

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 08-0160**

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Introduced by: The Council President  
At the request of: The Administration (Baltimore Development Corporation)  
Introduced and read first time: July 21, 2008  
Assigned to: Taxation, Finance and Economic Development Committee

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Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: November 24, 2008

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**AN ORDINANCE CONCERNING**

**Westport Waterfront Development District**

1  
2 FOR the purpose of designating a “development district” to be known as the “Westport  
3 Waterfront Development District”; providing for and determining various matters in  
4 connection with the establishment of the development district; creating a special, tax  
5 increment fund for the development district; allocating certain property taxes to that fund;  
6 making certain findings and determinations; providing for a special effective date; and  
7 generally providing for matters relating to the designation and operation of the development  
8 district and the establishment and use of the special, tax increment fund to provide for the  
9 payment by or reimbursement to the City for debt service which the City is obligated to pay  
10 or has paid (whether such obligation is general or limited) on any special obligation bonds or  
11 notes issued by the City or any “state obligations” issued in connection with the development  
12 district, the replenishment of any reserve fund, and the payment of certain expenses and  
13 administrative costs related to the operation of the development district.

14 BY authority of  
15 Article II - General Powers  
16 Section (62)  
17 Baltimore City Charter  
18 (1996 Edition)

**Recitals**

20 The Tax Increment Financing Act, Article II, Section (62) of the Baltimore City  
21 Charter (the “Act”) authorizes the Mayor and City Council of Baltimore (the  
22 “City”) to establish a “development district” (as defined in the Act) and a special,  
23 tax increment fund into which the revenues and receipts from the real property  
24 taxes representing the levy on the “tax increment” (as defined in the Act) for the  
25 development district are deposited for the purpose of providing funds for the  
26 development of the development district.

**EXPLANATION:** CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by  
amendment or deleted from existing law by amendment.

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1 The Act also authorizes the City, subject to certain requirements, to borrow  
2 money by issuing and selling Bonds (as defined herein) for the purpose of  
3 financing and refinancing the development of an industrial, commercial, or  
4 residential area in Baltimore City. The Act provides, however, that no Bonds  
5 may be issued by the City until an ordinance is enacted that (i) designates an area  
6 or areas within the City as a “development district” and (ii) provides that, until the  
7 Bonds have been fully paid, the property taxes on real property within the  
8 development district shall be allocated as provided in the Act.

9 The Act also authorizes the City, subject to certain requirements, to pledge tax  
10 increment revenues to the payment by or reimbursement to the City for debt  
11 service which the City is obligated to pay or has paid (whether such obligation is  
12 general or limited) on bonds or State Obligations (as defined herein) issued and  
13 sold by the Maryland Economic Development Corporation (“MEDCO”) or any  
14 other State Issuer (as defined herein) for the purpose of providing funds for the  
15 development of the development district.

16 MEDCO, pursuant to a resolution adopted on February 25, 2008, authorized the  
17 issuance of its non-recourse, tax-exempt, limited obligation revenue bonds, from  
18 time to time and in one or more issues or series, pursuant to the provisions of  
19 Sections 5-201 through 5-217, inclusive, of Article 83A of the Annotated Code of  
20 Maryland, as amended, for the purpose of financing and refinancing the costs of  
21 the Project (as defined herein).

22 The City wishes to establish a development district within Baltimore City and to  
23 establish a special, tax increment fund for that development district for the  
24 purpose of providing funds for the costs of the infrastructure improvements and  
25 related costs permitted by the Act, including, without limitation, street and road  
26 improvements, the acquisition of land, construction of buildings or structures that  
27 will provide affordable housing or otherwise be devoted to a governmental use or  
28 purpose, and other improvements relating to the development of residential,  
29 commercial and office uses both to or from or within the development district.

30 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That for  
31 the purposes of this Ordinance, the following terms have the meanings indicated:

32 (a) “Act” means the Tax Increment Financing Act, as codified in Article II, Section (62)  
33 of the Baltimore City Charter.

