

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 19-0377**

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Introduced by: Councilmember Dorsey, Ex Officio Council President Middleton,  
Councilmembers Henry, Schleifer, Stokes, Scott, Costello, Pinkett, Cohen, Burnett, Clarke,  
Reisinger, Bullock, Sneed

Introduced and read first time: April 22, 2019

Assigned to: Judiciary and Legislative Investigations Committee

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Committee Report: Favorable with amendments

Council action: Adopted

Read second time: September 23, 201

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**AN ORDINANCE CONCERNING**

**Whistleblower Rights and Responsibilities**

FOR the purpose of prohibiting retaliation against whistleblowers for making covered disclosures; defining certain terms; ~~establishing the Whistleblower Board; providing for the appointment, term, and service of Whistleblower Board members; authorizing the Whistleblower Board to adopt implementing rules, regulations, and procedures;~~ establishing complaint procedures for whistleblowers; authorizing the Office of the Inspector General to investigate whistleblower complaints; ~~detailing remedies and disciplinary action the Whistleblower Board can take when ruling on a whistleblower retaliation case;~~ establishing judicial and appellate review; requiring training for supervisors and employees; ~~and~~ mandating that the Office of the Inspector General creates an administrative manual to further detail procedures relating whistleblower complaints; and providing for a special effective date.

BY repealing and reordaining, with amendments

Article 1 - Mayor, City Council, and Municipal Agencies  
Subtitle 8, to be under the amended subtitle designation,  
“Subtitle 8. Whistleblower Rights and Responsibilities”  
Baltimore City Code  
(Edition 2000)

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

**Baltimore City Code**

**Article 1. Mayor, City Council, and Municipal Agencies**

**Subtitle 8. [Employee Disclosure Protection] WHISTLEBLOWER RIGHTS AND RESPONSIBILITIES.**

**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 **[§ 8-1. Protected Disclosures.]**

2 [(a) *In general.*]

3 [Unless a disclosure is specifically prohibited by law, rule, regulation, or written policy,  
4 an appointing authority may not take or refuse to take a personnel action with respect to  
5 any employee or applicant for employment as a reprisal for any disclosure of information  
6 which the employee reasonably believes evidences:]

7 [(1) a violation of any law, rule, or regulation;]

8 [(2) gross mismanagement, gross waste of funds, or abuse of authority; or]

9 [(3) a substantial or specific danger to public health or safety.]

10 [(b) *Disclosures to be made to Board of Estimates.*]

11 [An employee shall make his or her disclosure to the Board of Estimates or to its  
12 designee.]

13 **[§ 8-2. Personnel Actions.]**

14 [In any personnel action, the affected employee may have the action alleged to be in  
15 retaliation for a disclosure investigated by way of a grievance or dismissal appeal.]

16 **[§ 8-3. Prohibited disclosures to be made to Attorney General.]**

17 [Where a disclosure is specifically prohibited by law, rule, regulation, or written policy, an  
18 employee may make the disclosure exclusively to the Attorney General of the State of  
19 Maryland and shall be entitled to all of the benefits fo the state’s employee disclosure and  
20 confidentiality protection.]

21 ~~§ 8-1. DEFINITIONS.~~

22 ~~(A) IN GENERAL.~~

23 ~~IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

24 ~~(B) AGENCY.~~

25 (1) *IN GENERAL.*

26 “AGENCY” MEANS ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,  
27 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

28 ~~(2) INCLUSIONS.~~

29 “AGENCY” ALSO INCLUDES:

30 ~~(i) BALTIMORE CITY PARKING AUTHORITY;~~

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1           ~~(II) BALTIMORE DEVELOPMENT CORPORATION;~~

2           ~~(III) BALTIMORE POLICE DEPARTMENT;~~

3           ~~(IV) ENOCH PRATT FREE LIBRARY OF BALTIMORE CITY;~~

4           ~~(V) HOUSING AUTHORITY OF BALTIMORE CITY;~~

5           ~~(VI) LOCAL DEVELOPMENT COUNCIL, SOUTH BALTIMORE VIDEO LOTTERY—~~  
6           ~~TERMINAL;~~

7           ~~(VII) PIMLICO COMMUNITY DEVELOPMENT AUTHORITY; AND~~

8           ~~(VIII) SOUTH BALTIMORE GATEWAY COMMUNITY IMPACT DISTRICT —~~  
9           ~~MANAGEMENT AUTHORITY.~~

10       ~~(C) BOARD.~~

11           ~~“BOARD” MEANS THE WHISTLEBLOWER BOARD ESTABLISHED UNDER THIS SUBTITLE.~~

12       ~~(D) COVERED DISCLOSURE.~~

13           ~~(1) IN GENERAL.~~

14           ~~“COVERED DISCLOSURE” MEANS A DISCLOSURE MADE BY AN EMPLOYEE THAT THE~~  
15           ~~EMPLOYEE REASONABLY BELIEVES PROVIDES EVIDENCE OF:~~

