

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 11-0736

Introduced by: The Council President, Councilmembers Cole, Stokes, Kraft, D'Adamo,
Reisinger, Branch, Welch, Conaway
At the request of: The Administration (Office of the Mayor)
Introduced and read first time: July 18, 2011
Assigned to: Judiciary and Legislative Investigations Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: November 21, 2011

AN ORDINANCE CONCERNING

Retirement Systems – Trustees – Conflicts

1
2 FOR the purpose of stating expressly the applicability of the City Ethics Code to the Board of
3 Trustees for the Employees' Retirement System, the Board of Trustees for the Elected
4 Officials' Retirement System, the Board of Trustees for the Fire and Police Employees'
5 Retirement System, and their respective members and staff; establishing certain additional
6 ethics standards, restrictions, and requirements for members and staff of these Boards of
7 Trustees; excepting the Board of Trustees of the Employees' Retirement System from the
8 requirements of City Charter Article IV, § 8; correcting, clarifying and conforming related
9 provisions; deleting certain obsolete provisions; and generally relating to the avoidance of
10 improper influence or even the appearance of improper influence on Trustees.

11 BY repealing and reordaining, with amendments
12 Article 22 - Retirement Systems
13 Section(s) 5(b), 21, and 33(b)
14 Baltimore City Code
15 (Edition 2000)

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

Baltimore City Code

Article 22. Retirement Systems

Subtitle – Employees' Retirement System

21 **§ 5. Administration; Board of Trustees.**

22 (b) *Members.*

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 The Board shall consist of 7 [trustees] TRUSTEES as follows:

2 (1) The Comptroller of the City of Baltimore, ex-officio.

3 (2) (I) 3 members of the system to be elected by the membership of the system, under
4 [such] rules and regulations [as may] ~~be~~ adopted by the Board of Trustees to
5 govern [such] THE election, ~~to serve for a term of 4 years[.].~~ THESE MEMBERS
6 SHALL SERVE FOR TERMS OF 4 YEARS EACH, STAGGERED AS PROVIDED FOR THE
7 TRUSTEES FIRST ELECTED UNDER THIS PARAGRAPH (2).

8 (II) ~~[provided, however] HOWEVER, [that] the term of office of the first 2~~
9 ~~[trustees] TRUSTEES so elected shall begin immediately following their~~
10 ~~election and shall expire January 1, 1928, and January 1, 1930, respectively[.],~~
11 ~~AND [The] THE initial term of office of the third [trustee] TRUSTEE so elected~~
12 ~~shall expire January 1, 1996[, and every 4 years thereafter]. [The Mayor may~~
13 ~~appoint a member to serve as the third trustee until such time as an election for~~
14 ~~the office is held.]~~

15 (II) ~~(III)~~ Effective January 1, 1996, any member elected to serve as Trustee under
16 this paragraph (2) who retires during his or her term of office after having
17 served more than 2 years in office and who is granted an allowance or pension
18 (within the meaning of § 1(14) of this article), shall continue to serve as
19 Trustee for the balance of his or her term of office.

20 (3) 2 citizens of the City of Baltimore who are not employees within the meaning of
21 this subtitle, 1 of whom shall be a responsible officer of a bank authorized to do
22 business within the State of Maryland, or a person with similar experience, to be
23 appointed by the Mayor, with the consent of the City Council, as provided in
24 Article IV, § 6 of the City Charter, ~~to.~~ THESE MEMBERS SHALL serve for terms of
25 4 years each, ~~provided, however, that immediately following February 23, 1926,~~
26 ~~the Mayor shall appoint 1 [trustee] TRUSTEE to serve until January 1, 1927, and 1~~
27 ~~[trustee] TRUSTEE to serve until January 1, 1929, such [trustees] TRUSTEES to~~
28 ~~take office at appointment~~ STAGGERED AS PROVIDED FOR THE TRUSTEES FIRST
29 APPOINTED UNDER THIS PARAGRAPH (3).

