

**CITY OF BALTIMORE  
COUNCIL BILL 09-0321  
(First Reader)**

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Introduced by: Councilmembers Kraft, D’Adamo, Henry, Clarke, Young, Conaway, Curran  
Introduced and read first time: April 20, 2009

Assigned to: Judiciary and Legislative Investigations Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Commission, Board of  
Municipal and Zoning Appeals, Commission for Historical and Architectural Preservation,  
Department of Housing and Community Development, Department of Finance

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **People’s Counsel**

3 FOR the purpose of establishing the Office of People’s Counsel; providing for the appointment of  
4 a People’s Counsel; authorizing the People’s Counsel to participate as a party in certain land-  
5 use proceedings; specifying other powers and duties of the People’s Counsel; defining  
6 certain terms; and generally relating to the People’s Counsel for Baltimore City.

7 BY adding

8 Article 1 - Mayor, City Council, and Municipal Agencies  
9 Section(s) 4-1 through 4-18, to be under the new subtitle,  
10 “Subtitle 4. Office of People’s Counsel”  
11 Baltimore City Code  
12 (Edition 2000)

13 BY adding

14 Article 8 - Ethics  
15 Section(s) 7-8(32a)  
16 Baltimore City Code  
17 (Edition 2000)

18 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
19 Laws of Baltimore City read as follows:

20 **Baltimore City Code**

21 **Article 1. Mayor, City Council, and Municipal Agencies**

22 **SUBTITLE 4. OFFICE OF PEOPLE’S COUNSEL**

23 **§ 4-1. DEFINITIONS.**

24 (A) *IN GENERAL.*

25 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

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1 (B) “INCLUDES”; “INCLUDING”.

2 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF  
3 LIMITATION.

4 (C) “LAND-USE PROCEEDING”.

5 “LAND-USE PROCEEDING” MEANS ANY LEGISLATIVE OR ADMINISTRATIVE PROCEEDING  
6 FOR THE ADOPTION, APPROVAL, AMENDMENT, OR ENFORCEMENT OF:

7 (1) THE MASTER PLAN FOR BALTIMORE CITY;

8 (2) AN URBAN RENEWAL PLAN OR CONSERVATION PLAN;

9 (3) THE SUBDIVISION OF ANY PROPERTY;

10 (4) ANY MATTER REGULATED BY CITY CODE ARTICLE 6 {“HISTORICAL AND  
11 ARCHITECTURAL PRESERVATION”};

12 (5) A CHANGE IN THE ZONING CLASSIFICATION OF ANY PROPERTY; OR

13 (6) ANY MATTER REGULATED BY THE ZONING CODE OF BALTIMORE CITY, INCLUDING:

14 (i) A PLANNED UNIT DEVELOPMENT UNDER TITLE 9 OF THE ZONING CODE;

15 (ii) A PARKING LOT DISTRICT ORDINANCE UNDER TITLE 10, SUBTITLE 5, OF  
16 THE ZONING CODE;

17 (iii) A CONDITIONAL USE UNDER TITLE 14 OF THE ZONING CODE;

18 (iv) A VARIANCE UNDER TITLE 15 OF THE ZONING CODE;

19 (v) AN ADDITIONAL INDUSTRIAL USE UNDER § 7-303 OF THE ZONING CODE;  
20 AND

21 (vi) THE CONTINUANCE OF A NONCONFORMING USE OR NONCOMPLYING  
22 STRUCTURE UNDER TITLE 13 OR, AS TO NONCOMFORMING SIGNS, TITLE 11,  
23 SUBTITLE 5, OF THE ZONING CODE.

24 (D) *PERSON*.

25 “PERSON” MEANS:

26 (1) AN INDIVIDUAL;

27 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY  
28 KIND;

29 (3) A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A  
30 GOVERNMENTAL ENTITY; AND

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1 (4) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR  
2 REPRESENTATIVE OF ANY KIND.

3 **§ 4-2. PURPOSE.**

4 INFORMED PUBLIC ACTIONS ON LAND-USE MATTERS REQUIRE A FULL EXPLORATION OF OFTEN  
5 COMPLEX FACTUAL AND LEGAL ISSUES. AN INDEPENDENT PEOPLE’S COUNSEL CAN PROTECT  
6 THE PUBLIC INTEREST AND PROMOTE A FULL AND FAIR PRESENTATION OF RELEVANT ISSUES IN  
7 LAND-USE PROCEEDINGS TO ACHIEVE BALANCED RECORDS ON WHICH SOUND LAND-USE  
8 DECISIONS CAN BE MADE. IN ADDITION, A PEOPLE’S COUNSEL WHO PROVIDES TECHNICAL  
9 ASSISTANCE TO CITIZENS AND CITIZEN ORGANIZATIONS WILL ENCOURAGE EFFECTIVE  
10 PARTICIPATION IN, AND INCREASE PUBLIC UNDERSTANDING OF AND CONFIDENCE IN, THE  
11 CITY’S LAND-USE PROCESS.