16           ~~(I) FRAUD;~~

17           ~~(II) GROSS MISUSE OR WASTE OF PUBLIC RESOURCES;~~

18           ~~(III) A VIOLATION OF LAW; OR~~

19           ~~(IV) A SUBSTANTIAL AND SPECIFIC THREAT TO HEALTH, SAFETY, OR SECURITY.~~

20       ~~(2) INCLUSIONS.~~

21           ~~“COVERED DISCLOSURE” INCLUDES A DISCLOSURE MADE DURING PARTICIPATION IN AN~~  
22           ~~INVESTIGATION BY THE OFFICE OF THE INSPECTOR GENERAL.~~

23       ~~(3) EXCLUSIONS.~~

24           ~~“COVERED DISCLOSURE” DOES NOT INCLUDE A DISCLOSURE THAT IS PROHIBITED BY~~  
25           ~~LAW.~~

26       ~~(E) EMPLOYEE.~~

27           ~~“EMPLOYEE” MEANS:~~

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1           ~~(1) ANY CURRENT OR FORMER EMPLOYEE, WHETHER FULL-TIME, PART-TIME,~~  
2           ~~SEASONAL, CONTRACTUAL, OR OTHERWISE, OF A CITY AGENCY;~~

3           ~~(2) ANY APPLICANT FOR A POSITION WITH A CITY AGENCY; AND~~

4           ~~(3) ANY MEMBER OF A CITY BOARD OR COMMISSION, REGARDLESS OF WHETHER THE~~  
5           ~~MEMBER IS COMPENSATED.~~

6           ~~(F) PERSONNEL ACTION.~~

7           ~~“PERSONNEL ACTION” MEANS AN ACT OR OMISSION BY A SUPERVISOR THAT HAS A~~  
8           ~~SIGNIFICANT ADVERSE IMPACT ON AN EMPLOYEE, INCLUDING DISMISSAL, DEMOTION,~~  
9           ~~SUSPENSION, PUNITIVE TRANSFER OR ASSIGNMENT, DISCIPLINARY ACTION, NEGATIVE~~  
10          ~~PERFORMANCE EVALUATION, FAILURE TO APPOINT, FAILURE TO PROMOTE, FAILURE TO~~  
11          ~~TRANSFER, OR FAILURE TO ASSIGN.~~

12          ~~(G) SUPERVISOR.~~

13          ~~“SUPERVISOR” MEANS AN INDIVIDUAL WITH DIRECT OR INDIRECT SUPERVISORY~~  
14          ~~AUTHORITY OVER AN EMPLOYEE.~~

15          ~~(H) WHISTLEBLOWER.~~

16          ~~“WHISTLEBLOWER” MEANS AN EMPLOYEE OF BALTIMORE CITY WHO MAKES A COVERED~~  
17          ~~DISCLOSURE.~~

18          ~~§§ 8-2 TO 8-3. {RESERVED}~~

19          ~~§ 8-4. BOARD ESTABLISHED.~~

20          ~~(A) IN GENERAL.~~

21          ~~THERE IS A WHISTLEBLOWER BOARD.~~

22          ~~(B) COMPOSITION.~~

23          ~~THE BOARD COMPRISES 3 MEMBERS, OR THEIR RESPECTIVE DESIGNEES:~~

24                 ~~(1) THE DIRECTOR OF HUMAN RESOURCES;~~

25                 ~~(2) THE LABOR COMMISSIONER; AND~~

26                 ~~(3) THE CITY SOLICITOR.~~

27          ~~(C) ALTERNATE.~~

28          ~~IN THE EVENT A BOARD MEMBER OR DESIGNEE IS IMPLICATED IN A WHISTLEBLOWER~~  
29          ~~COMPLAINT, THE CITY COUNCIL PRESIDENT OR HIS OR HER COUNCILMEMBER DESIGNEE~~  
30          ~~MUST REPLACE THE BOARD MEMBER OR DESIGNEE IMPLICATED IN THE COMPLAINT.~~

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1 ~~§ 8-5. PURPOSE.~~

2 THE BOARD IS RESPONSIBLE FOR ENCOURAGING THE ELIMINATION OF FRAUD, WASTE, AND  
3 ILLEGAL ACTIVITY BY PROTECTING WHISTLEBLOWERS.

4 ~~§ 8-6. {RESERVED}~~

5 ~~§ 8-7. STAFF.~~

6 IN CONSULTATION WITH THE BOARD, THE INSPECTOR GENERAL MUST ASSIGN STAFF FROM THE  
7 OFFICE OF THE INSPECTOR GENERAL TO ASSIST THE BOARD.

