
CITY OF BALTIMORE

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Mayor



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November 17, 2023

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

Re: City Council Bill 23-0420 – RPP Area __ (Brunt Street Area)

Dear President and City Council Members:

The Law Department reviewed City Council Bill 23-0420 for form and legal sufficiency. The bill establishes a new Residential Permit Parking Area __ (Brunt Street Area). The bill amends City Code Article 31, § 10-11 to identify the Brunt Street Area as a participant in the Residential Permit Parking Plan (“the Plan”). Additionally, the bill adds a new section, § 10-39, to City Code Article 31. The Brunt Street Area consists of the odd side of the 2100 block of Brunt Street, and limits parking for non-permit holders to two hours Monday through Friday from 7:00 am to 7:00 pm. Parking for non-permit holders on Saturday and Sunday is prohibited. The bill is effective 30 days after the date it is enacted.

The Parking Authority administers the Residential Permit Parking Plan set forth in Code Art. 31, Subtitle 10. See Art. 31, § 10-7. Section 10-11 identifies areas of the City in which a Parking Plan has been set by ordinance through the legislative process. The details of each statutory plan are described in § 10-33, et. seq. For Plan areas created by ordinance, the Plans may not be subject to the requirements noted below for Plans created through the petition process. See e.g., Art. 31, §§ 10-33(b), 10-34(b), 10-37(b).

For a Plan that is not created by ordinance, Article 31, § 10-12 sets out the qualification requirements for an area to participate in the Plan. Moreover, § 10-13 provides for a petition process that must be followed to be included in the Plan. The petition must be initiated by a community association, neighborhood group, or group of residents. Code Art. 31, § 10-13(a). For participation in the Plan, petitions will only be considered for areas of a certain size, with two exceptions. See Art. 31, § 10-13(b). A parking study is required (§ 10-14) and certain criteria must be satisfied to move forward with the petition. (§ 10-15(b)). The Plan must be submitted to the Department of Planning for review and comment and presented for comment at a public meeting. (§ 10-17).

The Code provisions regarding the Residential Parking Plans are silent as to when each of the two processes must be followed for the creation of a Plan. In *Keelty v. Baltimore*, 2020 WL 1488331 (2020), an unreported opinion of the Court of Special Appeals (now the Appellate Court of Maryland), the Court considered the issue of whether the statutory

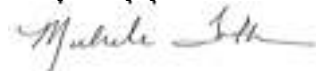
creation of a permit parking plan was a valid exercise of legislative powers by the Baltimore City Council. The Court noted that under Art. II, §§ 34(a) and (d) the City has the power to regulate the use of the streets. Additionally, under Charter Art. II, § 47, the City may pass any ordinance not inconsistent with the Charter or State law in the exercise of its Charter powers or for the maintenance of “the peace, good government, health and welfare of Baltimore City...” In *Keelty*, the plaintiff/appellant claimed that ordinances creating the Guilford Area Plan were arbitrary and unreasonable because the City could have achieved the same result with less restrictive parking measures. Both *Keelty* and the City cited *McBriety v. Baltimore*, 219 Md. 223 (1959) in support of their positions. The Court noted that *McBriety* states:

“[t]here is also a presumption that a municipal ordinance is reasonable and for the public good, and the burden of proving the contrary is on those who attack it,” *id.* at 231; (b) “ ‘reasonable doubts as to the validity of an ordinance should be resolved in its favor,’ ” *id.* (quoting *Tar Products Corp. v. Tax Comm’n*, 176 Md. 290, 297 (1939)); and (c) “a finding [by the Council that the ordinance was required to protect the public health, safety, morals and general welfare] is entitled to great weight and courts will not ordinarily interfere to enjoin enforcement ... unless it is shown that the ordinance is arbitrary or unreasonable.” *Id.* at 232.

The Court applied a rational basis standard and noted that the burden was on the plaintiff/appellant to show there was no rational link between the government’s stated purpose and the passage of the ordinances. *Keelty*, p. 7. The Court found that the establishment of the Guilford Plan by ordinance was not unreasonable in light of the purpose of the City Council in creating the Permit Parking Program. *Id.* See also Art. 31, § 10-2(b). The U.S. Supreme Court has upheld parking restrictions in neighborhoods, see *County Bd. of Arlington County, Va. v. Richards*, 434 U.S. 5 (1977), and the City Solicitor has opined that it is within the City Council’s authority to create a residential permit parking program. See 70 Op. City Sol. 115 (1978).

The Law Department approves this bill for form and legal sufficiency.

Very truly yours,



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