34 (b) “Assessable base” means the total assessable base of all real property in the  
35 Development District subject to taxation, as determined by the Supervisor of  
36 Assessments.

37 (c) (1) “Assessment ratio” means any real property tax assessment ratio, however  
38 designated or calculated, that is used or applied under applicable general law in  
39 determining the assessable base.

40 (2) “Assessment ratio” includes the assessment percentage provided under §8-103(c)  
41 of the State Tax-Property Article, as amended, replaced, or supplemented from  
42 time to time.

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- 1 (d) “Bond” means any bond, note, or other similar instrument issued by the Mayor and  
2 City Council of Baltimore under the Act.
- 3 (e) “City expenses” shall have the meaning set forth in the Pledge Ordinance.
- 4 (f) “Contribution Agreement” means one or more contribution agreements or such other  
5 agreements executed by the City and a State Issuer, pursuant to which the City will  
6 evidence a pledge of certain tax and other revenues for the purpose of securing the  
7 payment of debt service on State Obligations, the replenishment of any reserve fund,  
8 and the payment of other costs with respect to the State Obligations, including,  
9 without limitation, any City expenses, State Issuer Expenses, and other administrative  
10 costs.
- 11 (g) “Development District” means the area in the City designated in Section 3 of this  
12 Ordinance as a development district under the Act.
- 13 (h) “MEDCO” means the Maryland Economic Development Corporation.
- 14 (i) “Original assessable base” means the assessable base as of January 1, 2007.
- 15 (j) “Original full cash value” means the dollar amount that is determined by dividing the  
16 original assessable base by the assessment ratio used to determine the original  
17 assessable base.
- 18 (k) “Original taxable value” means, for any tax year, the dollar amount that is the lesser  
19 of:
- 20 (1) the product of the original full cash value times the assessment ratio applicable to  
21 that tax year; or
- 22 (2) the original assessable base.
- 23 (l) “Pledge Ordinance” means the Ordinance of the City authorizing the pledge of  
24 certain tax and other revenues for the purpose set forth therein.
- 25 (m) “Project” means the following improvements and activities completed in accordance  
26 with all required City approvals:
- 27 (1) the design and construction of street and road improvements to, from or within  
28 the Development District, including, without limitation, the installation of curbs,  
29 gutters, sidewalks, lighting and landscaping, and the improvements to the  
30 Waterview Avenue bridge which are designed to improve traffic flow to and from  
31 the Development District;
- 32 (2) the installation of utilities, including, without limitation, water and sewer, and the  
33 construction of bike trails, parks and playgrounds, and other necessary  
34 improvements including lighting, stormwater management facilities and other  
35 facilities;

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- 1 (3) the acquisition by purchase, lease, or condemnation of land or other property, or  
2 an interest in them, in the Development District or as necessary for a right-of-way  
3 or other easement to or from the Development District;
- 4 (4) the acquisition, design, construction, reconstruction, renovation, and development  
5 of buildings that provide units of affordable housing and condemning or  
6 otherwise acquiring structures, real or personal property, rights, rights-of-way,  
7 franchises, easements, and interests in furtherance of this purpose;
- 8 (5) ~~parking facilities~~ structured or surface parking facilities that are either publicly  
9 owned or serving a public purpose;
- 10 (6) site removal, including site preparation, earthwork, clearing, grading, and filling;  
11 and
- 12 (7) the acquisition, construction, renovation, and development of other related  
13 infrastructure improvements and the financing or refinancing of any related costs  
14 as permitted by the Act that are necessary for the completion of the foregoing for  
15 their intended public purposes.
- 16 (n) “Revenues” means collectively the tax increment revenues, the tax agreement  
17 revenues, if any, and the special tax revenues.
- 18 (o) “State Issuer” means MEDCO, the State of Maryland, or any agency, department, or  
19 political subdivision thereof.
- 20 (p) “State Issuer Expenses” means administrative costs and other expenses related to the  
21 State Obligations of the State Issuer permitted by the Act and approved by the  
22 Director of Finance to be paid by the City pursuant to a ~~contribution agreement~~  
23 Contribution Agreement.
- 24 (q) “State Obligations” means any bonds or bond, notes or note, or other similar  
25 instruments or instrument issued by a State Issuer, the proceeds of which have been  
26 used to finance a portion of the costs of the Project, including, without limitation,  
27 bonds issued by MEDCO pursuant to the provisions of Sections 5-201 through 5-217,  
28 inclusive, of Article 83A of the Annotated Code of Maryland, as amended.
- 29 (r) “Tax Agreement Revenues” shall have the meaning set forth in the Pledge Ordinance.
- 30 (s) ~~(r)~~ “Tax increment” means for any tax year, the amount by which the assessable base  
31 as of January 1 preceding that tax year exceeds the original taxable value, divided by  
32 the assessment ratio used to determine the original taxable value.
- 33 (t) ~~(s)~~ “Tax Increment Fund” means the special fund established by Section 4 of this  
34 Ordinance.

