

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

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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

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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

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 style="text-align:center">**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)(2<sup>nd</sup> par), 34(i)(4)(A)(iii), 35(a)(2<sup>nd</sup> par), 36A(b)(2<sup>nd</sup> 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:

25 **Baltimore City Revised Code**

26 **Article – Building, Fire, and Related Codes**

27 **Part II. International Building Code**

28 **§ 2-103. City modifications.**

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

31 **Chapter 18. Soils and Foundations**

32 **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.

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**Part VIII. International Fire Code**

**§ 8-102. City modifications.**

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

**CHAPTER 45  
MARINAS  
{AS IN IFC}**

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

**Part X. International Residential Code**

**SECTION 4401 GENERAL**

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

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

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

**Article – Health**

**Title 2. Department of Health**

*Subtitle 1. Organization and General Authority*

**§ 2-106. Rules and regulations.**

(a) *Commissioner may adopt.*

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

(b) *Filing with Legislative Reference.*

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

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

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

**Title 10. Animal Control and Protection**

*Subtitle 7. Vicious Dogs*

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

(a) *Board may adopt.*

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

(b) *Filing with Legislative Reference.*

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

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

**Article – Zoning**

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

(a) *In general.*

The Board may adopt rules and regulations:

- (1) for the conduct of its proceedings; and
- (2) as otherwise directed or authorized in this article.

(b) *Filing.*

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

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

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

Off-street parking spaces must be provided as follows:

(11) *Health care services.*

(i) Health care clinics

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

No requirement

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

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

All other districts

1 per 200 square feet of floor  
area

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

**Baltimore City Code**

**Article 8. Ethics**

**§ 3-4. Officers.**

(a) *Chair.*

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

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

**§ 5-7. Disposition.**

(c) *Sanctions for violation.*

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

**COMMENT:** Corrects a typographical error.

**§ 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:

(15) *GENERAL SERVICES DEPARTMENT.*

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

3 COMMENT: See Comment to He § 2-106.

4 **Article 22. Retirement Systems**

5 **Subtitle – Employees’ Retirement System**

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

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

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

16 . . . .

17 (15) *Member contributions.*

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

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

29 (6) *Optional retirement allowances.*

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

36 . . . .

37 Option 2. Upon his or her death, his or her retirement allowance as it was at the  
38 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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**COMMENT:** Corrects miscellaneous typographical errors that have cropped up over the years.

**§ 7. Management of funds.**

(a) *Trustee of funds.*

....

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

....

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

**Subtitle – Fire and Police Employees’ Retirement System**

**§ 34. Benefits.**

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

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

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

....

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

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

**§ 35. Management of Funds.**

(a) *Trustee of funds.*

....

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

....

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

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

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

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

9 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it  
10 is enacted.