

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

February 6, 2014

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

Re: City Council Bill 14-0303 – Floodplain Management Code – Revision

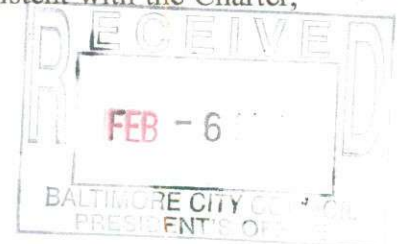
Dear President and City Council Members:

The Law Department has reviewed, for form and legal sufficiency, City Council Bill 14-0303, which generally relates to the protection, maintenance, and enhancement of the public health, safety, and welfare through floodplain management. The bill repeals and reordains, with amendments, the following provisions of the Baltimore City Code: (1) Article 7 (Natural Resources), Division I (Floodplain Management); (2) Article 1 (Mayor, City Council, and Municipal Agencies), Section 40-14(e)(.5a); and (3) Article 19 (Police Ordinances), Section 71-2(i)(.5). The bill incorporates certain flood-resistant design and construction standards adopted by the American Society of Civil Engineers in order to further its purpose of meeting or exceeding requirements for eligibility in the National Flood Insurance Program and other requirements of Federal and State law. It also defines and redefines certain terms, repealing redundant, obsolete, or otherwise superfluous provisions, and correcting and conforming certain obsolete nomenclature. In addition it provides for alternative enforcement procedures and for administrative and judicial review of administrative actions. The bill also provides for a special effective date.

The Law Department notes that it is unclear from Section 8-2 on page 57 whether the right to a hearing is in every appeal, or at the discretion of the Director unless a hearing is requested by the aggrieved party. The Law Department defers to the Planning Department regarding what the intended policy is and whether the language of the bill clearly states the policy.

This bill is a proper exercise of the power of the Mayor and City Council to regulate “storm water courses and flood areas,” as provided by Article II, Section 32 of the City Charter. *See also* City Charter, Art. II, §47 (general welfare power); Art. III, §11 (“The Mayor and City Council of Baltimore shall have power to pass all ordinances, not inconsistent with the Charter, necessary to give effect and operation to all powers vested in the City.”).

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Additionally, the bill is in accordance with state and federal law concerning flood hazard management and certain safety standards. *See* Md. Environment Code Ann., § 5-803 (Baltimore City shall implement a flood management plan for its watershed); *See also* the National Flood Insurance Act of 1976 and Flood Disaster Protection Act of 1973 (Baltimore City has the responsibility under these acts to adopt and enforce floodplain management regulations which meet federal standards). Therefore, the Law Department approves the bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in cursive script, appearing to read "m Landis".

Jennifer Landis  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor  
Hilary Ruley, Chief Solicitor  
Victor Tervalá, Chief Solicitor