30 (4) 1 retiree of the system to be elected by the retirees under ~~such~~ rules and
31 regulations ~~as may be~~ adopted by the Board of Trustees to govern ~~such~~ THE
32 ~~election, to.~~ THIS MEMBER SHALL serve for a term of 4 years EACH, STAGGERED
33 AS PROVIDED FOR THE TRUSTEE FIRST ELECTED UNDER THIS PARAGRAPH (4). ~~The~~
34 ~~term of office of the retiree [trustee] TRUSTEE so elected shall begin following the~~
35 ~~election and upon being sworn in. The initial term of office of the [trustee]~~
36 ~~TRUSTEE so elected shall expire on January 1, 1996, and every 4 years thereafter.~~
37 ~~The Mayor may appoint a retired member to serve as [trustee] TRUSTEE until such~~
38 ~~time as an election for office is held.~~

39 (4A) NOTWITHSTANDING CITY CHARTER ARTICLE IV, § 8, WHICH ORDINARILY
40 REQUIRES MINORITY PARTY REPRESENTATION, THE ELECTION OR APPOINTMENT OF
41 TRUSTEES UNDER THIS SUBSECTION SHALL BE MADE WITHOUT REGARD TO
42 POLITICAL AFFILIATION, INCLUDING THOSE TRUSTEES HOLDING THEIR POSITIONS
43 EX OFFICIO.

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1 (5) (I) THE BOARD OF TRUSTEES IS AN “AGENCY” AND A “BOARD” WITHIN THE
2 MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE
3 BALTIMORE CITY PUBLIC ETHICS LAW (CITY CODE ARTICLE 8). EACH
4 TRUSTEE IS A “PUBLIC SERVANT” AND AN “OFFICIAL” WITHIN THE MEANING OF
5 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE
6 CITY PUBLIC ETHICS LAW. AND EACH EMPLOYEE OF THE BOARD IS A “PUBLIC
7 SERVANT” AND AN “EMPLOYEE” WITHIN THE MEANING OF AND SUBJECT TO THE
8 STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY PUBLIC ETHICS
9 LAW.

10 (II) IN ADDITION TO THE STANDARDS AND REQUIREMENTS CONTAINED IN THE
11 BALTIMORE CITY PUBLIC ETHICS LAW, TRUSTEES AND BOARD EMPLOYEES
12 MAY NOT ENGAGE IN ANY OF THE FOLLOWING ACTIVITIES OR HOLD ANY OF THE
13 FOLLOWING INTERESTS, AS THESE ACTIVITIES OR INTERESTS ARE DEFINED IN
14 THE BALTIMORE CITY PUBLIC ETHICS LAW:

15 1. NO TRUSTEE OR BOARD EMPLOYEE MAY DO BUSINESS WITH ANY
16 SYSTEM, PLAN, OR TRUST ADMINISTERED BY THE CITY’S DEFERRED
17 COMPENSATION PLAN, BY THE BOARD OF TRUSTEES OF THIS SYSTEM,
18 BY THE BOARD OF TRUSTEES OF THE EMPLOYEES’ RETIREMENT
19 SYSTEM, OR BY THE BOARD OF TRUSTEES OF THE CITY’S FIRE AND
20 POLICE EMPLOYEES’ RETIREMENT SYSTEM (COLLECTIVELY, THE “CITY
21 BENEFIT PLANS”).

22 2. NO TRUSTEE OR BOARD EMPLOYEE MAY BE EMPLOYED BY OR HAVE A
23 FINANCIAL INTEREST IN ANY PERSON OR ENTITY DOING BUSINESS OR
24 SEEKING TO DO BUSINESS WITH ANY CITY BENEFIT PLAN.

