

CITY OF BALTIMORE
COUNCIL BILL 11-0657
(First Reader)

Introduced by: President Young, Councilmembers Welch, Spector, Reisinger

At the request of: Department of Legislative Reference

Introduced and read first time: February 28, 2011

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Planning Commission, Department of Housing and Community Development, Fire Department, Health Department, Department of General Services, Board of Ethics, Employees' Retirement System, Department of Legislative Reference

A BILL ENTITLED

1 AN ORDINANCE concerning

Corrective Bill 2011 – General

3 FOR the purpose of correcting certain technical errors and omissions in the City Code; repealing
4 certain obsolete or otherwise unnecessary provisions; correcting, clarifying, and conforming
5 certain language; and providing for a special effective date.

6 BY repealing and reordaining, with amendments

7 Article - Building, Fire, and Related Codes
8 Section(s) 2-103 (IBC § 1810), 10-102 (IRC § 4401.2)
9 Baltimore City Revised Code
10 (As enacted by Ord. 11-xxx)

11 BY adding

12 Article - Building, Fire, and Related Codes
13 Section(s) 8-102 (IFC Ch. 45)
14 Baltimore City Revised Code
15 (As enacted by Ord. 11-xxx)

16 BY repealing and reordaining, with amendments

17 Article - Health
18 Section(s) 2-106, 10-707
19 Baltimore City Revised Code
20 (Edition 2000)

21 BY repealing and reordaining, with amendments

22 Article - Zoning
23 Section(s) 2-111, 10-405(11)(i)
24 Baltimore City Revised Code
25 (Edition 2000)

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

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1 BY repealing and reordaining, with amendments

2 Article 8 - Ethics

3 Section(s) 3-4(a)(1), 5-7(c)

4 Baltimore City Code

5 (Edition 2000)

6 BY adding

7 Article 8 - Ethics

8 Section(s) 7-8(15)

9 Baltimore City Code

10 (Edition 2000)

11 BY repealing and reordaining, with amendments

12 Article 15 - Licensing and Regulation

13 Section(s) 1-3

14 Baltimore City Code

15 (Edition 2000)

16 BY repealing and reordaining, with amendments

17 Article 22 - Retirement Systems

18 Section(s) 6(a)(intro), (a)(15)(iii), (c)(6)(Option 2), (d)(3)(Option 2),
19 (i)(3)(ii), and (o-2)(3)(ii), 7(a)(2nd par), 34(i)(4)(A)(iii), 35(a)(2nd par), 36A(b)(2nd par.),
20 36B(a)(ii) and (k)(3)(intro), and 36C(r)(2)(F)

21 Baltimore City Code

22 (Edition 2000)

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

Baltimore City Revised Code

Article – Building, Fire, and Related Codes

Part II. International Building Code

§ 2-103. City modifications.

29 The additions, deletions, amendments, and other modifications adopted by the City are as
30 follows:

Chapter 18. Soils and Foundations

1810 DEEP FOUNDATIONS {As in IBC}

33 **COMMENT:** Ord. 11-xxx, which adopted a new Building, Fire, and Related Codes, listed
34 § 1810 as an element of the new Building Code, but failed to indicate whether the section
35 was being adopted. The addition here of “as in IBC” corrects that oversight.

1 **Part VIII. International Fire Code**

2 **§ 8-102. City modifications.**

3 The additions, deletions, amendments, and other modifications adopted by the City are as
4 follows:

5 **CHAPTER 45**
6 **MARINAS**
7 *{As in IFC}*

8 **COMMENT:** Ord. 11-xxx, which adopted a new Building, Fire, and Related Codes, failed
9 to list Chapter 45 as part of the new Fire Code. This listing, "as in IFC", corrects that
10 oversight.

11 **Part X. International Residential Code**

12 **SECTION 4401 GENERAL**

13 **4401.2 City modifications.** The following substitutions should be made in the standards
14 listed:

- 15 1. For International Fuel Gas Code,
16 substitute **National Fuel Gas Code [(2006 Edition)] (2009 EDITION)**.
- 17 2. For International Plumbing Code,
18 substitute **National Standard Plumbing Code [(2006 Edition, 2007
19 Supplement)] (2009 EDITION)**.

20 **COMMENT:** Ord. 11-xxx adopted the latest editions of various International and
21 National Codes. In several places, then, extant references to the Fuel Gas Code and
22 Plumbing Code were updated to encompass their 2009 editions. The reference in this
23 Part X, however, was overlooked.

