

Hon. Henry R. Hergenroeder, Chairman, Judiciary Committee,
City Council (continued)

jurisdictions no provision of controlling law expressly forbids such action.

16 C. J. S., p. 913

Section 62 of Article 33 of the Annotated Code of Maryland (1957 Edition) provides that "the day for holding primary elections for municipal offices in Baltimore City shall be the Tuesday which is nine weeks or sixty-three days prior to the Tuesday next after the first Monday in May of the year in which the municipal elections in the City of Baltimore are to be held."

The proposed ordinance was intended to apply to the period of time accounting from the day of a regular municipal primary election to the Thursday after the third Monday in May in the same year, which period would amount to approximately eleven weeks.

The power and duty to exercise the police power of the State in the form of zoning regulations is fixed in the Mayor and City Council in their legislative capacities, and the right to exercise such power as the exigencies of any particular time or occasion may require or demand should not be restricted in any fashion as to time. The type of ordinance under consideration may be construed as an attempt to default in connection with the responsibility of the legislative branch of the municipal government to perform the duties placed upon it by State statute in connection with zoning matters for a period of almost three months, and such action may be declared to be against public policy and good government.

In view of the foregoing, we are of the opinion that the proposed ordinance, if finally ordained, would not be constitutional.

There is being returned herewith Ordinance No. 7 which you sent to this office in connection with the question presented.

If you wish to further discuss this matter, we shall be glad to confer with you at your convenience.