8 ~~§ 8-8. POWERS AND DUTIES OF BOARD.~~

9 THE BOARD IS AUTHORIZED TO:

10 (1) ADJUDICATE DISPUTES UNDER THIS SUBTITLE;

11 (2) ANALYZE ANY FINDINGS MADE BY THE OFFICE OF THE INSPECTOR GENERAL AS A  
12 RESULT OF WHISTLEBLOWER COMPLAINTS;

13 (3) HOLD HEARINGS TO DETERMINE WHETHER A RETALIATORY PERSONNEL ACTION WAS  
14 TAKEN AT LEAST IN PART AGAINST A WHISTLEBLOWER BECAUSE OF THE  
15 WHISTLEBLOWER'S COVERED DISCLOSURE; AND

16 (4) DETERMINE WHETHER REMEDIAL ACTION IS NECESSARY.

17 ~~§ 8-9. AGENCY COOPERATION.~~

18 AT THE REQUEST OF THE BOARD, ALL CITY OFFICIALS AND AGENCIES MUST COOPERATE WITH  
19 THE BOARD AND EXTEND THE SERVICES AND FACILITIES THAT THE BOARD REQUIRES.

20 ~~§§ 8-10 TO 8-11. {RESERVED}~~

21 ~~§ 8-12. WHISTLEBLOWER PROTECTION AGAINST RETALIATORY ACTION.~~

22 (A) *IN GENERAL.*

23 UNLESS A DISCLOSURE IS SPECIFICALLY PROHIBITED BY LAW, A SUPERVISOR MAY NOT  
24 TAKE A RETALIATORY PERSONNEL ACTION AGAINST A WHISTLEBLOWER.

25 (B) *EXCEPTIONS.*

26 THIS SECTION DOES NOT PROHIBIT:

27 (1) A SUPERVISOR FROM TAKING ANY PERSONNEL ACTION AGAINST A WHISTLEBLOWER  
28 IF THE SUPERVISOR WOULD HAVE TAKEN THE PERSONNEL ACTION REGARDLESS OF  
29 WHETHER THE EMPLOYEE MADE THE COVERED DISCLOSURE; OR

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1           ~~(2) AN EMPLOYEE FROM MAKING A DISCLOSURE THAT IS OTHERWISE PROHIBITED BY~~  
2           ~~LAW IF THE EMPLOYEE EXCLUSIVELY MADE THE DISCLOSURE TO THE OFFICE OF~~  
3           ~~THE MARYLAND ATTORNEY GENERAL, THE STATE'S ATTORNEY, OR THE~~  
4           ~~MARYLAND STATE PROSECUTOR.~~

5   ~~§§ 8-13 TO 8-14. {RESERVED}~~

6   ~~§ 8-15. COMPLAINT PROCESS - IN GENERAL.~~

7       ~~(A) FILING COMPLAINT WITH SUPERVISOR.~~

8           ~~(1) A WHISTLEBLOWER WHO BELIEVES HE OR SHE HAS BEEN RETALIATED AGAINST FOR~~  
9           ~~MAKING A COVERED DISCLOSURE MAY FILE A WRITTEN COMPLAINT WITH ONE OR~~  
10           ~~ANOTHER OF HIS OR HER SUPERVISORS.~~

11           ~~(2) THE COMPLAINT MUST BE FILED WITHIN 180 DAYS FROM WHEN THE WHISTLEBLOWER~~  
12           ~~KNEW OR REASONABLY SHOULD HAVE KNOWN ABOUT THE VIOLATION.~~

13       ~~(B) SUPERVISOR RESPONSIBILITIES.~~

14           ~~(1) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A COMPLAINT UNDER THIS SECTION, THE~~  
15           ~~SUPERVISOR WHO RECEIVED THE COMPLAINT MUST GIVE THE WHISTLEBLOWER~~  
16           ~~WRITTEN NOTICE OF THE COMPLAINT'S RECEIPT.~~

17           ~~(2) WITHIN 60 DAYS AFTER THE SUPERVISOR RECEIVED THE COMPLAINT, THE SUPERVISOR~~  
18           ~~MUST CONDUCT AN INVESTIGATION AND PROVIDE THE WHISTLEBLOWER WITH~~  
19           ~~WRITTEN FINDINGS OF THAT INVESTIGATION.~~

20       ~~(C) FILING INITIAL COMPLAINT WITH INSPECTOR GENERAL.~~

21           ~~(1) A WHISTLEBLOWER NEED NOT FILE HIS OR HER COMPLAINT WITH A SUPERVISOR AND,~~  
22           ~~INSTEAD, MAY FILE THE COMPLAINT DIRECTLY WITH THE OFFICE OF THE INSPECTOR~~  
23           ~~GENERAL IF THE WHISTLEBLOWER REASONABLY BELIEVES THAT:~~

24                   ~~(I) ALL OF THE WHISTLEBLOWER'S SUPERVISORS ARE IMPLICATED BY THE COVERED~~  
25                   ~~DISCLOSURE; OR~~

26                   ~~(II) ALL OF THE WHISTLEBLOWER'S SUPERVISORS TOOK PART IN OR WERE~~  
27                   ~~OTHERWISE COMPLICIT IN THE RETALIATORY ACTION TAKEN AGAINST THE~~  
28                   ~~WHISTLEBLOWER.~~

