisdiction in Maryland has a liquor board.

The Baltimore City Liquor Board’s duties fall into two major categories: licensing and enforcement. Liquor licensing includes granting licenses—which are good for one year and renewable each April, expanding areas of licensing, transferring licenses, one-day licenses, renewals, etc. The enforcement tools include inspections, public hearings, and administrative decisions without a public hearing. The Liquor Board holds weekly public hearings to address operational issues and requests from license holders, as well as an annual “protest of renewal”

hearing held in April of every year. If a minimum of 10 residents/property owners voice a complaint over the previous year about a particular outlet, that liquor license may not be renewed until a hearing is held. The Liquor Board may also initiate its own protest of a liquor license renewal in the absence of any community input. In the process of enforcement the Liquor Board may impose fines, suspend licenses, and in rare cases, “fail to renew” a license.

In its decision-making, the Liquor Board is supposed to consider factors such as compliance with existing tax laws; the impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and public need and accommodation for the development of a new outlet. The Liquor Board is also supposed to enforce the requirement that a liquor license holder be a Baltimore City resident and the maximum period of time a license can be renewed after a vacancy (Maryland Annotated Code, 2012a; Liquor License Exceptions).

A Variety of Policy Tools Can Be Used to Address Public Health Concerns Related to Alcohol Outlet Density

The previous section detailed the main regulations that govern alcohol outlets in Baltimore City. Policy tools are those that articulate goals and suggest the means of reaching those objectives through regulations, practices, or other support. Reducing alcohol outlet density is an evidence-based approach to community prevention recommended by the Task Force on Community Preventive Services. Furthermore, the National Prevention

Strategy, which was released by the U.S. Surgeon General's Office in March 2011, specifically highlights the importance of including health considerations in decision-making across multiple sectors, including zoning policy, in order to achieve healthier and safer community environments. We highlight three policy areas below. A comprehensive policy on both alcohol outlets and violent crime in Baltimore City involves many other domains, including funding, education, policing, and economic development.

Health Department Policy

Apart from national recognition of the important public health benefits associated with reducing alcohol outlet density, the Baltimore City Health Department has articulated a commitment to making Baltimore's neighborhoods healthier places to live. In particular, the Healthy Baltimore 2015 (BCHD, 2011) policy agenda specifically links health of city residents to improving neighborhood environments and sets a goal of decreasing alcohol outlet density by 15 percent. A citywide policy agenda, Healthy Baltimore 2015 highlights the need for a multi-sectoral effort to improve community health. These sectors include government, community stakeholders, the private sector, the health-care sector, and universities.

Liquor Board Policy

Since 1968, Baltimore City has been engaged in reducing the number of liquor licenses available. The Rules and Regulations for the Baltimore City Liquor Board prohibit the issuance of new liquor licenses, apart from specific

exceptions, so long as the number of licenses in Baltimore City exceeds one per 1,000 residents (Board of Liquor License Commissioners, 1998, p.4). With 1,330 licenses, Baltimore City's current density is 2.1 licenses for every 1,000 people, based on 2011 U.S. census data. Baltimore City has more than twice the number of liquor licenses it should, given the goal of one license per every 1,000 residents. Over time, several steps have been taken to limit liquor licenses, including a moratorium on new licenses in 1968 and distancing standards that limit the relocation of an alcohol outlet to within a one-mile radius of its original location (Baltimore City Board of Liquor License Commissioners). As identified in the previous section, the Liquor Board also has the option of suspending or failing to renew a license, though this effort does not guarantee a new license will not be brought to the same location.

Zoning Policy

In addition, zoning strategies have been employed in an effort to limit the concentration of alcohol outlets in Baltimore City. These include conditional permits, spacing standards, and definition changes as proposed in the current rewrite. In the 1971 rewrite of Baltimore's zoning code, off-premise alcohol outlets were identified as incompatible uses in residentially zoned districts. Some outlets were determined to be "nonconforming" because they were located in residential settings. No new off-premise outlets could locate in these residential areas, and it was thought that over time, coupled with various other restrictions, the existing nonconforming off-premise outlets would be phased out through attrition (Baltimore City

Department of Planning, 2012). However, most of the outlets have not closed. As noted above, Baltimore's zoning code rewrite presents an opportunity to revisit land uses that have negative public health impacts and were deemed inappropriate for residential settings more than 40 years ago during the last zoning rewrite.

Another potential means of reducing density is through the amortization or mandatory termination of existing, nonconforming outlets. Amortization is defined as the time period given to a property owner that allows him or her to either conform to a new zoning regulation or sell the property. The rationale behind a mandatory termination or time limit is that it provides the property owner sufficient opportunity to make alternative plans for the property, and that the public gain from eliminating nonconforming uses outweighs the private loss (Collins, 2000).