12 **§ 4-3. {RESERVED}**

13 **§ 4-4. OFFICE ESTABLISHED.**

14 THERE IS AN OFFICE OF PEOPLE’S COUNSEL, THE HEAD OF WHICH IS THE PEOPLE’S COUNSEL.

15 **§ 4-5. APPOINTMENT.**

16 (A) *IN GENERAL.*

17 THE PEOPLE’S COUNSEL IS APPOINTED BY THE CITY COUNCIL.

18 (B) *QUALIFICATIONS.*

19 THE PEOPLE’S COUNSEL MUST:

- 20 (1) BE A MEMBER OF THE MARYLAND BAR;
- 21 (2) HAVE AT LEAST 5 YEARS’ EXPERIENCE IN THE PRACTICE OR TEACHING OF LAW;
- 22 AND
- 23 (3) HAVE SUBSTANTIAL EXPERIENCE WITH LAND-USE LEGAL ISSUES AND PROCEDURES.

24 **§ 4-6. TERM; REMOVAL.**

25 (A) *TERM.*

26 THE PEOPLE’S COUNSEL SERVES FOR A TERM OF 4 YEARS AND UNTIL A SUCCESSOR IS  
27 APPOINTED AND QUALIFIES.

28 (B) *REMOVAL.*

29 THE CITY COUNCIL MAY REMOVE THE PEOPLES’S COUNSEL ONLY FOR CAUSE AND ON THE  
30 AFFIRMATIVE VOTE OF 10 COUNCILMEMBERS.

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1 **§ 4-7. STAFF; CONSULTANTS.**

2 THE PEOPLE’S COUNSEL MAY EMPLOY A STAFF AND MAY CONTRACT FOR ACCOUNTANTS,  
3 CONSULTANTS, AND OTHER EXPERTS AS PROVIDED IN THE ORDINANCE OF ESTIMATES.

4 **§ 4-8. INDEPENDENT STATUS.**

5 (A) *IN GENERAL.*

6 THE PEOPLE’S COUNSEL DOES NOT AND MAY NOT REPRESENT THE CITY, ANY  
7 GOVERNMENT AGENCY, OR ANY PRIVATE PARTY IN ANY PROCEEDING.

8 (B) *INDEPENDENCE FROM SOLICITOR.*

9 THE PEOPLE’S COUNSEL IS NOT SUBJECT TO THE AUTHORITY OF THE CITY SOLICITOR.

10 **§ 4-9. {RESERVED}**

11 **§ 4-10. PARTICIPATION IN LAND-USE PROCEEDINGS – IN GENERAL.**

12 (A) *AUTHORITY TO PARTICIPATE.*

13 TO PROTECT THE PUBLIC INTEREST AND ACHIEVE A FULL AND FAIR PRESENTATION OF  
14 RELEVANT ISSUES, THE PEOPLE’S COUNSEL MAY PARTICIPATE AS A PARTY IN ANY LAND-  
15 USE PROCEEDING BEFORE:

- 16 (1) THE PLANNING COMMISSION;
- 17 (2) THE BOARD OF MUNICIPAL AND ZONING APPEALS;
- 18 (3) THE ZONING ADMINISTRATOR;
- 19 (4) THE COMMISSION FOR HISTORICAL AND ARCHITECTURAL PRESERVATION; AND
- 20 (5) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

21 (B) *ENTRY OF APPEARANCE.*

22 (1) THE PEOPLE’S COUNSEL BECOMES A PARTY TO THE PROCEEDING ON FILING A NOTICE  
23 OF INTENT TO PARTICIPATE.

24 (2) THE NOTICE MUST BE FILED WITH:

- 25 (I) THE OFFICIAL OR AGENCY IN CHARGE OF THE PROCEEDING; AND
- 26 (II) EACH PERSON ALREADY A PARTY OF RECORD TO THE PROCEEDING.

