

**CITY OF BALTIMORE  
COUNCIL BILL 23-0354  
(First Reader)**

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Introduced by: The Council President

At the request of: The Administration (Department of Legislative Reference)

Introduced and read first time: February 6, 2023

Assigned to: Rules and Legislative Oversight Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, City Administrator, Department of Legislative Reference

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Administrative Procedure Act - Revisions**

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5 FOR the purpose of clarifying the role of the City Administrator, the Department of Law, and the  
6 Department of Legislative Reference in reviewing proposed regulations prior to public notice  
7 and comment; revising certain provisions regarding the initial submission period for a  
8 proposed regulation; revising certain provisions regarding Agency noncompliance with the  
9 Administrative Procedure Act; providing for a special effective date; and generally relating to  
10 the role of the City Administrator, the Department of Law, and the Department of Legislative  
11 Reference in the review and approval of proposed regulations.

12 BY repealing and re-ordaining, with amendments

13 Article - General Provisions

14 Sections 4-101(f), 4-205, 4-301, and old sections 4-304 to 4-305

15 Baltimore City Code

16 (Edition 2000)

17

18 BY adding

19 Article - General Provisions

20 Section 4-401(e) to (h) and new section 4-303

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 Code**

26 **Article – General Provisions**

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28

**Title 4. Administrative Procedure Act – Regulations**

29 ***Subtitle 1. Definitions; General Provisions***

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

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1     **§ 4-101. Definitions**

2             (E) *NOTICE OF PROPOSED ACTION.*

3                     “NOTICE OF PROPOSED ACTION” MEANS THE FORM REQUIRED FOR THE SUBMISSION OF A  
4                     PROPOSED REGULATION TO THE COBRA REGISTER AS REQUIRED BY § 4-301(B) OF THIS  
5                     TITLE.

6             (F) *NOTICE OF REGULATION DEVELOPMENT.*

7                     “NOTICE OF REGULATION DEVELOPMENT” MEANS THE FORM CREATED BY THE  
8                     DEPARTMENT OF LEGISLATIVE REFERENCE TO INITIATE THE REGULATION PROMULGATION  
9                     PROCESS AS REQUIRED BY § 4-205(A)(1) OF THIS TITLE.

10            (G) *PROMULGATION.*

11                    “PROMULGATION” MEANS THE PROCESS OF FORMALLY PUTTING A REGULATION INTO  
12                    EFFECT.

13            (H) *REGISTER; COBRA REGISTER.*

14                    “REGISTER” OR “COBRA REGISTER” MEANS THE DOCUMENT PUBLISHED BY THE  
15                    DEPARTMENT OF LEGISLATIVE REFERENCE CONTAINING REGULATIONS PROPOSED BY  
16                    UNITS OF CITY GOVERNMENT THAT PROVIDES PUBLIC NOTICE OF THE PROPOSED  
17                    REGULATIONS FOR 30 DAYS.

18            (I) [(f)] *Regulation.*

19                    (1) *In general.*

20                    “Regulation” means a statement or an amendment of a statement that:

21                            (i) has general application;

22                            (ii) has future effect;

23                            (iii) details or carries out the law that the City or an agency of the City  
24                            administers; and

25                            (iv) is in any form, including:

26                                    (A) a guideline;

27                                    (B) an executive order;

28                                    (C) a requirement;

29                                    (D) a standard;

30                                    (E) a statement of interpretation; or

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1 (F) a statement of policy.

2 (2) *Exclusions.*

3 “Regulation” does not include a statement, policy, directive, or operating procedure of  
4 City government that:

5 (i) does not affect directly the rights of the public or the procedures available to  
6 the public; and

7 (ii) either:

8 (A) concerns only internal management of City government; or

9 (B) requires compliance by City employees with provisions limited  
10 to attendance, conduct, training, discipline, or internal procedure.

11 ***Subtitle 2. Form of Regulations; Submission [To City Solicitor] BEFORE PUBLICATION***

12 **§ 4-205. Submission [to Solicitor] BEFORE PUBLICATION.**

13 (a) *Initial Submission.*

14 (1) *DEPARTMENT OF LEGISLATIVE REFERENCE.*

15 Before [publishing notice of] SUBMITTING a proposed regulation FOR INCLUSION IN  
16 THE REGISTER, an agency shall submit the [regulation to the City Solicitor]  
17 FOLLOWING TO THE DEPARTMENT OF LEGISLATIVE REFERENCE for REVISION AND  
18 approval OF CONTENT AND FORMAT: [as to the form described in this subtitle and legal  
19 sufficiency.]

20 (I) THE TEXT OF A PROPOSED REGULATION; AND

21 (II) A NOTICE OF REGULATION DEVELOPMENT IN THE FORM AND WITH THE  
22 CONTENT REQUIRED BY THE DIRECTOR.