29           ~~(2) A COMPLAINT FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1) OF THIS~~  
30           ~~SUBSECTION MUST BE FILED WITHIN 180 DAYS FROM WHEN THE WHISTLEBLOWER~~  
31           ~~KNEW OR SHOULD REASONABLY HAVE KNOWN ABOUT THE RETALIATORY ACTION.~~

32       ~~(D) FILING WITH INSPECTOR GENERAL AS APPEAL FROM SUPERVISOR.~~

33           ~~(1) IF THE WHISTLEBLOWER INITIALLY FILED A COMPLAINT WITH A SUPERVISOR, THE~~  
34           ~~WHISTLEBLOWER MAY APPEAL TO THE INSPECTOR GENERAL IF:~~

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1 ~~(I) THE SUPERVISOR WHO RECEIVED THE COMPLAINT FAILED TO PROVIDE THE~~  
2 ~~WHISTLEBLOWER WITH WRITTEN FINDINGS OF HER OR HIS INVESTIGATION; OR~~

3 ~~(II) THE WHISTLEBLOWER DOES NOT AGREE WITH THE SUPERVISOR'S WRITTEN~~  
4 ~~FINDINGS.~~

5 ~~(2) A COMPLAINT FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(I) OF THIS~~  
6 ~~SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM THE DATE BY WHICH THE~~  
7 ~~SUPERVISOR HAD TO RESPOND TO THE WHISTLEBLOWER.~~

8 ~~(3) A COMPLAINT FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(II) OF~~  
9 ~~THIS SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM WHEN THE SUPERVISOR~~  
10 ~~PRESENTED THE WHISTLEBLOWER WITH THE WRITTEN FINDINGS OF THE SUPERVISOR'S~~  
11 ~~INVESTIGATION.~~

12 ~~(E) CONFIDENTIALITY.~~

13 ~~THE IDENTITY OF THE WHISTLEBLOWER MUST BE KEPT CONFIDENTIAL TO THE EXTENT~~  
14 ~~PRACTICABLE AND PERMITTED BY LAW.~~

15 ~~§ 8-16. COMPLAINT INVESTIGATION — OFFICE OF THE INSPECTOR GENERAL.~~

16 ~~(A) NOTICE OF RECEIPT OF COMPLAINT.~~

17 ~~WITHIN 5 BUSINESS DAYS AFTER RECEIVING A WRITTEN COMPLAINT UNDER § 8-15(C) OR~~  
18 ~~(D) OF THIS SUBTITLE, THE OFFICE OF THE INSPECTOR GENERAL MUST GIVE THE~~  
19 ~~WHISTLEBLOWER WRITTEN NOTICE OF THE COMPLAINT'S RECEIPT.~~

20 ~~(B) COMPLETING INVESTIGATION.~~

21 ~~WITHIN 60 DAYS AFTER THE OFFICE RECEIVED THE COMPLAINT, THE OFFICE OF THE~~  
22 ~~INSPECTOR GENERAL MUST CONDUCT AN INVESTIGATION AND PRESENT ITS FINDINGS TO~~  
23 ~~THE WHISTLEBLOWER BOARD.~~

24 ~~(C) EXTENSION FOR COMPLETING INVESTIGATION.~~

25 ~~ON A FINDING OF GOOD CAUSE, THE BOARD MAY APPROVE AN EXTENSION FOR~~  
26 ~~COMPLETING THE INVESTIGATION.~~

27 ~~§ 8-17. HEARING PROCEDURES.~~

28 ~~(A) WHISTLEBLOWER'S CASE.~~

29 ~~THE WHISTLEBLOWER MUST MAKE A PRIMA FACIE CASE BY ESTABLISHING THROUGH A~~  
30 ~~PREPONDERANCE OF THE EVIDENCE THAT HIS OR HER COVERED DISCLOSURE WAS A~~  
31 ~~CONTRIBUTING FACTOR IN THE SUPERVISOR'S TAKING THE PERSONNEL ACTION.~~

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1 ~~(B) SHOWING BY SUPERVISOR.~~

2 ~~ONCE THE WHISTLEBLOWER HAS MADE A PRIMA FACIE CASE, THE SUPERVISOR HAS THE~~  
3 ~~BURDEN OF PROOF TO DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT HE OR~~  
4 ~~SHE WOULD HAVE TAKEN THE PERSONNEL ACTION EVEN IF THE WHISTLEBLOWER HAD NOT~~  
5 ~~MADE THE COVERED DISCLOSURE.~~

6 ~~(C) REPRESENTATION.~~

7 ~~BOTH THE WHISTLEBLOWER AND THE SUPERVISOR MAY BE REPRESENTED AT A HEARING~~  
8 ~~BY COUNSEL.~~

9 **~~§ 8-18. RULES AND REGULATIONS.~~**

10 ~~(A) IN GENERAL.~~

11 ~~THE INSPECTOR GENERAL MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THIS~~  
12 ~~SUBTITLE.~~

