

**CITY OF BALTIMORE
COUNCIL BILL 05-0289
(First Reader)**

Introduced by: Councilmembers Kraft, D’Adamo, Curran, Harris, Mitchell, Clarke, Conaway,
Reisinger

Introduced and read first time: November 21, 2005

Assigned to: Judiciary and Legislative Investigations Committee

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

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**

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

1 **§ 4-1. DEFINITIONS.**

2 (A) *IN GENERAL.*

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

4 (B) *“INCLUDES”*; *“INCLUDING”*.

5 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
6 LIMITATION.

7 (C) *“LAND-USE PROCEEDING”*.

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

- 10 (1) THE MASTER PLAN FOR BALTIMORE CITY;
- 11 (2) AN URBAN RENEWAL PLAN OR CONSERVATION PLAN;
- 12 (3) THE SUBDIVISION OF ANY PROPERTY;
- 13 (4) ANY MATTER REGULATED BY CITY CODE ARTICLE 6 {“HISTORICAL AND
14 ARCHITECTURAL PRESERVATION”};
- 15 (5) A CHANGE IN THE ZONING CLASSIFICATION OF ANY PROPERTY; OR
- 16 (6) ANY MATTER REGULATED BY THE ZONING CODE OF BALTIMORE CITY, INCLUDING:
- 17 (I) A PLANNED UNIT DEVELOPMENT UNDER TITLE 9 OF THE ZONING CODE;
- 18 (II) A PARKING LOT DISTRICT ORDINANCE UNDER TITLE 10, SUBTITLE 5, OF
19 THE ZONING CODE;
- 20 (III) A CONDITIONAL USE UNDER TITLE 14 OF THE ZONING CODE;
- 21 (IV) A VARIANCE UNDER TITLE 15 OF THE ZONING CODE;
- 22 (V) AN ADDITIONAL INDUSTRIAL USE UNDER § 7-303 OF THE ZONING CODE;
23 AND
- 24 (VI) THE CONTINUANCE OF A NONCONFORMING USE OR NONCOMPLYING
25 STRUCTURE UNDER TITLE 13 OR, AS TO NONCOMFORMING SIGNS, TITLE 11,
26 SUBTITLE 5, OF THE ZONING CODE.

27 (D) *PERSON.*

28 “PERSON” MEANS:

- 29 (1) AN INDIVIDUAL;

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

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

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

7 **§ 4-2. PURPOSE.**

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

16 **§ 4-3. {RESERVED}**

17 **§ 4-4. OFFICE ESTABLISHED.**

18 THERE IS AN OFFICE OF PEOPLE'S COUNSEL, THE HEAD OF WHICH IS THE PEOPLE'S COUNSEL.

19 **§ 4-5. APPOINTMENT.**

20 (A) *IN GENERAL.*

21 THE PEOPLE'S COUNSEL IS APPOINTED BY THE CITY COUNCIL.

22 (B) *QUALIFICATIONS.*

23 THE PEOPLE'S COUNSEL MUST:

24 (1) BE A MEMBER OF THE BAR OF THE COURT OF APPEALS;

25 (2) HAVE AT LEAST 5 YEARS' EXPERIENCE IN THE PRACTICE OR TEACHING OF LAW;
26 AND

27 (3) HAVE SUBSTANTIAL EXPERIENCE WITH LAND-USE LEGAL ISSUES AND PROCEDURES.

28 **§ 4-6. TERM; REMOVAL.**

29 (A) *TERM.*

30 THE PEOPLE'S COUNSEL SERVES FOR A TERM OF 4 YEARS AND UNTIL A SUCCESSOR IS
31 APPOINTED AND QUALIFIES.

1 (B) *REMOVAL.*

2 THE CITY COUNCIL MAY REMOVE THE PEOPLES'S COUNSEL ONLY FOR CAUSE AND ON THE
3 AFFIRMATIVE VOTE OF 10 COUNCILMEMBERS.

4 **§ 4-7. STAFF; CONSULTANTS.**

5 THE PEOPLE'S COUNSEL MAY EMPLOY A STAFF AND MAY CONTRACT FOR ACCOUNTANTS,
6 CONSULTANTS, AND OTHER EXPERTS AS PROVIDED IN THE ORDINANCE OF ESTIMATES.