24 **Article – Health**

25 **Title 2. Department of Health**

26 *Subtitle 1. Organization and General Authority*

27 **§ 2-106. Rules and regulations.**

- 28 (a) *Commissioner may adopt.*

29 The Commissioner may adopt and enforce rules and regulations to carry out this article.

- 30 (b) *Filing with Legislative Reference.*

31 A copy of all rules and regulations must be filed with the Department of Legislative
32 Reference before they [may] take effect.

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1 **COMMENT:** This change and like changes made below (He § 10-707, Zg § 2-111, and
2 Art. 15, § 1-3) conform to the usage otherwise standard throughout the rest of the Code.
3 To be sure, agencies are directed to file their regulations with Legislative Reference,
4 presumably to provide centralized access for the general public. But, until a cohesive
5 regulatory procedure act is adopted for the City, the legal effectiveness of a duly adopted
6 regulation was not intended to be contingent on the filing. That is to say, these filing
7 provisions were designed to be *directory* but not *mandatory*.

8 For a recent example of this distinction, *see* Ord. 06-181, codified at Article 13,
9 Subtitle 2A {"Affordable Housing Program"}. Specifically, *compare* § 2A-4(c) ("A
10 copy of all rules and regulations ... *must be filed with the Department of Legislative*
11 *Reference before they take effect.*") with § 2A-4(b) ("All rules and regulations ... *must be*
12 *approved by the Board of Estimates before they may take effect.*").

13 **Title 10. Animal Control and Protection**

14 *Subtitle 7. Vicious Dogs*

15 **§ 10-707. Vicious Dog Hearing Board — rules and regulations.**

16 (a) *Board may adopt.*

17 The Board may adopt rules and regulations to govern its hearings and other procedures.

18 (b) *Filing with Legislative Reference.*

19 A copy of all rules and regulations must be filed with the Department of Legislative
20 Reference before they [may] take effect.

21 **COMMENT:** See Comment to He § 2-106.

22 **Article – Zoning**

23 **§ 2-111. Jurisdiction and authority — rules and regulations.**

24 (a) *In general.*

25 The Board may adopt rules and regulations:

26 (1) for the conduct of its proceedings; and

27 (2) as otherwise directed or authorized in this article.

28 (b) *Filing.*

29 A copy of all rules and regulations must be filed with the Department of Legislative
30 Reference before they [may] take effect.

31 **COMMENT:** See Comment to He § 2-106.

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1 **§ 10-405. Schedule of required spaces.**

2 Off-street parking spaces must be provided as follows:

3 (11) *Health care services.*

4 (i) Health care clinics

5 [M-1-3,] M-2-3, B-4-1,
6 B-4-2, B-5-1, B-5-2

No requirement

7 [M-1-2,] M-2-2, B-2-2, B-2-3,
8 B-2-4, B-3-2, B-3-3

9 1 per 400 square feet of floor
10 area in excess of 1,000 square
feet

11 All other districts

12 1 per 200 square feet of floor
area

13 **COMMENT:** Health care clinics are not an allowed use in an M-1 district.

14 **Baltimore City Code**

15 **Article 8. Ethics**

16 **§ 3-4. Officers.**

17 (a) *Chair.*

18 (1) The Ethics Board must elect a Chair from among its [appointed] members.

19 **COMMENT:** As reconstituted by Ordinance 10-272, the Ethics Board now consists
20 exclusively of appointed members. Accordingly, the reference here is superfluous.

21 **§ 5-7. Disposition.**

22 (c) *Sanctions for violation.*

23 If the Ethics Board determines that the respondent has violated any provision of this
24 article, the Board may take any 1 or more of the actions authorized in Subtitle [19] 9
25 {"Enforcement"}, Part II {"Administrative Sanctions"}.

26 **COMMENT:** Corrects a typographical error.

27 **§ 7-8. Persons required to file – Agency officials and staff.**

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

30 (15) *GENERAL SERVICES DEPARTMENT.*

31 (I) *DIRECTOR OF GENERAL SERVICES.*

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- 1 (II) DEPUTY DIRECTOR OF GENERAL SERVICES.
- 2 (III) ALL BUREAU HEADS, DIVISION CHIEFS, AND ASSISTANT DIVISION CHIEFS.
- 3 (IV) ALL GENERAL SUPERINTENDENTS.
- 4 (V) ALL INSPECTORS.

5 **COMMENT:** The General Services Department was created by Charter Amendment,
6 without conforming statutory changes. An amendment to this section is needed to
7 identify the new agency's officials and employees who are required to file financial
8 disclosure statements. Inasmuch as many of the new agency's functions derive from
9 those previously assigned to the Public Works Department, this listing is patterned after
10 the listing for Public Works, as well as the listing for the Transportation Department (also
11 a recent off-shoot of Public Works).