13 ~~(B) FILING WITH LEGISLATIVE REFERENCE.~~

14 ~~A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF~~  
15 ~~LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.~~

16 ~~(C) POSTED TO INSPECTOR GENERAL'S WEBSITE.~~

17 ~~A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE~~  
18 ~~POSTED ON THE INSPECTOR GENERAL'S WEBSITE.~~

19 **~~§ 8-19. REMEDIATION BY THE BOARD.~~**

20 ~~(A) IN GENERAL.~~

21 ~~IF THE BOARD DECIDES TO TAKE REMEDIAL ACTION, THE BOARD MAY:~~

22 ~~(1) DISCIPLINE THE SUPERVISOR FOR THE RETALIATION AND PROVIDE REMEDIES FOR~~  
23 ~~THE WHISTLEBLOWER;~~

24 ~~(2) DISCIPLINE THE SUPERVISOR FOR THE RETALIATION AND DECLINE TO PROVIDE~~  
25 ~~REMEDIES FOR THE WHISTLEBLOWER; OR~~

26 ~~(3) DECLINE TO DISCIPLINE THE SUPERVISOR FOR THE RETALIATION AND PROVIDE~~  
27 ~~REMEDIES FOR THE WHISTLEBLOWER.~~

28 ~~(B) POSSIBLE DISCIPLINARY ACTION.~~

29 ~~THE DISCIPLINARY ACTION THAT THE BOARD MAY TAKE AGAINST A PERSON FOR~~  
30 ~~RETALIATION AGAINST A WHISTLEBLOWER INCLUDES:~~

31 ~~(1) A REPRIMAND;~~



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1           ~~(2) DEMOTION; OR~~

2           ~~(3) TERMINATION.~~

3           ~~(C) POSSIBLE REMEDIES:~~

4           ~~THE REMEDIES THAT THE BOARD MAY PROVIDE TO A WHISTLEBLOWER INCLUDES:~~

5           ~~(1) REINSTATEMENT TO THE STATUS THAT THE WHISTLEBLOWER WOULD HAVE HAD~~  
6           ~~BUT FOR THE RETALIATION; OR~~

7           ~~(2) ANY BACKPAY, WITH INTEREST; OR~~

8           ~~(3) BOTH.~~

9           ~~§ 8-20. JUDICIAL AND APPELLATE REVIEW.~~

10          ~~(A) JUDICIAL REVIEW:~~

11           ~~ANY PERSON AGGRIEVED BY AN ORDER OF THE BOARD MAY SEEK JUDICIAL REVIEW OF~~  
12           ~~THAT ORDER BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE~~  
13           ~~WITH THE MARYLAND RULES OF PROCEDURE.~~

14          ~~(B) APPELLATE REVIEW:~~

15           ~~ANY PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE~~  
16           ~~COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF~~  
17           ~~PROCEDURE.~~

18          ~~§ 8-21. OTHER REMEDIES NOT AFFECTED.~~

19          ~~NOTHING IN THIS SUBTITLE AFFECTS:~~

20           ~~(1) ANY ACTION FOR DEFAMATION OR INVASION OF PRIVACY;~~

21           ~~(2) EMPLOYEE PROTECTIONS OR EMPLOYEE GRIEVANCE PROCEDURES PROVIDED BY LAW~~  
22           ~~OR CONTRACT; OR~~

23           ~~(3) ANY OTHER REMEDY PROVIDED BY LAW.~~

24          ~~§§ 8-22 TO 8-23. {RESERVED}~~

25          ~~§ 8-24. TRAINING.~~

26           ~~THE OFFICE OF THE INSPECTOR GENERAL, WITH ASSISTANCE FROM THE LAW DEPARTMENT~~  
27           ~~AND THE DEPARTMENT OF HUMAN RESOURCES, MUST CONDUCT TRAININGS REGARDING THIS~~  
28           ~~SUBTITLE TO INFORM EMPLOYEES AND SUPERVISORS OF THEIR RIGHTS AND RESPONSIBILITIES.~~

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1 ~~§ 8-25. ADMINISTRATIVE MANUAL.~~

2 ~~THE OFFICE OF THE INSPECTOR GENERAL MUST CREATE AN ADMINISTRATIVE MANUAL THAT~~  
3 ~~OUTLINES PROCEDURES AND OTHER INFORMATION RELATIVE TO THE HANDLING OF~~  
4 ~~COMPLAINTS UNDER THIS SUBTITLE.~~

5 **§ 8-1. DEFINITIONS.**

6 (A) IN GENERAL.

7 IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) AFFILIATED ENTITY.

9 “AFFILIATED ENTITY” REFERS TO THE FOLLOWING ENTITIES:

10 (1) BALTIMORE CITY PARKING AUTHORITY;

11 (2) BALTIMORE DEVELOPMENT CORPORATION; AND

12 (3) SOUTH BALTIMORE GATEWAY COMMUNITY IMPACT DISTRICT MANAGEMENT  
13 AUTHORITY.

14 (C) AGENCY.

