
CITY OF BALTIMORE

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Mayor



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February 5, 2025

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0006 – Zoning Code – Modifications

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0006 for form and legal sufficiency. The bill would amend several sections of the City’s Zoning Code (Article 32 of the Baltimore City Code).

The Law Department notes that the term “reasonably required” in proposed Section 5-503(b)(5) lacks sufficient guidance as to the information required of applicants. As written, it is so broad that the applicant’s political party or net worth could be requested. To avoid a challenge that it is too vague, the bill should be amended to make clear exactly what information is required in the applicant’s statement. *See, e.g., A.B. Small Co. v. American Sugar Refining Co.*, 267 U.S. 233, 238-240(1925) (law is void for vagueness when there is “exaction of obedience to a rule or standard which was so vague and indefinite as really to be no rule or standard at all.”). Attached to this report is a suggested amendment to remove the vague language and a blank for this legislation to list the information it is requiring.

The City Council must consider the following when evaluating changes to the text of the City’s Zoning Code:

- (1) the amendment’s consistency with the City’s Comprehensive Master Plan;
- (2) whether the amendment would promote the public health, safety, and welfare;
- (3) the amendment’s consistency with the intent and general regulations of this Code;
- (4) whether the amendment would correct an error or omission, clarify existing requirements, or effect a change in policy; and
- (5) the extent to which the amendment would create nonconformities.

Baltimore City Code, Art. 32, § 5-508(c).

If the Planning Commission Report does not evaluate these factors, the City Council must take care to evaluate them.

Any bill that authorizes a change in the text of the Zoning Code is a “legislative authorization,” which requires that certain procedures be followed in the bill’s passage, including

a public hearing. Baltimore City Code, Art. 32, §§ 5-501; 5-507; 5-601(a). Certain notice requirements apply to the bill. Baltimore City Code, Art. 32, §§ 5-601(b)(1), (c), (e). The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506. Finally, certain limitations on the City Council's ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507(c).

Although normally the Law Department waits until after the Planning Commission has had a chance to review a zoning bill, the Law Department is submitting this report to point out several practical matters that the Planning Commission or the City Council may wish to consider when evaluating this bill.

First, the proposed changes to Section 3-203(b)(7) envision that Planning Commission will conduct an annual comprehensive rezoning process. Since one of the required elements for a proposed rezoning to qualify as comprehensive is that it be the product of "careful study and consideration" it behooves evaluating whether the City could conduct the necessary study every year. *County Council of Prince George's County v. Zimmer Dev. Co.*, 444 Md. 490, 509 (2015). It may be more realistic to insert the word "endeavor" before "to conduct an annual comprehensive rezoning" to allow the City flexibility. Similarly, it may make sense to have flexibility in the mandatory four-year update of the Land Use Map in proposed Section 3-203(b)(8). It could also be good to clarify that this is a reference to the General Land Use Map within the Comprehensive Plan.

Language in proposed Section 5-301(d) could be more clearly worded to avoid any confusion over the phrase "under the guise of". It could be changed to "The variance procedure provisions may not be used to authorize a change in the use of real property." Similarly, to avoid confusion over the term "process," that word could be deleted from the proposed language in Section 5-310(a) and changed to "approve."

Aside from these practical suggestions, the only amendment required to make the bill legally sufficient is the clarification of the proposed requirements for the applicant statement in Section 5-503(d). Assuming this required amendment is adopted, and all the procedural requirements are met, the Law Department can approve the amended bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, City Solicitor
Ty'lor Schnella, Mayor's Office of Government Relations
Ashlea Brown, Chief Solicitor
Michelle Toth, Assistant Solicitor
Desiree Lucky, Assistant Solicitor

AMENDMENTS TO COUNCIL BILL 25-0006
(1st Reader Copy)

Proposed by: Law Dep't

Amendment No. 1 (Guidelines for Applicant Information)

On page 13, in line 28, insert "THE FOLLOWING" before "OTHER"; and in lines 28 through 30, delete "AS MAY BE REASONABLY REQUIRED BY THE DEPARTMENT OF PLANNING, THE DEPARTMENT OF LEGISLATIVE REFERENCE, OR THE DEPARTMENT OF COUNCIL SERVICES" and substitute a colon and then a list of the required information.