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1           (u) ~~(t)~~ “Tax year” means the period from July 1 of a calendar year through June 30 of the  
2           next calendar year.

3           **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore  
4           finds and determines that the establishment of the Development District, the creation of the Tax  
5           Increment Fund for the Development District and the pledge of amounts on deposit in the Tax  
6           Increment Fund to the payment of debt service and other costs on or related to Bonds or State  
7           Obligations pursuant to the Pledge Ordinance and the Contribution Agreement, all for the  
8           purpose of providing funds for the financing and refinancing of a portion of the costs of the  
9           Project, accomplishes the purposes of the Act, serves public purposes, including the direct and  
10          indirect enhancement of the taxable base of the City and the facilitation of planned  
11          improvements to the Development District, and generally promotes the health, welfare, and  
12          safety of the residents of the State of Maryland and of the City of Baltimore.

13          **SECTION 3. AND BE IT FURTHER ORDAINED,** That the contiguous area consisting of the  
14          properties designated as Ward 25, Section 05, Block 7611, Lot 001 and Block 7612, Lots 001,  
15          003, 005, 005A and 006 (as the same may be renumbered or redesignated as a result of any  
16          resubdivision of such property), together with the adjoining roads, highways, alleys,  
17          rights-of-way and other similar property, shown on the map attached to this Ordinance as  
18          Exhibit 1, and made a part of this Ordinance, is designated as a development district to be known  
19          as the “Westport Waterfront Development District.”

20          **SECTION 4. AND BE IT FURTHER ORDAINED,** That a special fund is established for the  
21          Development District to be known as the “Westport Waterfront Development District Tax  
22          Increment Fund.” The Director of Finance and other officers and employees of the City shall  
23          take all necessary steps to establish the Tax Increment Fund as a separate fund to be held by or  
24          for the account of the City.

25          **SECTION 5. AND BE IT FURTHER ORDAINED,** That:

26               (a) For each tax year that begins after the effective date of this Ordinance, the Director of  
27               Finance shall divide the property taxes on real property within the Development  
28               District so that:

29                       (1) the portion of the taxes that would be produced by the rate at which taxes are  
30                       levied each year by the City upon the original taxable value shall be allocated to  
31                       and, when collected, paid into the funds of the City in the same manner as taxes  
32                       levied and collected by the City on all other property are paid; and

33                       (2) the portion of the taxes representing the levy on the tax increment that would  
34                       normally be paid to the City shall be paid into the Tax Increment Fund, to be  
35                       applied in accordance with the provisions of this Ordinance, the Pledge Ordinance  
36                       and the Act.

37               (b) The City acknowledges that neither the rate at which taxes are levied on real property  
38               within the Development District nor the manner of assessment of the value of real  
39               property within the Development District may vary from the rate or manner of  
40               assessment that otherwise would have applied if the Development District were not  
41               designated and the Tax Increment Fund not created.