15 “AGENCY” MEANS ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,  
16 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT OR OF ANY AFFILIATED  
17 ENTITY.

18 (D) COVERED DISCLOSURE.

19 (1) IN GENERAL.

20 “COVERED DISCLOSURE” MEANS A DISCLOSURE:

21 (I) MADE BY AN EMPLOYEE;

22 (II) CONCERNING ACTIONS ARISING WITHIN THE BALTIMORE CITY GOVERNMENT;

23 (III) INITIALLY MADE TO ONE OR ANOTHER OF AN EMPLOYEE’S SUPERVISORS OR TO  
24 THE INSPECTOR GENERAL; AND

25 (IV) THAT THE EMPLOYEE REASONABLY BELIEVES TO BE EVIDENCE OF:

26 (A) FRAUD;

27 (B) GROSS MISUSE OR WASTE OF PUBLIC RESOURCES;

28 (C) A VIOLATION OF LAW; OR

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1 (D) A SUBSTANTIAL AND SPECIFIC THREAT TO HEALTH, SAFETY, OR  
2 SECURITY.

3 (2) INCLUSIONS.

4 “COVERED DISCLOSURE” INCLUDES A DISCLOSURE MADE DURING PARTICIPATION IN AN  
5 INVESTIGATION BY THE OFFICE OF THE INSPECTOR GENERAL.

6 (3) EXCLUSIONS.

7 “COVERED DISCLOSURE” DOES NOT INCLUDE A DISCLOSURE THAT IS PROHIBITED BY  
8 LAW.

9 (E) EMPLOYEE.

10 “EMPLOYEE” MEANS AN EMPLOYEE OF A CITY AGENCY, WHETHER EMPLOYED FULL-TIME,  
11 PART-TIME, SEASONAL, CONTRACTUAL, OR OTHERWISE, INCLUDING ANY MEMBER OF A  
12 CITY BOARD OR COMMISSION, REGARDLESS OF WHETHER THE MEMBER IS COMPENSATED.

13 (F) PERSONNEL ACTION.

14 “PERSONNEL ACTION” MEANS AN ACT OR OMISSION BY A SUPERVISOR THAT HAS A  
15 SIGNIFICANT ADVERSE IMPACT ON AN EMPLOYEE, INCLUDING DISMISSAL, DEMOTION,  
16 SUSPENSION, PUNITIVE TRANSFER OR ASSIGNMENT, DISCIPLINARY ACTION, NEGATIVE  
17 PERFORMANCE EVALUATION, FAILURE TO APPOINT, FAILURE TO PROMOTE, FAILURE TO  
18 TRANSFER, OR FAILURE TO ASSIGN.

19 (G) SUPERVISOR.

20 “SUPERVISOR” MEANS ANY INDIVIDUAL WHO DIRECTLY OR INDIRECTLY OVERSEES THE  
21 WORK OF AN EMPLOYEE WHO FILES A COMPLAINT PURSUANT TO THIS SUBTITLE.

22 (H) WHISTLEBLOWER.

23 “WHISTLEBLOWER” MEANS AN EMPLOYEE WHO MAKES A COVERED DISCLOSURE.

24 **§ 8-2. {RESERVED}**

25 **§ 8-3. WHISTLEBLOWER PROTECTION AGAINST RETALIATORY PERSONNEL ACTION.**

26 (A) IN GENERAL.

27 UNLESS A DISCLOSURE IS SPECIFICALLY PROHIBITED BY LAW, A SUPERVISOR MAY NOT  
28 TAKE RETALIATORY PERSONNEL ACTION AGAINST A WHISTLEBLOWER FOR MAKING A  
29 COVERED DISCLOSURE.

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1        (B) EXCEPTIONS.

2                THIS SECTION DOES NOT PROHIBIT A SUPERVISOR FROM TAKING ANY PERSONNEL ACTION  
3                AGAINST A WHISTLEBLOWER IF THE SUPERVISOR WOULD HAVE TAKEN THE PERSONNEL  
4                ACTION REGARDLESS OF WHETHER THE EMPLOYEE MADE THE COVERED DISCLOSURE.

5        **§ 8-4. {RESERVED}**

6        **§ 8-5. SCOPE OF COMPLAINT PROCEDURES.**

7                (A) IN GENERAL.

8                THIS COMPLAINT PROCEDURES PROVISIONS IN § 8-6 ET SEQ. OF THIS SUBTITLE DO NOT  
9                APPLY TO ANY NON-PROBATIONARY MEMBER OF THE CIVIL SERVICE WHO HAS BEEN  
10               DISCHARGED FROM THE CIVIL SERVICE, REDUCED IN PAY OR POSITION, OR SUSPENDED FOR  
11               LONGER THAN 30 DAYS.

12               (B) JURISDICTION OF CIVIL SERVICE COMMISSION.