12 Article 15. Licensing and Regulation

13 *Subtitle 1. Adult-Entertainment Businesses*

14 **§ 1-3. Rules, regulations, and forms.**

15 (a) *Board to adopt.*

16 The Board may adopt rules, regulations, and forms to carry out the provisions of this
17 subtitle.

18 (b) *Advertising for hearing and comment.*

19 (1) The Board must advertise for public hearing and comment all rules and regulations
20 proposed for adoption under this subtitle.

21 (2) The advertisement:

22 (i) must be published in a newspaper of general circulation at least 15 days
23 before the hearing; and

24 (ii) must include:

25 (A) a description of the proposed rules and regulations;

26 (B) the date, time, and location of the public hearing; and

27 (C) information on how a person can obtain a copy of the proposed rules
28 and regulations before the hearing.

29 (c) *Adoption; filing.*

30 (1) After the public hearing, the Board may adopt the final rules and regulations with an
31 effective date of at least 15 days after the date of their adoption.

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- (2) A copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they [may] take effect.

COMMENT: See Comment to He § 2-106.

Article 22. Retirement Systems

Subtitle – Employees’ Retirement System

§ 6. Benefits for Class A and Class B members.

- (a) Service retirement benefits for any Class A or Class B member who was an employee on or after June 29, 1989.

Any Class A or Class B member in service may retire upon written application to the Board of Trustees, if THE application specifies the date on which the member desires to be retired, which date must be the 1st day of a month and not less than 30 days nor more than 90 days following the filing of the application, and if, on the date so specified, the member shall have attained age 60 and acquired at least 5 years of service or shall have acquired 30 years of service, regardless of age, even if, during the application period, the member has separated from service.

• • • •

- ### (15) Member contributions.

(iii) The deductions provided for in this paragraph (15) shall be made notwithstanding that the minimum compensation provided for by law for any Class A or Class B member is reduced thereby. Every member is deemed to consent and agree to the deductions made and provided for, and the member's receipt of the member's full salary or compensation, and payment of that salary or compensation, less these [deduction] DEDUCTIONS, are a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to the benefits provided under this subtitle.

- (c) Non-line-of-duty disability retirement benefit for any Class A or Class B member who was an employee on or after June 29, 1989.

(6) Optional retirement allowances.

Any Class A or Class B member who is entitled to receive the maximum non-line-of-duty disability retirement allowance may elect to receive that maximum non-line-of-duty disability retirement allowance, or may elect to receive the actuarial equivalent of that maximum non-line-of-duty disability retirement allowance, computed as of the effective date of his or her retirement, in a lesser amount payable throughout his or her life in accordance with the following provisions:

• • • •

Option 2. Upon his or her death, his or her retirement allowance as it was at the time of retirement shall continue throughout the life of and BE paid to

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1 the person that he or she nominates by written designation duly
2 acknowledged and filed with the Board of Trustees at the time of his
3 or her retirement; or
4

5 (d) *Ordinary disability retirement benefit for Class A or Class B member who was an*
6 *employee on or after July 1, 1987, but not after June 28, 1989.*

7 (3) *Optional retirement allowances.*

8 Any Class A or Class B member who is entitled to receive the maximum ordinary
9 disability retirement allowance may elect to receive such maximum ordinary
10 disability retirement allowance, or he may elect to receive the actuarial equivalent
11 of such maximum ordinary disability retirement allowance, computed as of the
12 effective date of his retirement, in a lesser amount payable throughout his life in
13 accordance with the following provisions:
14

15 Option 2. Upon his death, his retirement allowance as it was at the time of
16 his retirement shall continue throughout the life of and BE paid to
17 such person as he shall nominate by written designation duly
18 acknowledged and filed with the Board of Trustees at the time of
19 his retirement; or
20

21 (i) *Line-of-duty death benefit.*

22 (3) *Death without beneficiaries or estate.*

23 The amounts that would have been paid under this subsection (i), excluding
24 membership contribution accounts, with interest, forever remain assets of the System
25 if:
26

27 (ii) that member has no heirs, as enumerated in PARAGRAPHS 2(i)(A) and 2(i)(B)
28 of this subsection (i); and
29

30 (o-2) *Line-of-duty death benefit.*

31 (3) *Death without beneficiaries or estate.*

32 The amounts that would have been paid under this subsection (o-2), excluding
33 membership contribution accounts, with interest, forever remain assets of the System
34 if:
35

36 (ii) that member has no heirs, as enumerated in PARAGRAPHS 2(i)(A) and 2(i)(B)
37 of this subsection (o-2); and
38

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1 **COMMENT:** Corrects miscellaneous typographical errors that have cropped up over
2 the years.

