

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

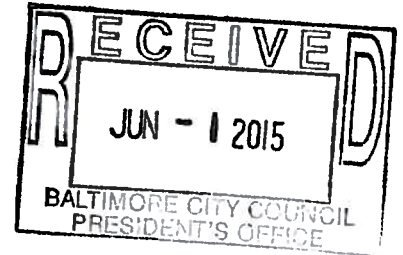


DEPARTMENT OF LAW

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

June 1, 2015

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 15-0529 – Historical and Architectural Preservation –
50th Anniversary Reauthorization

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0529 for form and legal sufficiency. The bill would repeal subtitles 1 through 5 of Article 6 of the City Code concerning Historical and Architectural Preservation and replace them with Subtitles 1 through 9. It would then renumber the remaining Subtitles in the Article. The replacement language reconstitutes and reauthorizes the City's Commission for Historical and Architectural Preservation ("CHAP"). The bill further describes CHAP's role in designating properties to be on the landmark lists and reviewing applications for alterations to certain properties. It also renames the Special List to be the Potential List. Finally, it revises several sections of other articles of the City Code to conform to the new language and provisions in the bill.

Generally the City has the power to "regulate the location, construction, use, operation, maintenance and removal of buildings and structures, or any part thereof, of every kind." City Charter, Art. II, §(1); *see also* Art. II, §(47). The bill is in accordance with this general grant of power but the Law Department notes several minor amendments are required.

The bill provides that CHAP members are not entitled to compensation but are entitled to "reasonable expenses incurred, as provided in the Ordinance of Estimates." The Law Department suggests clarifying language of "in performance of their duties" to be inserted after "incurred" that would make it clear that reimbursable expenses are only those associated with the person's role as a member of CHAP.

Additionally, the citation to the "State Government Article, Title 10, Subtitle 6, Part III" on page 12 must be changed because that section of state law was repealed and recodified in a different article. *See* 2014 Laws of Maryland, Ch. 94. Another amendment should be inserted in line 16 on page 12 to be clear that the annual appropriation is subject to Article VI of the Baltimore City Charter.

Fav w/ Amend



Amendments are also required in Sections 4-3(a)(1) and 5-3(a)(1) that define what is included in the Landmark and Potential Landmark Lists for Exteriors to mirror the ways in which exteriors can be designated in Sections 4-3(a)(2) and 5-3(a)(2), respectively. In these latter subsections, the bill provides that how the property is designated determines whether all the land and structures on the lot are on the list or just a portion of them. Thus, in the first subsection it should be clear that the list can include structures and exteriors with or without their "appurtenant land and other property."

Finally, an amendment is needed to strike the extra quotation mark that starts the sentence in line 4 on page 5. Appropriate amendments are attached to this report.

Since this bill amends the text of the City's Zoning Code, it must be advertised by publication in a newspaper of general circulation in the City at least 15 days before the hearing. *See* Md. Code, Land Use, §10-303(c); Zoning Code of Baltimore City, §§16-101(d)(2); 16-402(b)(1); 16-402(c)(2). In addition, any Zoning Legislation, such as this bill, requires a hearing before Second Reading and, if it is substantively amended after the conclusion of that hearing, a subsequent hearing is required. Zoning Code of Baltimore City, §§16-401(a); 16-402(a); 16-403.

Subject to the foregoing amendments, and assuming this bill was properly advertised and the Council holds the requisite hearings, the Law Department can approve it for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Avery Aisenstark, Legislative Reference
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor

AMENDMENTS TO COUNCIL BILL 15-0529
(1st Reader Copy)

Proposed by: Law Dep't
{To be offered to the Judiciary and Legislative Investigations Committee}

Amendment No. 1

In line 22, on page 10, after "INCURRED" insert "IN THE PERFORMANCE OF THEIR DUTIES."

Amendment No. 2

In lines 12 and 13, on page 12, strike "(STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 6, PART III)" and substitute "(GENERAL PROVISIONS ARTICLE, TITLE 4)".

Amendment No. 3

In line 16, on page 12, insert "SUBJECT TO ARTICLE VI OF THE BALTIMORE CITY CHARTER" after "THAT."

Amendment No. 4

In line 28, on page 19, strike the first "AND" and substitute "WITH OR WITHOUT"

Amendment No. 5

In line 25, on page 23, strike the first "AND" and substitute "WITH OR WITHOUT"

Amendment No. 6

In line 4 of page 5, strike the first quotation mark.