23 (2) *CITY ADMINISTRATOR; CITY SOLICITOR.*

24 AFTER A PROPOSED REGULATION IS APPROVED BY THE DEPARTMENT OF LEGISLATIVE  
25 REFERENCE AS REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, AN AGENCY SHALL  
26 THEN SUBMIT THE PROPOSED REGULATION TO:

27 (I) THE CITY SOLICITOR FOR APPROVAL AS TO FORM AND LEGAL SUFFICIENCY;  
28 AND

29 (II) THE CITY ADMINISTRATOR FOR APPROVAL.

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1 [(b) *Modification.*]

2 [If, after publication of notice, the agency makes changes in the text of the proposed  
3 regulation, the agency shall submit the changes to the City Solicitor for approval as to  
4 form and legal sufficiency.]

5 (B) [(c)] *Effect of noncompliance.*

6 If an agency fails to comply with this section or if the DEPARTMENT OF LEGISLATIVE  
7 REFERENCE OR THE City Solicitor fails to approve the regulation as specified in  
8 subsection (a):

9 (1) the proposed regulation may not be adopted; and

10 (2) if adopted, is not effective.

11 ***Subtitle 3. Notice and Comment Period; PUBLICATION IN REGISTER; Adoption***

12 **§ 4-301. Notice of Proposed Regulation.**

13 (a) *In general.*

14 After a proposed regulation has been approved by the DEPARTMENT OF LEGISLATIVE  
15 REFERENCE, THE City Solicitor, AND THE CITY ADMINISTRATOR, as described in § 4-205  
16 of this title, the agency shall [publish] SUBMIT the proposed regulation TO THE  
17 DEPARTMENT OF LEGISLATIVE REFERENCE FOR PUBLICATION IN THE REGISTER TO SOLICIT  
18 [and seek] public comment for at least 30 days.

19 (b) [*Method of publication*] PUBLICATION OF PROPOSED REGULATION IN REGISTER.

20 [(1) An agency shall publish notice of a proposed regulation by:]

21 [(i) posting the notice in a conspicuous place on its website;]

22 [(ii) posting a copy of the notice in a public and conspicuous place at its agency  
23 offices;]

24 [(iii) providing a copy of the notice to each public library in the City;]

25 [(iv) providing a copy of the notice to each councilmember; and]

26 [(v) providing a copy of the notice to the Department of Legislative Reference.]

27 [(2) In addition, the City Solicitor with assistance from Baltimore City Information and  
28 Technology shall maintain an online register of all proposed regulations pending  
29 throughout City government.]

30 TO HAVE A PROPOSED REGULATION PUBLISHED IN THE REGISTER, AN AGENCY SHALL  
31 SUBMIT TO THE DEPARTMENT OF LEGISLATIVE REFERENCE:

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1 (1) THE PROPOSED REGULATION; AND

2 (2) A NOTICE OF PROPOSED ACTION IN THE FORM AND CONTAINING THE  
3 INFORMATION REQUIRED BY THE DEPARTMENT OF LEGISLATIVE REFERENCE.

4 [(c) *Contents of notice.*]

5 [The notice required by this section shall include:]

6 [(1) a brief description of the proposed regulation;]

7 [(2) an online link to the full text of the proposed regulation;]

8 [(3) the mailing address and email address to which a person may send written  
9 comments; and]

10 [(4) if the agency proposes or is otherwise required to hold a public hearing on  
11 the proposed regulation, the date, time, and location of that hearing.]

12 (C) [(D)] *PUBLICATION ON WEBSITE.*

13 AN AGENCY SHALL PUBLISH THE TEXT OF A PROPOSED REGULATION ON THE AGENCY’S  
14 WEBSITE NO LATER THAN 3 BUSINESS DAYS AFTER THE DATE THAT THE PROPOSED  
15 REGULATION IS PUBLISHED IN THE REGISTER.

16 **§ 4-303. COBRA REGISTER.**

17 (A) *IN GENERAL.*

18 THERE IS A COBRA REGISTER THAT CONTAINS REGULATIONS PROPOSED BY UNITS OF  
19 CITY GOVERNMENT.

20 (B) *PUBLICATION AND DISTRIBUTION.*

21 (1) THE DEPARTMENT OF LEGISLATIVE REFERENCE SHALL PUBLISH THE REGISTER ONCE  
22 PER CALENDAR MONTH.

23 (2) The Department of Legislative Reference shall distribute the Register each month by:

24 (i) posting a copy of the Register on the Department of Legislative Reference’s  
25 website; and

26 (ii) providing a copy of the Register to:

27 (A) each City councilmember;

28 (B) each public library in the City;

29 (C) the City Solicitor; and

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1 (D) the City Administrator.

2 (C) *CONTENTS.*

3 (1) *IN GENERAL.*

4 EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE REGISTER SHALL  
5 CONTAIN:

6 (I) A PUBLICATION DATE;

7 (II) THE PROPOSED REGULATION OR REGULATIONS; AND

8 (III) A NOTICE OF PROPOSED ACTION FOR EACH PROPOSED REGULATION.