3 **§ 7. Management of funds.**

4 (a) *Trustee of funds.*

5
6 The Board of Trustees [shall have] HAS the duty and responsibility of periodically
7 determining investment policies consistent with the capital market environment, and the
8 actuarial characteristics of the Employees' Retirement System and to publish [such]
9 THESE investment policy guidelines by filing a copy [thereof] OF THEM with the
10 Department of Legislative Reference [of Baltimore City, and after January 1, 1979, also
11 by publication in the Municipal Journal].
12

13 **COMMENT:** Deletes an obsolete reference to the "Municipal Journal" (defunct for 30
14 years or so) and some problematic "legalese".

15 **Subtitle – Fire and Police Employees' Retirement System**

16 **§ 34. Benefits.**

17 (i) *Line-of-duty death benefit.*

18 (4) *Death on account of a line-of-duty injury.*

19 (A) This paragraph (4) applies to any member who:
20

21 (iii) within 5 years of the date of [special] LINE-OF-DUTY disability retirement,
22 dies from the last injury that caused or contributed to that retirement.

23 **COMMENT:** Conforms nomenclature to that adopted by Ord. 09-209.

24 **§ 35. Management of Funds.**

25 (a) *Trustee of funds.*

26

27 The Board of Trustees [shall have] HAS the duty and responsibility of periodically
28 determining investment policies consistent with the capital market environment, and the
29 actuarial characteristics of the Fire and Police Employees' Retirement System and to
30 publish [such] THESE investment policy guidelines by filing a copy [thereof] OF THEM
31 with the Department of Legislative Reference [of Baltimore City, and after January 1,
32 1979, also by publication in the Municipal Journal].
33

34 **COMMENT:** Deletes an obsolete reference to the "Municipal Journal" (defunct for 30
35 years or so) and some problematic "legalese".

1 **§ 36A. Post-retirement benefit increases to certain retirees and beneficiaries.**

2 (b) *Amount of benefit increase.*

3

4 After determination of the amount of excess investment earnings available for retirement
5 benefit increases, such excess investment earnings shall be allocated to eligible retired
6 members and beneficiaries according to the following method. The percentage BY which
7 the benefits shall be increased shall be determined by the actuary as the amount that the
8 investment earnings determined in subsection (c) below would be sufficient to fund on a
9 single premium paid up annuity basis using the actuarial valuation assumptions on the
10 June 30 preceding the effective date of the increase.
11

12 **COMMENT:** Inserts inadvertently omitted word.

13 **§ 36B. Deferred Retirement Option Plan.**

14 (a) *Eligibility.*

15 (ii) Any active employee who becomes a member of this system on or after July 1, 2003,
16 and who, in addition to having acquired at least 20 years of service as of December
17 31, 2009, has acquired at least 10 years of service as a contributing member of this
18 system as of [June 30] DECEMBER 31, 2009, is eligible to participate in the DROP by
19 making an election in the manner prescribed in paragraph (iii) of this subsection.

20 **COMMENT:** Conforms date to those changed elsewhere by Ord. 09-209. The
21 amendments adopted on the Second Reading of then-Bill 09-295 included this
22 change, but it was inadvertently omitted from the final version of the bill.

23 (k) *Line-of-duty death benefit.*

24 (3) *Special election rule.*

25 The election to receive a line-of-duty death benefit under either paragraph
26 [(2)(i) or (ii)] (2)(A) OR (B) of this subsection shall be made:
27

28 **COMMENT:** Corrects erroneous cross-reference.

29 **§ 36C. Deferred Retirement Option Plan 2.**

30 (r) *DROP 2 experience reports and savings tests.*

31 (2) (F) For purposes of this subsection (r), the City of Baltimore's expectations of
32 contribution reductions are at least:

33 (i) \$2.5 million for the fiscal year beginning [July 1, 2010] JULY 1, 2011
34 (fiscal year 2012), which reflects the results of the actuarial valuation
35 performed for the fiscal year ended June 30, 2010, the year when the
36 DROP 2 was established; and

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(ii) \$5 million, as adjusted for payroll increases, for each subsequent fiscal year.

COMMENT: Conforms date to those changed elsewhere by Ord. 09-209. The amendments adopted on the Second Reading of then-Bill 09-295 included this change, but it was inadvertently omitted from the final version of the bill.

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 date it is enacted.