13               (1) THE CIVIL SERVICE COMMISSION HAS JURISDICTION OVER PERSONNEL ACTIONS  
14               DESCRIBED IN SUBSECTION (A) OF THIS SECTION, AS PROVIDED IN CITY CHARTER  
15               ARTICLE VII §§ 94 THROUGH 104.

16               (2) ON THE CIVIL SERVICE COMMISSION’S REQUEST, THE OFFICE OF THE INSPECTOR  
17               GENERAL MAY INVESTIGATE ALLEGATIONS MADE TO THE CIVIL SERVICE COMMISSION  
18               REGARDING RETALIATORY PERSONNEL ACTIONS AND PROVIDE THE OFFICE’S FINDINGS  
19               TO THE COMMISSION AT OR BEFORE A COMMISSION HEARING TO THE EXTENT  
20               PERMITTED BY ARTICLE X OF THE CHARTER OF BALTIMORE CITY. THE INSPECTOR  
21               GENERAL’S FINDINGS SHALL STATE WHETHER THE INSPECTOR GENERAL BELIEVES THE  
22               PERSONNEL ACTIONS WERE IN VIOLATION OF § 8-3 OF THIS SUBTITLE.

23               (C) CIVIL SERVICE COMMISSION FINDINGS.

24               (1) DURING A CIVIL SERVICE COMMISSION HEARING, THE COMMISSION MAY FIND THAT  
25               THE PERSONNEL ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION VIOLATES §  
26               8-3 OF THIS SUBTITLE.

27               (2) IF THE COMMISSION FINDS THAT THE PERSONNEL ACTION DESCRIBED IN SUBSECTION  
28               (A) OF THIS SECTION VIOLATES § 8-3 OF THIS SUBTITLE, THIS FINDING MAY BE  
29               CONSIDERED BY THE COMMISSION IN DISPOSING OF THE MATTER BEFORE IT.

30        **§ 8-6. COMPLAINT PROCESS.**

31               (A) FILING COMPLAINT WITH SUPERVISOR.

32               (1) A WHISTLEBLOWER WHO BELIEVES HE OR SHE HAS BEEN RETALIATED AGAINST FOR  
33               MAKING A COVERED DISCLOSURE SHALL FILE A WRITTEN COMPLAINT WITH HIS OR HER  
34               SUPERVISOR.

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1           (2) THE COMPLAINT MUST BE FILED WITHIN 30 DAYS FROM WHEN THE WHISTLEBLOWER  
2           KNEW OR REASONABLY SHOULD HAVE KNOWN ABOUT THE VIOLATION.

3           (B) SUPERVISOR RESPONSIBILITIES.

4           (1) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A COMPLAINT UNDER THIS SECTION, THE  
5           SUPERVISOR WHO RECEIVED THE COMPLAINT MUST GIVE THE WHISTLEBLOWER  
6           WRITTEN NOTICE OF THE COMPLAINT'S RECEIPT.

7           (2) WITHIN 10 BUSINESS DAYS AFTER RECEIVING A COMPLAINT UNDER THIS SECTION, THE  
8           SUPERVISOR WHO RECEIVED THE COMPLAINT MUST NOTIFY THE AGENCY HEAD OR THE  
9           APPROPRIATE APPOINTING AUTHORITY TO THE COMPLAINT.

10          (3) WITHIN 60 DAYS AFTER THE SUPERVISOR RECEIVED THE COMPLAINT, THE SUPERVISOR  
11          MUST CONDUCT AN INVESTIGATION AND PROVIDE THE WHISTLEBLOWER WITH  
12          WRITTEN FINDINGS, AS WELL AS THE AGENCY HEAD OR THE APPROPRIATE APPOINTING  
13          AUTHORITY.

14          (C) FILING INITIAL COMPLAINT WITH INSPECTOR GENERAL.

15          (1) A WHISTLEBLOWER NEED NOT FILE THE INITIAL COMPLAINT WITH A SUPERVISOR AND,  
16          INSTEAD, MAY FILE THE COMPLAINT DIRECTLY WITH THE OFFICE OF THE INSPECTOR  
17          GENERAL, IF THE WHISTLEBLOWER REASONABLY BELIEVES THAT:

18                  (I) ALL OF THE WHISTLEBLOWER'S SUPERVISORS ARE IMPLICATED BY THE COVERED  
19                  DISCLOSURE; OR

20                  (II) ALL OF THE WHISTLEBLOWER'S SUPERVISORS TOOK PART IN OR WERE  
21                  OTHERWISE COMPLICIT IN THE RETALIATORY PERSONNEL ACTION TAKEN  
22                  AGAINST THE WHISTLEBLOWER.

23          (2) A COMPLAINT FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1) OF THIS  
24          SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM WHEN THE WHISTLEBLOWER KNEW  
25          OR SHOULD REASONABLY HAVE KNOWN ABOUT THE RETALIATORY PERSONNEL  
26          ACTION.

27          (D) FILING WITH INSPECTOR GENERAL AS APPEAL FROM SUPERVISOR.