25 3. A. NOTWITHSTANDING CITY CODE ARTICLE 8 {“ETHICS”}, § 6-28(3)
26 {“GIFTS: QUALIFIED EXEMPTIONS; TRAVEL, ETC., EXPENSES”} OR
27 § 6-30 {“HONORARIA”}, NO TRUSTEE OR BOARD EMPLOYEE MAY
28 ACCEPT ANY GIFT OR ANY PAYMENT, FREE ADMISSION, OR EXPENSE
29 REIMBURSEMENT FOR ATTENDANCE AT A CONFERENCE, SEMINAR,
30 OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING,
31 OR ENTERTAINMENT, IF THE GIFT OR THE PAYMENT, FREE
32 ADMISSION, OR REIMBURSEMENT IS, DIRECTLY OR INDIRECTLY,
33 FROM:

34 I. ANY PERSON OR ENTITY ENGAGED IN AN ACTIVITY OR
35 PROVIDING A PRODUCT OR SERVICE THAT THE TRUSTEE
36 KNOWS OR HAS REASON TO KNOW HAS BEEN MARKETED TO
37 A CITY BENEFIT PLAN OR IS OF A TYPE THAT THE TRUSTEE
38 REASONABLY WOULD EXPECT TO BE MARKETED TO A CITY
39 BENEFIT PLAN; OR

40 II. ANY TRADE, PROFESSIONAL, OR OTHER ASSOCIATION THAT
41 HAS MEMBERS ENGAGED IN AN ACTIVITY OR PROVIDING A
42 PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS
43 REASON TO KNOW HAS BEEN MARKETED TO A CITY BENEFIT

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1 PLAN OR IS OF A TYPE THAT THE TRUSTEE REASONABLY
2 WOULD EXPECT TO BE MARKETED TO A CITY BENEFIT PLAN.

3 B. SUBPARAGRAPH 3.A DOES NOT PRECLUDE APPLICATION OF THE
4 QUALIFIED EXEMPTIONS CONTAINED IN CITY CODE ARTICLE 8,
5 § 6-28(1) {"FOOD OR BEVERAGES .. CONSUMED ... IN ... PRESENCE
6 OF ... DONOR"}, § 6-28(2) {"GIFT ... [OF] INSIGNIFICANT VALUE"},
7 § 6-28(5) {"GIFT ... [EXEMPTED BY] ETHICS BOARD"}, OR § 6-28(6)
8 {"GIFT FROM A SPOUSE, PARENT, CHILD, OR SIBLING"}, SUBJECT TO
9 THE QUALIFICATIONS OF § 6-29 {"EXEMPTION LIMITATIONS"}.

10 4. NO FUNDS OF THIS SYSTEM OR OF ANY SYSTEM, PLAN OR TRUST
11 ADMINISTERED BY THE BOARD OF TRUSTEES MAY BE USED TO PAY FOR
12 THE ATTENDANCE OF A TRUSTEE OR BOARD EMPLOYEE AT ANY
13 CONFERENCE, SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD,
14 TRAVEL, LODGING, OR ENTERTAINMENT, UNLESS THAT ATTENDANCE
15 HAS FIRST BEEN APPROVED BY THE BOARD OF ESTIMATES IN
16 ACCORDANCE WITH THE ADMINISTRATIVE MANUAL OF BALTIMORE
17 CITY, AM-240-3 {"BOARD OF ESTIMATES APPROVAL"}.

18 5. NO TRUSTEE OR BOARD EMPLOYEE MAY ENGAGE IN ANY ACTIVITY
19 THAT REQUIRES REGISTRATION AS A LOBBYIST WITH THE CITY ETHICS
20 BOARD.

21 (III) THE CITY ETHICS BOARD SHALL ADMINISTER AND ENFORCE THIS
22 PARAGRAPH (5) IN ACCORDANCE WITH THE ADMINISTRATIVE AND
23 ENFORCEMENT PROVISIONS OF THE BALTIMORE CITY PUBLIC ETHICS LAW.