27 **§ 4-11. PARTICIPATION IN LAND-USE PROCEEDINGS – SCOPE.**

28 ON FILING THE NOTICE, THE PEOPLE’S COUNSEL IS ENTITLED, TO THE SAME EXTENT AS ANY  
29 OTHER PARTY:

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- 1 (1) TO RECEIVE ALL NOTICES TO PARTIES;
- 2 (2) TO FILE MOTIONS, INTRODUCE EVIDENCE, CALL WITNESSES, EXAMINE AND CROSS-  
3 EXAMINE WITNESSES, AND PRESENT ARGUMENTS; AND
- 4 (3) TO TAKE AN ADMINISTRATIVE APPEAL AND SEEK JUDICIAL REVIEW OF AN ACTION  
5 TAKEN OR DECISION MADE IN THE PROCEEDING.

6 **§ 4-12. PARTICIPATION IN LAND-USE PROCEEDINGS – DECLINING OR WITHDRAWAL.**

7 (A) *IN GENERAL.*

8 IN HIS OR HER DISCRETION, THE PEOPLE’S COUNSEL MAY:

- 9 (1) DECLINE TO PARTICIPATE IN A LAND-USE PROCEEDING; OR
- 10 (2) WITHDRAW FROM A PROCEEDING IN WHICH SHE OR HE ALREADY HAS  
11 PARTICIPATED.

12 (B) *NO LIABILITY.*

13 THE PEOPLE’S COUNSEL IS NOT LIABLE TO ANY PERSON FOR PARTICIPATING IN OR  
14 DECLINING TO PARTICIPATE IN ANY PROCEEDING.

15 **§ 4-13. {RESERVED}**

16 **§ 4-14. TECHNICAL ASSISTANCE.**

17 (A) *COUNSEL MAY PROVIDE.*

- 18 (1) SUBJECT TO AVAILABLE TIME AND RESOURCES, THE PEOPLE’S COUNSEL MAY PROVIDE  
19 TECHNICAL ASSISTANCE TO ANY PERSON ABOUT A LAND-USE PROCEEDING.
- 20 (2) THE PEOPLE’S COUNSEL NEED NOT BECOME A PARTY IN THE PROCEEDING TO PROVIDE  
21 THIS ASSISTANCE.

22 (B) *DISCLAIMER OF REPRESENTATION.*

23 WHEN PROVIDING TECHNICAL ASSISTANCE UNDER THIS SECTION, THE PEOPLE’S COUNSEL  
24 MUST INFORM THE RECIPIENT THAT THE PEOPLE’S COUNSEL IS NOT ACTING AND CANNOT  
25 ACT AS A PERSONAL ATTORNEY FOR THE RECIPIENT.

26 **§ 4-15. {RESERVED}**

27 **§ 4-16. CONFLICTS AVOIDANCE.**

28 (A) *SCOPE.*

29 THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO THOSE IMPOSED BY CITY CODE  
30 ARTICLE 8 {“ETHICS”}.

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1 (B) *IN-SERVICE ACTIVITIES.*

2 DURING HIS OR HER TENURE, THE PEOPLE’S COUNSEL MAY NOT ASSIST OR REPRESENT  
3 ANY PERSON, OTHER THAN AS PEOPLE’S COUNSEL, IN ANY MATTER INVOLVING LAND USE  
4 IN THIS STATE.

5 (C) *POST-SERVICE ACTIVITIES.*

6 FOR 1 YEAR AFTER LEAVING OFFICE, A FORMER PEOPLE’S COUNSEL MAY NOT ASSIST OR  
7 REPRESENT ANY PERSON IN ANY LAND-USE PROCEEDING IN THE CITY.

8 **§ 4-17. {RESERVED}**

9 **§ 4-18. ANNUAL REPORT.**

10 THE PEOPLE’S COUNSEL MUST ANNUALLY REPORT TO THE CITY COUNCIL ON THE ACTIVITIES  
11 OF THE OFFICE OF PEOPLE’S COUNSEL.

12 **Article 8. Ethics**

13 **§ 7-8. Persons required to file – Agency officials and staff.**

14 Except as provided in § 7-10 {“Person filing with State”} of this subtitle, the following  
15 officials and employees must file the financial disclosure statements required by this subtitle:

16 (32A) *PEOPLE’S COUNSEL, OFFICE OF.*

17 (I) PEOPLE’S COUNSEL.

18 (II) ALL NON-CLERICAL EMPLOYEES OF OFFICE.

19 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
20 are not law and may not be considered to have been enacted as a part of this or any prior  
21 Ordinance.

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
23 after the date it is enacted.