9 (2) *EXCEPTIONS.*

10 IF THERE ARE NO PROPOSED REGULATIONS DURING A CALENDAR MONTH, THE  
11 DEPARTMENT OF LEGISLATIVE REFERENCE SHALL DISTRIBUTE A COPY OF THE  
12 REGISTER IN ACCORDANCE WITH SUBSECTION (B)(2) OF THIS SECTION THAT CONTAINS:

13 (I) A PUBLICATION DATE; AND

14 (II) A MEMORANDUM STATING THAT NO REGULATIONS WERE PROPOSED DURING  
15 THE RESPECTIVE CALENDAR MONTH.

16 (D) *PROCEDURES.*

17 THE DEPARTMENT OF LEGISLATIVE REFERENCE SHALL DETERMINE PROCEDURES  
18 REGARDING THE CREATION, PUBLICATION, AND DISTRIBUTION OF THE REGISTER.

19 **§ 4-304 [4-303]. Review by Committee.**

20 (a) *“Committee” defined.*

21 In this section, “Committee” means the Committee on Legislative Investigations,  
22 established by City Code Article 1, § 1-4 {“Committee on Legislative Investigations”}.

23 (b) *In general.*

24 (1) On receipt of written notification or notifications by the Chair of the Committee from  
25 at least 3 councilmembers within 15 days from the receipt of the [notice] REGISTER  
26 described in [§ 4-301 {“Notice of proposed regulation”}] § 4-303 {“COBRA  
27 REGISTER”}, a 60-day period of review of the proposed regulation shall commence  
28 before the Committee.

29 (2) A review under this section may include holding a public hearing before the  
30 Committee.

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1 (c) *Scope of review.*

2 In its review under this section, the Committee shall consider whether the proposed  
3 regulation:

4 (1) conforms with the statutory authority of the agency; and

5 (2) reasonably complies with the legislative intent of the statute under which the  
6 regulation was proposed.

7 (d) *Effect of review period.*

8 (1) During the Committee’s 60-day review period, the proposed regulation may not be  
9 adopted nor may it become effective.

10 (2) On the expiration of the 60-day period, the agency may proceed with the formal  
11 adoption of the proposed regulation as provided in this title.

12 **§ 4-305 [4-304]. Adoption or re-publication.**

13 (a) *[Submittal] SUBMISSION to City Solicitor.*

14 (1) After the notice and comment period described in § 4-301 {“Notice of proposed  
15 regulation”} of this subtitle has expired, if an agency makes changes to the text of the  
16 proposed regulation, the agency shall submit the changed proposed regulation to the  
17 City Solicitor.

18 (2) The City Solicitor shall determine whether the change in the proposed regulation is a  
19 material change.

20 (b) *Determination of material change.*

21 If the City Solicitor determines that an agency has made a material change to the text of a  
22 proposed regulation, the agency may not adopt the proposed regulation unless it is  
23 proposed anew, re-published, and adopted in accordance with the requirements of this  
24 title.

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1 (c) *No change or determination of non-material change.*

2 If, after the notice and comment period, the agency has not made a change in the  
3 proposed regulation or if the City Solicitor determines that a change in the proposed  
4 regulation is not material, the agency may adopt and implement the proposed regulation  
5 only after:

6 (1) securing the written approval of the agency head; and

7 (2) filing the regulation with the Director for COBRA codification.

8 (d) *Failure to adopt.*

9 If an agency fails to adopt a proposed regulation within 180 days after the date [it initially  
10 published notice of the proposed regulation] THE PROPOSED REGULATION WAS INITIALLY  
11 PUBLISHED IN THE REGISTER, the regulation shall be deemed withdrawn and may not be  
12 adopted unless proposed anew and adopted in accordance with the requirements of this  
13 subtitle.

14 **§ 4-306 [4-305]. Emergency regulations.**

15 (a) *“State of emergency” defined.*

16 In this section, “state of emergency” means a period of time in which:

17 (1) a proclamation has been issued by the Governor declaring a state of emergency  
18 under Title 14, Subtitle 3 of the State Public Safety Article {“Governor’s  
19 Emergency Powers”};

20 (2) a proclamation has been issued by the Governor declaring a catastrophic health  
21 emergency under Title 14, Subtitle 3A of the State Public Safety Article  
22 {“Governor’s Health Emergency Powers”}; or

23 (3) an order or proclamation has been issued by the Mayor declaring a state of  
24 emergency under § 14-111 {“Local state of emergency”} of the State Public  
25 Safety Article.

26 (b) *Temporary regulations.*

27 (1) *In general.*

28 During a state of emergency, an agency may suspend the provisions of this [subtitle]  
29 TITLE and adopt temporary regulations if:

30 (i) the underlying cause of the state of emergency requires its adoption; and

31 (ii) the public interest will be materially harmed if the regulation does not take  
32 effect immediately.



