



Legislation Details (With Text)

File #: 09-0321 **Version:** 0 **Name:** People’s Counsel
Type: Ordinance **Status:** Failed - End of Term
File created: 4/20/2009 **In control:** City Council
On agenda: **Final action:**
Enactment date: **Enactment #:**
Title: People’s Counsel

FOR the purpose of establishing the Office of People’s Counsel; providing for the appointment of a People’s Counsel; authorizing the People’s Counsel to participate as a party in certain land-use proceedings; specifying other powers and duties of the People’s Counsel; defining certain terms; and generally relating to the People’s Counsel for Baltimore City.

Sponsors: James B. Kraft, Nicholas C. D’Adamo, Bill Henry, Mary Pat Clarke, President Young, Belinda Conaway, Robert Curran
Indexes: Peoples Counsel

Code sections:

Attachments: 1. 09-0321 - 1st Reader.pdf, 2. Finance - 09-0321.pdf

Date	Ver.	Action By	Action	Result
4/23/2009	0	The City Council	Referred for a Report	
4/23/2009	0	The City Council	Referred for a Report	
4/23/2009	0	The City Council	Referred for a Report	
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4/23/2009	0	The City Council	Referred for a Report	
4/23/2009	0	The City Council	Referred for a Report	
4/20/2009	0	City Council	Assigned	
4/20/2009	0	City Council	Introduced	

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Kraft

A BILL ENTITLED

AN ORDINANCE concerning
People’s Counsel

FOR the purpose of establishing the Office of People’s Counsel; providing for the appointment of a People’s Counsel; authorizing the People’s Counsel to participate as a party in certain land-use proceedings; specifying other powers and duties of the People’s Counsel; defining certain terms; and generally relating to the People’s Counsel for Baltimore City.

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 4-1 through 4-18, to be under the new subtitle,
“Subtitle 4. Office of People’s Counsel”
Baltimore City Code
(Edition 2000)

BY adding

Article 8 - Ethics
Section(s) 7-8(32a)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

SUBTITLE 4. OFFICE OF PEOPLE’S COUNSEL

§ 4-1. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) “INCLUDES”; “INCLUDING”.

“INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF LIMITATION.

(C) “LAND-USE PROCEEDING”.

“LAND-USE PROCEEDING” MEANS ANY LEGISLATIVE OR ADMINISTRATIVE PROCEEDING FOR THE ADOPTION, APPROVAL, AMENDMENT, OR ENFORCEMENT OF:

- (1) THE MASTER PLAN FOR BALTIMORE CITY;
- (2) AN URBAN RENEWAL PLAN OR CONSERVATION PLAN;
- (3) THE SUBDIVISION OF ANY PROPERTY;

- (4) ANY MATTER REGULATED BY CITY CODE ARTICLE 6 {"HISTORICAL AND ARCHITECTURAL PRESERVATION"};
- (5) A CHANGE IN THE ZONING CLASSIFICATION OF ANY PROPERTY; OR
- (6) ANY MATTER REGULATED BY THE ZONING CODE OF BALTIMORE CITY, INCLUDING:
- (I) A PLANNED UNIT DEVELOPMENT UNDER TITLE 9 OF THE ZONING CODE;
- (II) A PARKING LOT DISTRICT ORDINANCE UNDER TITLE 10, SUBTITLE 5, OF THE ZONING CODE;
- (III) A CONDITIONAL USE UNDER TITLE 14 OF THE ZONING CODE;
- (IV) A VARIANCE UNDER TITLE 15 OF THE ZONING CODE;
- (V) AN ADDITIONAL INDUSTRIAL USE UNDER § 7303 OF THE ZONING CODE; AND
- (VI) THE CONTINUANCE OF A NONCONFORMING USE OR NONCOMPLYING STRUCTURE UNDER TITLE 13 OR, AS TO NONCOMFORMING SIGNS, TITLE 11, SUBTITLE 5, OF THE ZONING CODE.

(D) PERSON.

"PERSON" MEANS:

- (1) AN INDIVIDUAL;
- (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND;
- (3) A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY; AND
- (4) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

§ 4-2. PURPOSE.

