

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

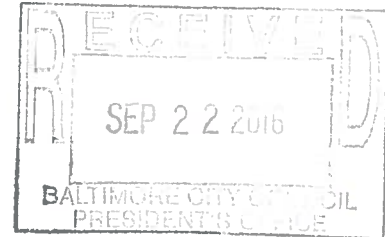


DEPARTMENT OF LAW

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

September 22, 2016

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



Re: City Council Bill 13-0284 – Parking Facilities – Redefined

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 13-0284 for form and legal sufficiency. It redefines “parking facility” as that term is used in the law providing for the licensing and regulation of certain facilities used for the parking, storage, housing, or keeping of certain vehicles.

Article 15, Subtitle 12 (“Parking Facilities – Generally), of the Baltimore City Code (BCC) governs the licensing and regulation of parking facilities. The power to regulate parking facilities is derived from Article II, Section 17, of the Baltimore City Charter which provides that the Mayor and City Council may “license, tax and regulate all businesses, trades, vocations or professions. . . .” It should also be noted that the licensing of garages by the State does not prohibit the City’s ability to regulate parking facilities since Baltimore City is specifically excluded from the State law which prohibits the local licensing of businesses requiring a State license under the Business Regulation Article of the Annotated Code of Maryland. *See* Md. Ann. Code, Business Regulation, § 1-204(a). *See also* § 17-802 (requiring State license for garages).

Council Bill 13-0284 deletes “or other consideration” from the definition of “parking facility,” presumably to clarify that only when monetary payment is made for the parking, storage, housing or keeping of three or more vehicles in a garage, parking lot or outdoor area is a license required. Since the City has the power to license parking facilities, it may choose to alter the definition of parking facility in the way proposed by this bill, and therefore, the Law department approves the bill for form and legal sufficiency.

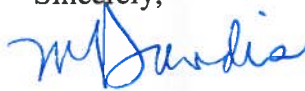
The Law Department notes, however, that, the provisions in Article 28, Subtitle 22, of the City Code addressing “Parking Tax” also define “garage” and “parking lot” and also use the phrase “or other consideration,” the term being deleted from the licensing provision by this bill. In fact, it appears that the phrase “other consideration” was added to several sections of the licensing and tax provisions when they were amended in 2001 by Council Bill 00-0194.

Fav, defers to finance



See BCC Art. 15, § 12-1(a)(2)(i) and (ii); Art. 28, §§ 22-1(c), (g) and (i), 22-2(a), 22-3(a), 22-4(a)(1) and (2), and 22-5(a)(1)(ii). Under Article 28, the tax is levied on “the privilege of parking a motor vehicle on any parking lot or in any garage in the City in exchange for a fee or other consideration paid by the parker or by another on the parker’s behalf.” BCC, Art. 28 § 22-2(a). If garages accept “other consideration” and therefore are not required to get a license, it will be difficult to track those facilities for the purpose of collecting parking taxes. The Law Department defers to Finance as to what, if any, impact this bill’s amendment to the definitions in Article 15 may have on the taxing of the parking facilities defined in Article 28.

Sincerely,



Jennifer Landis
Assistant Solicitor

cc: David Ralph, Acting City Solicitor
Angela C. Gibson, Mayor’s Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervala, Chief Solicitor
Hilary Ruley, Chief Solicitor