24 **Subtitle – Elected Officials’ Retirement System**

25 **§ 21. Board of Trustees.**

26 (A) *IN GENERAL.*

27 The Elected Officials’ Retirement System shall be administered by the Board of Trustees
28 of the Employees’ Retirement System:

29 (1) in the same manner as IS provided in § 5 of this article; AND

30 (2) SUBJECT TO THE SAME LIMITATIONS AS ARE IMPOSED BY § 5(B)(5) OF THIS
31 ARTICLE.

32 (B) *CLAIMS ADMINISTRATION.*

33 All claims shall be administered by the panel of hearing examiners in the same manner as
34 provided in § 9 of this article for members of the Employees’ Retirement System.

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Subtitle – Fire and Police Employees’ Retirement System

§ 33. Administration.

(b) Members.

The Board consists of 11 [trustees] TRUSTEES, as follows:

- (1) The Comptroller of the City of Baltimore, ex-officio.
- (2) The Police Commissioner, ex officio. The Police Commissioner may designate a representative to attend any meeting of the Board of Trustees in his or her place. This representative must be a Deputy Police Commissioner and must be a member of this system. This representative has the authority to act in the Commissioner’s place
- (3) The Chief of the Fire Department, ex officio. The Chief of the Fire Department may designate a representative to attend any meeting of the Board of Trustees in his or her place. This representative must be a Deputy Fire Chief and must be a member of this system. This representative has the authority to act in the Chief’s place.
- (4) The Director of Finance, ex officio. The Director of Finance may designate a representative to attend any meeting of the Board of Trustees in his or her place. This representative must be either the Deputy Director of Finance or the Budget Director. This representative has the authority to act in the Director of Finance’s place.
- (5) (i) 3 residents and registered voters of the City of Baltimore, to be appointed by the Mayor with the consent of the City Council, as provided in City Charter Article IV, § 6, each to serve for a term of 4 years concurrent with the Mayor’s term of office. 1 of these 3 [trustees] TRUSTEES shall be appointed by the Mayor from a list of 3 recommended candidates submitted by the President of the City Council.
(ii) These [trustees] TRUSTEES shall possess commercial banking, investment banking, accounting, actuarial, auditing, investment management, investment consulting, or financial legal expertise.
(iii) As of [their] HIS OR HER appointment and during [their] HIS OR HER entire term of office, [these trustees] A TRUSTEE APPOINTED UNDER THIS PARAGRAPH (5) [: A.] may not be an employee or official of the City[; and].
[B. may not engage in any of the following activities or hold any of the following interests, as these activities or interests are defined in City Code Article 8 {“Ethics”}:

1. doing business with any system, plan, or trust administered by the City’s Deferred Compensation Plan, by the Board of Trustees of

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1 this System, or by the Board of Trustees of the City’s Employees’
2 Retirement System (collectively, the “City Benefit Plans”);

3 2. being employed by or having a financial interest in any person or
4 entity doing business or seeking to do business with any City
5 Benefit Plan; or

6 3. engaging in any activity that requires registration as a lobbyist with
7 the City Ethics Board.]

8 (6) 2 members of the system, one of whom shall be an employee of the Fire
9 Department, the other an employee of the Police Department, to be elected by the
10 membership of the respective departments to which each belongs under the rules
11 and regulations adopted by the Board of Trustees to govern the election, to serve
12 for a term of 4 years, staggered as provided for the [trustees] TRUSTEES first
13 elected. For the purposes of this paragraph (6), members of the system who are
14 not employed by the Fire Department or the Police Department are eligible to
15 participate as voters and as candidates in elections of the Board of Trustees.
16 School crossing guards, meter monitors, and police personnel employed at the
17 Baltimore / Washington International Thurgood Marshall Airport shall participate
18 in the Police Department elections. Fire personnel employed at the Baltimore /
19 Washington International Thurgood Marshall Airport shall participate in the Fire
20 Department elections. For other categories of members of the system who are not
21 employees of the Fire Department or the Police Department, the Board of Trustees
22 shall determine in which departmental election they shall participate.