INFORMED PUBLIC ACTIONS ON LAND-USE MATTERS REQUIRE A FULL EXPLORATION OF OFTEN COMPLEX FACTUAL AND LEGAL ISSUES. AN INDEPENDENT PEOPLE'S COUNSEL CAN PROTECT THE PUBLIC INTEREST AND PROMOTE A FULL AND FAIR PRESENTATION OF RELEVANT ISSUES IN LAND-USE PROCEEDINGS TO ACHIEVE BALANCED RECORDS ON WHICH SOUND LAND-USE DECISIONS CAN BE MADE. IN ADDITION, A PEOPLE'S COUNSEL WHO PROVIDES TECHNICAL ASSISTANCE TO CITIZENS AND CITIZEN ORGANIZATIONS WILL ENCOURAGE EFFECTIVE PARTICIPATION IN, AND INCREASE PUBLIC UNDERSTANDING OF AND CONFIDENCE IN, THE CITY'S LAND-USE PROCESS.

§ 4-3. {RESERVED}

§ 4-4. OFFICE ESTABLISHED.

THERE IS AN OFFICE OF PEOPLE'S COUNSEL, THE HEAD OF WHICH IS THE PEOPLE'S COUNSEL.

§ 4-5. APPOINTMENT.

(A) IN GENERAL.

THE PEOPLE’S COUNSEL IS APPOINTED BY THE CITY COUNCIL.

(B) QUALIFICATIONS.

THE PEOPLE’S COUNSEL MUST:

- (1) BE A MEMBER OF THE MARYLAND BAR;
- (2) HAVE AT LEAST 5 YEARS’ EXPERIENCE IN THE PRACTICE OR TEACHING OF LAW; AND
- (3) HAVE SUBSTANTIAL EXPERIENCE WITH LAND-USE LEGAL ISSUES AND PROCEDURES.

§ 4-6. TERM; REMOVAL.

(A) TERM.

THE PEOPLE’S COUNSEL SERVES FOR A TERM OF 4 YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(B) REMOVAL.

THE CITY COUNCIL MAY REMOVE THE PEOPLES’S COUNSEL ONLY FOR CAUSE AND ON THE AFFIRMATIVE VOTE OF 10 COUNCILMEMBERS.

§ 4-7. STAFF; CONSULTANTS.

THE PEOPLE’S COUNSEL MAY EMPLOY A STAFF AND MAY CONTRACT FOR ACCOUNTANTS, CONSULTANTS, AND OTHER EXPERTS AS PROVIDED IN THE ORDINANCE OF ESTIMATES.

§ 4-8. INDEPENDENT STATUS.

(A) IN GENERAL.

THE PEOPLE’S COUNSEL DOES NOT AND MAY NOT REPRESENT THE CITY, ANY GOVERNMENT AGENCY, OR ANY PRIVATE PARTY IN ANY PROCEEDING.

(B) INDEPENDENCE FROM SOLICITOR.

THE PEOPLE’S COUNSEL IS NOT SUBJECT TO THE AUTHORITY OF THE CITY SOLICITOR.

§ 4-9. {RESERVED}

§ 4-10. PARTICIPATION IN LAND-USE PROCEEDINGS - IN GENERAL.

(A) AUTHORITY TO PARTICIPATE.

TO PROTECT THE PUBLIC INTEREST AND ACHIEVE A FULL AND FAIR PRESENTATION OF RELEVANT ISSUES, THE PEOPLE'S COUNSEL MAY PARTICIPATE AS A PARTY IN ANY LAND-USE PROCEEDING BEFORE:

- (1) THE PLANNING COMMISSION;
- (2) THE BOARD OF MUNICIPAL AND ZONING APPEALS;
- (3) THE ZONING ADMINISTRATOR;
- (4) THE COMMISSION FOR HISTORICAL AND ARCHITECTURAL PRESERVATION; AND
- (5) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(B) ENTRY OF APPEARANCE.

(1) THE PEOPLE'S COUNSEL BECOMES A PARTY TO THE PROCEEDING ON FILING A NOTICE OF INTENT TO PARTICIPATE.