7 **§ 4-8. INDEPENDENT STATUS.**

8 (A) *IN GENERAL.*

9 THE PEOPLE'S COUNSEL DOES NOT AND MAY NOT REPRESENT THE CITY, ANY
10 GOVERNMENT AGENCY, OR ANY PRIVATE PARTY IN ANY PROCEEDING.

11 (B) *INDEPENDENCE FROM SOLICITOR.*

12 THE PEOPLE'S COUNSEL IS NOT SUBJECT TO THE AUTHORITY OF THE CITY SOLICITOR.

13 **§ 4-9. {RESERVED}**

14 **§ 4-10. PARTICIPATION IN LAND-USE PROCEEDINGS – IN GENERAL.**

15 (A) *AUTHORITY TO PARTICIPATE.*

16 TO PROTECT THE PUBLIC INTEREST AND ACHIEVE A FULL AND FAIR PRESENTATION OF
17 RELEVANT ISSUES, THE PEOPLE'S COUNSEL MAY PARTICIPATE AS A PARTY IN ANY LAND-
18 USE PROCEEDING BEFORE:

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

24 (B) *ENTRY OF APPEARANCE.*

25 THE PEOPLE'S COUNSEL BECOMES A PARTY TO THE PROCEEDING ON FILING A NOTICE OF
26 INTENT TO PARTICIPATE. THE NOTICE SHALL BE FILED WITH:

- 27 (1) THE OFFICIAL OR AGENCY IN CHARGE OF THE PROCEEDING; AND
- 28 (2) EACH PERSON ALREADY A PARTY OF RECORD TO THE PROCEEDING.

1 **§ 4-11. PARTICIPATION IN LAND-USE PROCEEDINGS – SCOPE.**

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

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

9 **§ 4-12. PARTICIPATION IN LAND-USE PROCEEDINGS – DECLINING OR WITHDRAWAL.**

10 (A) *IN GENERAL.*

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

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

15 (B) *NO LIABILITY.*

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

18 **§ 4-13. {RESERVED}**

19 **§ 4-14. TECHNICAL ASSISTANCE.**

20 (A) *COUNSEL MAY PROVIDE.*

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

25 (B) *DISCLAIMER OF REPRESENTATION.*

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

29 **§ 4-15. {RESERVED}**

1 **§ 4-16. CONFLICTS AVOIDANCE.**

2 (A) *SCOPE.*

3 THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO THOSE IMPOSED BY CITY CODE
4 ARTICLE 8 {"ETHICS"}.

5 (B) *IN-SERVICE ACTIVITIES.*

6 DURING HIS OR HER TENURE, THE PEOPLE'S COUNSEL MAY NOT ASSIST OR REPRESENT
7 ANY PERSON, OTHER THAN AS PEOPLE'S COUNSEL, IN ANY MATTER INVOLVING LAND USE
8 IN THIS STATE.

9 (C) *POST-SERVICE ACTIVITIES.*

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

12 **§ 4-17. {RESERVED}**

13 **§ 4-18. ANNUAL REPORT.**

14 THE PEOPLE'S COUNSEL MUST ANNUALLY REPORT TO THE CITY COUNCIL ON THE ACTIVITIES
15 OF THE OFFICE OF PEOPLE'S COUNSEL.

16 **Article 8. Ethics**

17 **§ 7-8. Persons required to file – Agency officials and staff.**

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

20 (32A) *PEOPLE'S COUNSEL, OFFICE OF.*

21 (I) *PEOPLE'S COUNSEL.*

22 (II) *ALL NON-CLERICAL EMPLOYEES OF OFFICE.*

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

26 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
27 after the date it is enacted.