23 (7) 2 retirees of the system, 1 of whom shall be a Fire Department retiree, and the
24 other a Police Department retiree, to be elected by the retirees of the respective
25 department to which each belonged, these elections to be held concurrently with
26 the election for the employees representative of each respective department, under
27 the rules and regulations adopted by the Board of Trustees to govern the election,
28 to serve for a term of 4 years. For the purposes of this paragraph (7), retirees of
29 the system who are not employed by the Fire Department or the Police
30 Department are eligible to participate as voters and as candidates in elections of
31 the Board of Trustees. Retired school crossing guards, retired meter monitors, and
32 police personnel retired from employment at the Baltimore / Washington
33 International Thurgood Marshall Airport shall participate in the Police
34 Department elections. Fire personnel retired from employment at the Baltimore /
35 Washington International Thurgood Marshall Airport shall participate in the Fire
36 Department elections. For other categories of retirees in the system who were not
37 employees of the Fire Department or the Police Department, the Board of Trustees
38 shall determine in which departmental election they shall participate.

39 (8) Notwithstanding City Charter Article IV, §8 , requiring WHICH ORDINARILY
40 REQUIRES minority party representation, the election or appointment of [trustees]
41 TRUSTEES under this subsection shall be made without regard to political
42 affiliation, including those [trustees] TRUSTEES holding their positions ex officio.

43 (9) (I) THE BOARD OF TRUSTEES IS AN “AGENCY” AND A “BOARD” WITHIN THE
44 MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE

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1 BALTIMORE CITY PUBLIC ETHICS LAW (CITY CODE ARTICLE 8). EACH
2 TRUSTEE IS A “PUBLIC SERVANT” AND AN “OFFICIAL” WITHIN THE MEANING OF
3 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE
4 CITY PUBLIC ETHICS LAW. AND EACH EMPLOYEE OF THE BOARD IS A “PUBLIC
5 SERVANT” AND AN “EMPLOYEE” WITHIN THE MEANING OF AND SUBJECT TO THE
6 STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY PUBLIC ETHICS
7 LAW.

8 (II) IN ADDITION TO THE STANDARDS AND REQUIREMENTS CONTAINED IN THE
9 BALTIMORE CITY PUBLIC ETHICS LAW, TRUSTEES AND BOARD EMPLOYEES
10 MAY NOT ENGAGE IN ANY OF THE FOLLOWING ACTIVITIES OR HOLD ANY OF THE
11 FOLLOWING INTERESTS, AS THESE ACTIVITIES OR INTERESTS ARE DEFINED IN
12 THE BALTIMORE CITY PUBLIC ETHICS LAW:

13 1. NO TRUSTEE OR BOARD EMPLOYEE MAY DO BUSINESS WITH ANY
14 SYSTEM, PLAN, OR TRUST ADMINISTERED BY THE CITY’S DEFERRED
15 COMPENSATION PLAN, BY THE BOARD OF TRUSTEES OF THIS SYSTEM,
16 BY THE BOARD OF TRUSTEES OF THE CITY’S EMPLOYEES’ RETIREMENT
17 SYSTEM, OR BY THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS’
18 RETIREMENT SYSTEM (COLLECTIVELY, THE “CITY BENEFIT PLANS”).

19 2. NO TRUSTEE OR BOARD EMPLOYEE MAY BE EMPLOYED BY OR HAVE A
20 FINANCIAL INTEREST IN ANY PERSON OR ENTITY DOING BUSINESS OR
21 SEEKING TO DO BUSINESS WITH ANY CITY BENEFIT PLAN.