(2) THE NOTICE MUST BE FILED WITH:

- (I) THE OFFICIAL OR AGENCY IN CHARGE OF THE PROCEEDING; AND
- (II) EACH PERSON ALREADY A PARTY OF RECORD TO THE PROCEEDING.

§ 4-11. PARTICIPATION IN LAND-USE PROCEEDINGS - SCOPE.

ON FILING THE NOTICE, THE PEOPLE'S COUNSEL IS ENTITLED, TO THE SAME EXTENT AS ANY OTHER PARTY:

- (1) TO RECEIVE ALL NOTICES TO PARTIES;
- (2) TO FILE MOTIONS, INTRODUCE EVIDENCE, CALL WITNESSES, EXAMINE AND CROSS-EXAMINE WITNESSES, AND PRESENT ARGUMENTS; AND
- (3) TO TAKE AN ADMINISTRATIVE APPEAL AND SEEK JUDICIAL REVIEW OF AN ACTION TAKEN OR DECISION MADE IN THE PROCEEDING.

§ 4-12. PARTICIPATION IN LAND-USE PROCEEDINGS - DECLINING OR WITHDRAWAL.

(A) IN GENERAL.

IN HIS OR HER DISCRETION, THE PEOPLE'S COUNSEL MAY:

- (1) DECLINE TO PARTICIPATE IN A LAND-USE PROCEEDING; OR
- (2) WITHDRAW FROM A PROCEEDING IN WHICH SHE OR HE ALREADY HAS PARTICIPATED.

(B) NO LIABILITY.

THE PEOPLE’S COUNSEL IS NOT LIABLE TO ANY PERSON FOR PARTICIPATING IN OR DECLINING TO PARTICIPATE IN ANY PROCEEDING.

§ 4-13. {RESERVED}

§ 4-14. TECHNICAL ASSISTANCE.

(A) COUNSEL MAY PROVIDE.

(1) SUBJECT TO AVAILABLE TIME AND RESOURCES, THE PEOPLE’S COUNSEL MAY PROVIDE TECHNICAL ASSISTANCE TO ANY PERSON ABOUT A LAND-USE PROCEEDING.

(2) THE PEOPLE’S COUNSEL NEED NOT BECOME A PARTY IN THE PROCEEDING TO PROVIDE THIS ASSISTANCE.

(B) DISCLAIMER OF REPRESENTATION.

WHEN PROVIDING TECHNICAL ASSISTANCE UNDER THIS SECTION, THE PEOPLE’S COUNSEL MUST INFORM THE RECIPIENT THAT THE PEOPLE’S COUNSEL IS NOT ACTING AND CANNOT ACT AS A PERSONAL ATTORNEY FOR THE RECIPIENT.

§ 4-15. {RESERVED}

§ 4-16. CONFLICTS AVOIDANCE.

(A) SCOPE.

THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO THOSE IMPOSED BY CITY CODE ARTICLE 8 {“ETHICS”}.

(B) IN-SERVICE ACTIVITIES.

DURING HIS OR HER TENURE, THE PEOPLE’S COUNSEL MAY NOT ASSIST OR REPRESENT ANY PERSON, OTHER THAN AS PEOPLE’S COUNSEL, IN ANY MATTER INVOLVING LAND USE IN THIS STATE.

(C) POST-SERVICE ACTIVITIES.

FOR 1 YEAR AFTER LEAVING OFFICE, A FORMER PEOPLE’S COUNSEL MAY NOT ASSIST OR REPRESENT ANY PERSON IN ANY LAND-USE PROCEEDING IN THE CITY.

§ 4-17. {RESERVED}

§ 4-18. ANNUAL REPORT.

THE PEOPLE’S COUNSEL MUST ANNUALLY REPORT TO THE CITY COUNCIL ON THE ACTIVITIES OF THE OFFICE OF PEOPLE’S COUNSEL.

Article 8. Ethics

§ 7-8. Persons required to file - Agency officials and staff.

Except as provided in § 7-10 {"Person filing with State"} of this subtitle, the following officials and employees must file the financial disclosure statements required by this subtitle:

(32A) PEOPLE'S COUNSEL, OFFICE OF.

(I) PEOPLE'S COUNSEL.

(II) ALL NON-CLERICAL EMPLOYEES OF OFFICE.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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