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**SECTION 6. AND BE IT FURTHER ORDAINED, That:**

- (a) If no Bonds or State Obligations are outstanding with respect to the Development District, money in the Tax Increment Fund may be:
  - (1) used for any other purposes described in the Act, including the payment or reimbursement of costs of the Project;
  - (2) accumulated for payment of debt service on Bonds or State Obligations to be subsequently issued under the Act or by a State Issuer, respectively;
  - (3) used to pay or reimburse the City for debt service or other related costs that the City is obligated to pay or has paid (whether as a general or limited obligation of the City) on any Bonds issued by the City or State Obligations issued by any State Issuer, the proceeds of which have been used for any of the purposes specified in the Act; or
  - (4) paid to the City to provide funds to be used for any legal purpose.
- (b) In the case of Sections 6(a)(2) and (a)(3) above, the use must be approved by appropriate action of the Mayor and City Council, and in the case of Sections 6(a)(1) and (a)(4), the use must be approved by the appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

**SECTION 7. AND BE IT FURTHER ORDAINED, That:**

- (a) If any Bonds or State Obligations are outstanding with respect to the Development District, money in the Tax Increment Fund may be used in any fiscal year as provided in Section 6 of this Ordinance and in the indenture authorizing the issuance of the Bonds or State Obligations, but only to the extent that:
  - (1) the amount in the Tax Increment Fund exceeds the debt service payable on the Bonds and the State Obligations and the amounts necessary to replenish any reserves and to pay any City expenses, State Issuer Expenses, and administrative costs in that fiscal year, and is not otherwise restricted so as to prohibit its use; and
  - (2) the use is not prohibited by the ordinance authorizing the issuance of the Bonds or the State Obligations or the pledge of amounts on deposit in the Tax Increment Fund, including the limitation set forth in Section 4(b) of the Pledge Ordinance.
- (b) In each case, the use must be approved by appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

**SECTION 8. AND BE IT FURTHER ORDAINED,** That the Director of Finance may do all acts and things and execute all documents and certificates relating to the Development District and the Tax Increment Fund.

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1       **SECTION 9. AND BE IT FURTHER ORDAINED,** That any approvals, authorizations, or  
2 activities provided in this Ordinance do not constitute and may not be deemed to constitute or  
3 imply that the City Council, the Mayor, or any department, office or agency of the City has given  
4 or will give, any approval, authorization or consent to any action or activity within or required  
5 for the development of the Development District, including any land use approval, requirements  
6 for the provision of public utilities or services, or any other administrative, judicial,  
7 quasi-judicial, or legislative approval, authorization, or consent.

8       **SECTION 10. AND BE IT FURTHER ORDAINED,** That this Ordinance may be amended by a  
9 subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge  
10 or reduce the size of the Development District. However, no ordinance may be effective to  
11 reduce the size of the Development District so long as there are any outstanding Bonds or State  
12 Obligations secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of  
13 the Bonds or the State Obligations permits the City to reduce the area constituting the  
14 Development District, the holders of the Bonds or the State Obligations or an authorized  
15 representative on their behalf consents to the reduction or the indenture authorizing the issuance  
16 of the Bonds or the State Obligations permits the reduction.

17       **SECTION 11. AND BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are  
18 severable. If any provision, sentence, clause, section or other part of this Ordinance is held or  
19 determined to be illegal, invalid, unconstitutional, or inapplicable to any person or  
20 circumstances, that illegality, invalidity, unconstitutionality, or inapplicability does not affect or  
21 impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or  
22 their application to other persons or circumstances. It is the intent of the Mayor and City  
23 Council that this Ordinance would have been passed even if the illegal, invalid, unconstitutional,  
24 or inapplicable provision, sentence, clause, section, or other part had not been included in this  
25 Ordinance, and as if the person or circumstances to which this Ordinance or part are inapplicable  
26 had been specifically exempted.

27       **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it  
28 is enacted.

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**EXHIBIT 1**

**Map of Development District**

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Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City