22 3. A. NOTWITHSTANDING CITY CODE ARTICLE 8 {“ETHICS”}, § 6-28(3)
23 {“GIFTS: QUALIFIED EXEMPTIONS; TRAVEL, ETC., EXPENSES”} OR
24 § 6-30 {“HONORARIA”}, NO TRUSTEE OR BOARD EMPLOYEE MAY
25 ACCEPT ANY GIFT OR ANY PAYMENT, FREE ADMISSION, OR EXPENSE
26 REIMBURSEMENT FOR ATTENDANCE AT A CONFERENCE, SEMINAR,
27 OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING,
28 OR ENTERTAINMENT, IF THE GIFT OR THE PAYMENT, FREE
29 ADMISSION, OR REIMBURSEMENT IS, DIRECTLY OR INDIRECTLY,
30 FROM:

31 I. ANY PERSON OR ENTITY ENGAGED IN AN ACTIVITY OR
32 PROVIDING A PRODUCT OR SERVICE THAT THE TRUSTEE
33 KNOWS OR HAS REASON TO KNOW HAS BEEN MARKETED TO
34 A CITY BENEFIT PLAN OR IS OF A TYPE THAT THE TRUSTEE
35 REASONABLY WOULD EXPECT TO BE MARKETED TO A CITY
36 BENEFIT PLAN; OR

37 II. ANY TRADE, PROFESSIONAL, OR OTHER ASSOCIATION THAT
38 HAS MEMBERS ENGAGED IN AN ACTIVITY OR PROVIDING A
39 PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS
40 REASON TO KNOW HAS BEEN MARKETED TO A CITY BENEFIT
41 PLAN OR IS OF A TYPE THAT THE TRUSTEE REASONABLY
42 WOULD EXPECT TO BE MARKETED TO A CITY BENEFIT PLAN.

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1 B. SUBPARAGRAPH 3.A DOES NOT PRECLUDE APPLICATION OF THE
2 QUALIFIED EXEMPTIONS CONTAINED IN CITY CODE ARTICLE 8,
3 § 6-28(1) {"FOOD OR BEVERAGES .. CONSUMED ... IN ... PRESENCE
4 OF ... DONOR"}, § 6-28(2) {"GIFT ... [OF] INSIGNIFICANT VALUE"},
5 § 6-28(5) {"GIFT ... [EXEMPTED BY] ETHICS BOARD"}, OR § 6-28(6)
6 {"GIFT FROM A SPOUSE, PARENT, CHILD, OR SIBLING"}, SUBJECT TO
7 THE QUALIFICATIONS OF § 6-29 {"EXEMPTION LIMITATIONS"}.

8 4. NO FUNDS OF THIS SYSTEM OR OF ANY SYSTEM, PLAN OR TRUST
9 ADMINISTERED BY THE BOARD OF TRUSTEES MAY BE USED TO PAY FOR
10 THE ATTENDANCE OF A TRUSTEE OR BOARD EMPLOYEE AT ANY
11 CONFERENCE, SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD,
12 TRAVEL, LODGING, OR ENTERTAINMENT, UNLESS THAT ATTENDANCE
13 HAS FIRST BEEN APPROVED BY THE BOARD OF ESTIMATES IN
14 ACCORDANCE WITH THE ADMINISTRATIVE MANUAL OF BALTIMORE
15 CITY, AM-240-3 {"BOARD OF ESTIMATES APPROVAL"}.

16 5. NO TRUSTEE OR BOARD EMPLOYEE MAY ENGAGE IN ANY ACTIVITY
17 THAT REQUIRES REGISTRATION AS A LOBBYIST WITH THE CITY ETHICS
18 BOARD.

19 (III) THE CITY ETHICS BOARD SHALL ADMINISTER AND ENFORCE THIS
20 PARAGRAPH (9) IN ACCORDANCE WITH THE ADMINISTRATIVE AND
21 ENFORCEMENT PROVISIONS OF THE BALTIMORE CITY PUBLIC ETHICS LAW.

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

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

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City