

CITY OF BALTIMORE

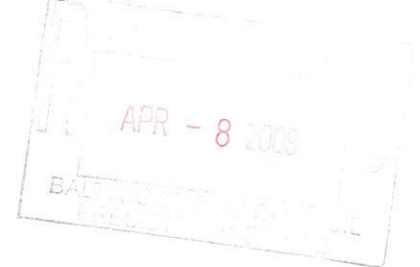
SHEILA DIXON, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

April 8, 2009



The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202

Re. CC09-0302 – Parking Facilities - Enforcement

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 09-0302. City Council Bill 302 provides for penalties for violations of Article 15, Subtitle 13 of the Baltimore City Code. Subtitle 13 regulates parking facilities by requiring them to obtain a license and pay a licensing fee. In addition, it prohibits operators or employees of parking facilities from storing, parking, or placing motor vehicles left for storage or parking on any street, alley, or highway in the City.

City Council Bill 09-0302 provides for the issuance of civil and environmental citations as well as criminal penalties for violations of Article 15, Subtitle 12. Civil citations are authorized by the Public Local Law for Baltimore City, Section 16-16A. Section 16-16A(a)(1) states that the “Commissioner may appoint persons as special enforcement officers of the City of Baltimore which may provide by ordinance for their duties, functions, and procedures as special officers. The officers may issue and serve citations and summonses to appear before the appropriate division of the District Court in proceedings for enforcement of any City Code provision, ordinance, regulation, or provision of public local law pertaining to building, housing, zoning, fire, public health, sanitation, and parks.” This section limits the authority for the use of civil citations by special enforcement officers to ordinances pertaining to building, zoning, fire, public health, sanitation and parks. Regulation of parking facilities does not fall into any of these categories and therefore enforcement by civil citation is not authorized.

Environmental citations are authorized under the Baltimore City Code, Article 1, Section 40-5 which provides that the “Board has full authority to enforce, in accordance with the provisions of this subtitle, the sanitation, environmental, health, safety, and other quality-of-life provisions of law listed in § 40-14 of this subtitle, including any rules and regulations adopted under them.” The jurisdiction of the Environmental Control Board is broader and regulation of parking facilities especially those provisions related to parking vehicles on the street would fall under the “safety” and “quality of life categories.” Violations of Article 15, Subtitle 12 could therefore, be enforced through the use of environmental citations. In addition, Article 19,

F/A

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Section 73-2, Special Parking Enforcement Officers shall have the power to issue citations to appear before the appropriate division of the District Court for violation within the City of any City or state law or regulation pertaining to parking. Arguably, violations of Art. 15, Section 12-7 regarding parking of vehicles on the street by operators and employees of parking facilities would be enforceable by special parking enforcement officers.

It is, therefore, the advice of the Law Department that sections of the bill pertaining to civil citations be removed from the bill. With that amendment, the Law Department can approve City Council Bill 09-0302 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Assistant Solicitor

cc: Honorable Stephanie Rawlings-Blake
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Deepa Bhattacharyya, Assistant Solicitor
Ashlea Brown, Assistant Solicitor
Hilary Ruley, Assistant Solicitor

PROPOSED AMENDMENTS
City Council Bill 09-0302

1. On Page 2, delete lines 3-4 and lines 23 – 28.