Arguments Against Efforts to Reduce Alcohol Outlets in Baltimore

In the course of discussions about alcohol outlets, proposed zoning changes, and policy options in Baltimore, several arguments against reduction of alcohol outlets have emerged, and are summarized below. The inclusion of these arguments in this report highlights only that these perspectives exist and makes no claims on the relative merits.

First, some have argued that alcohol outlets play a role in the social fabric and tourism policy of the city, and that they can be amenities to neighborhoods, entertainment districts, and other commercial areas. Some residents are interested in keeping the nearest nonconforming,

off-premise alcohol outlet open for the ease of purchasing alcohol and/or other drinks, foods, and convenience store items. Some fear the potential closure of local alcohol outlets because the store may not be viable unless it sells alcohol.

Others argue that alcohol, unlike other substances such as nonprescription narcotics, is legal to sell and purchase in the U.S. and efforts to limit the sale are paternalistic and overreaching. Some reject the reduction of alcohol outlet density based on the argument that other factors besides alcohol outlets play a role—or a more important role—in generating local crime. Still others base their argument on preemption, that is only the state has the authority to regulate liquor sales, not the city government through the process of a zoning rewrite.

Some opponents of restrictions on alcohol outlets have put forth a legal argument based on the 5th and 14th Amendments to the U.S. Constitution, asserting that the proposal to phase out nonconforming alcohol outlets violates due process and constitutes a “taking” of property that requires owners to be compensated for the loss of business (Cohn, 2012). However, others respond that amortization would not implicate these Constitutional provisions when it provides the property owner due process through a reasonable period of time to conform to the current zoning. In other words, the amortization plan is designed to prevent a taking of property from occurring by providing the owners sufficient time to recover their investment.

Some opponents disagree with the manner of possible crime reduction,

arguing that closing alcohol outlets would not reduce crime overall, but would just move it to the next closest conforming outlet. In public meetings, store owners have argued that their particular outlet has not contributed to crime and reject density reduction on these grounds. Other owners have argued against amortization on the grounds of economic hardship—i.e., that loss of the ability to sell liquor would end their business and/or result in the loss of jobs. Owners have also expressed concern that the proposed policy would undermine their ability to sell their businesses and thus significantly alter their savings and retirement plans.

Finally, some owners have voiced concern about possible discrimination. The majority of the nonconforming off-premise liquor store owners in Baltimore are Korean-American (Cohn, 2012). In public meetings, some store owners and their representatives from the Korean-American Grocers and Licensed Beverage Association (KAGRO) have argued that the proposed amortization plan is discriminatory (Valcourt, 2012), and other laws focusing on the nonconforming outlets are racist (Bednar, 2012) and should be rejected on these grounds.

Conclusion

This report presents the rationale, evidence, and mechanisms for utilizing alcohol outlet-related policy to create healthier and safer communities. Public health research that is particularly relevant to Baltimore City and has been conducted in comparable urban areas shows strong evidence supporting the conclusion that decreasing alcohol outlet density will lead to decreases in local violent crime. Baltimore has an excess

concentration of alcohol outlets per capita, and while state restrictions on the issuance of new licenses within the city for the most part prevent new outlets, reducing the number of the already existing outlets can be achieved through zoning. Although Baltimore as a local jurisdiction does not have the ability to issue, revoke, or amend liquor licenses in the city, it does have the power, through zoning, to regulate where alcohol outlets are located. This local authority to use zoning to regulate the location and operations of alcohol outlets in the city could be an important tool for improving public health.

There are many challenges and substantial opposition to addressing alcohol outlet density, location, and existence through zoning. Public health research, however, suggests that if such zoning law changes were passed, implemented, and enforced so as to produce a decrease in alcohol outlet density, they might also result in decreases in violent crime. As such, changing zoning laws to facilitate efforts to decrease alcohol outlet density in Baltimore is a critical step in realizing potential improvements to the health and well-being of city residents that might be associated with decreasing alcohol outlet density citywide and decreasing the number of alcohol outlets located in primarily residentially zoned neighborhoods. Having such laws, however, on the books alone is not enough. Enforcement is a central ingredient in this process. Without effective efforts to enforce such laws, there is unlikely to be substantial reduction in the number of nonconforming alcohol outlets citywide. Furthermore, a comprehensive alcohol outlet and violence policy would involve action

by a larger set of actors and agencies. Changes through zoning constitute one tool amidst the many that will ultimately be required. Without consistent and coordinated efforts citywide, problematic alcohol outlets of all types are likely to continue to operate and contribute to negative health outcomes of city residents in the future.

Clarifying notes, references, a glossary of key terms, and an appendix describing the types of alcohol outlets and associated licenses in Baltimore are included at the end of the more detailed policy brief available on The Abell Foundation's website (www.abell.org).

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