28          (1) IF THE WHISTLEBLOWER INITIALLY FILED A COMPLAINT WITH A SUPERVISOR, THE  
29          WHISTLEBLOWER MAY APPEAL TO THE INSPECTOR GENERAL IF:

30                  (I) THE SUPERVISOR WHO RECEIVED THE COMPLAINT FAILED TO PROVIDE THE  
31                  WHISTLEBLOWER WITH WRITTEN FINDINGS OF THE SUPERVISOR'S  
32                  INVESTIGATION; OR

33                  (II) THE WHISTLEBLOWER DOES NOT AGREE WITH THE SUPERVISOR'S WRITTEN  
34                  FINDINGS.

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1 (2) AN APPEAL FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(I) OF THIS  
2 SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM THE DATE BY WHICH THE  
3 SUPERVISOR HAD TO RESPOND TO THE WHISTLEBLOWER.

4 (3) AN APPEAL FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(II) OF THIS  
5 SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM WHEN THE SUPERVISOR PRESENTED  
6 THE WHISTLEBLOWER WITH THE WRITTEN FINDINGS OF THE SUPERVISOR'S  
7 INVESTIGATION.

8 (E) CONFIDENTIALITY.

9 THE IDENTITY OF THE WHISTLEBLOWER MUST BE KEPT CONFIDENTIAL TO THE EXTENT  
10 PERMITTED BY LAW.

11 **§ 8-7. COMPLAINT INVESTIGATION BY INSPECTOR GENERAL.**

12 (A) NOTICE OF RECEIPT OF COMPLAINT.

13 WITHIN 5 BUSINESS DAYS AFTER RECEIVING A WRITTEN COMPLAINT OR APPEAL UNDER §  
14 8-6(C) OR (D) OF THIS SUBTITLE, THE OFFICE OF THE INSPECTOR GENERAL MUST GIVE THE  
15 WHISTLEBLOWER WRITTEN NOTICE OF THE COMPLAINT'S OR APPEAL'S RECEIPT.

16 (B) COMPLETING INVESTIGATION.

17 THE OFFICE OF THE INSPECTOR GENERAL MUST CONDUCT AN INVESTIGATION AND, WITHIN  
18 150 DAYS AFTER THE OFFICE RECEIVED THE COMPLAINT OR APPEAL, PRESENT ITS WRITTEN  
19 FINDINGS TO THE HEAD OF THE AGENCY FOR WHICH THE WHISTLEBLOWER WORKS OR THE  
20 APPROPRIATE APPOINTING AUTHORITY AND THE WHISTLEBLOWER INVOLVED IN THE  
21 COMPLAINT OR APPEAL.

22 **§ 8-8. {RESERVED}**

23 **§ 8-9. RULES AND REGULATIONS.**

24 (A) IN GENERAL.

25 THE INSPECTOR GENERAL MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THIS  
26 SUBTITLE.

27 (B) FILING WITH LEGISLATIVE REFERENCE.

28 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF  
29 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

30 (C) POSTED TO INSPECTOR GENERAL'S WEBSITE.

31 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE  
32 POSTED ON THE OFFICE OF THE INSPECTOR GENERAL'S WEBSITE.

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1 **§ 8-10. JUDICIAL AND APPELLATE REVIEW.**

2 (A) JUDICIAL REVIEW.

3 ANY PERSON AGGRIEVED BY A FINAL ACTION UNDER THIS SUBTITLE MAY SEEK JUDICIAL  
4 REVIEW OF THAT ACTION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN  
5 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

6 (B) APPELLATE REVIEW.

7 ANY PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE  
8 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF  
9 PROCEDURE.

10 **§ 8-11. OTHER REMEDIES NOT AFFECTED.**

11 NOTHING IN THIS SUBTITLE AFFECTS:

12 (1) ANY ACTION FOR DEFAMATION OR INVASION OF PRIVACY;

13 (2) EMPLOYEE PROTECTIONS OR EMPLOYEE GRIEVANCE PROCEDURES PROVIDED BY LAW  
14 OR CONTRACT; OR

15 (3) ANY OTHER REMEDY PROVIDED BY LAW.

16 **§ 8-12. TRAINING.**

17 THE DEPARTMENT OF HUMAN RESOURCES, WITH THE ASSISTANCE OF THE OFFICE OF THE  
18 INSPECTOR GENERAL AND THE LAW DEPARTMENT, MUST CONDUCT TRAININGS REGARDING  
19 THIS SUBTITLE TO INFORM EMPLOYEES AND SUPERVISORS OF THEIR RIGHTS AND  
20 RESPONSIBILITIES.

21 **§ 8-13. ADMINISTRATIVE MANUAL.**

22 THE OFFICE OF THE INSPECTOR GENERAL MUST CREATE AN ADMINISTRATIVE MANUAL THAT  
23 OUTLINES PROCEDURES AND OTHER INFORMATION RELATIVE TO THE HANDLING OF  
24 COMPLAINTS UNDER THIS SUBTITLE.

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

28 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 60th  
29 day 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 His Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City