



Legislation Details (With Text)

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Type: Ordinance **Status:** Enacted
File created: 2/28/2011 **In control:** City Council
On agenda: **Final action:** 11/17/2011
Enactment date: **Enactment #:** 11-520
Title: Corrective Bill 2011 - General

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

Sponsors: President Young, William "Pete" Welch, Rochelle Spector, Edward Reisinger

Indexes: Corrective Bill, General

Code sections:

Attachments: 1. 11-0657 - 1st Reader.pdf, 2. Law - 11-0657.pdf, 3. Planning - 11-0657.pdf, 4. Fire - 11-0657.pdf, 5. Health - 11-0657.pdf, 6. Employees Retirement System - 11-0657.pdf, 7. General Services - 11-0657.pdf, 8. Ethics - 11-0657.pdf, 9. Legislative Reference - 11-0657.pdf, 10. BMZA - 11-0657.pdf, 11. HCD - 11-0657.pdf, 12. 11-0657 - 3rd Reader.pdf

Date	Ver.	Action By	Action	Result
11/18/2011	0	Mayor	Signed by Mayor	
11/14/2011	0	City Council	Approved and Sent to the Mayor	
10/24/2011	0	Judiciary and Legislative Investigations	Recommended Favorably with Amendment	
10/24/2011	0	City Council	Advanced to 3rd Rdr., Adopted Comm. Report	
8/15/2011	0	Judiciary and Legislative Investigations	Scheduled for a Public Hearing	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
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3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Referred for a Report	
3/3/2011	0	The City Council	Introduced	
3/3/2011	0	The City Council	Referred for a Report	
2/28/2011	0	City Council	Assigned	
2/28/2011	0	City Council	Introduced	

EXPLANATION: CAPITALS indicate matter added to existing law.

[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: Department of Legislative Reference

A BILL ENTITLED

AN ORDINANCE concerning
Corrective Bill 2011 - General

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

BY repealing and reordining, with amendments

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

BY adding

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

BY repealing and reordaining, with amendments

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

BY repealing and reordaining, with amendments

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

BY repealing and reordaining, with amendments

Article 8 - Ethics
Section(s) 3-4(a)(1), 5-7(c)
Baltimore City Code

(Edition 2000)

BY adding

Article 8 - Ethics
Section(s) 7-8(15)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 15 - Licensing and Regulation
Section(s) 1-3
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 22 - Retirement Systems
Section(s) 6(a)(intro), (a)(15)(iii), (c)(6)(Option 2), (d)(3)(Option 2),
(i)(3)(ii), and (o2)(3)(ii), 7(a)(2nd par), 34(i)(4)(A)(iii), 35(a)(2nd par), 36A(b)(2nd par.),
36B(a)(ii) and (k)(3)(intro), and 36C(r)(2)(F)
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 Revised Code

Article - Building, Fire, and Related Codes

Part II. International Building Code

§ 2-103. City modifications.

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

Chapter 18. Soils and Foundations

1810 DEEP FOUNDATIONS {AS IN IBC}

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

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

§ 2106. 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.

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 § 2A4(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

§ 10707. 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

§ 211. 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.

§ 10405. Schedule of required spaces.

Offstreet parking spaces must be provided as follows:

(11) Health care services.

(i) Health care clinics

[M1B,] M2B, B4I]

B42, B51, B52

No requirement

[M12,] M22, B22, B23,
B24, B32, B33

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.

(II) DEPUTY DIRECTOR OF GENERAL SERVICES.

(III) ALL BUREAU HEADS, DIVISION CHIEFS, AND ASSISTANT DIVISION CHIEFS.

(IV) ALL GENERAL SUPERINTENDENTS.

(V) ALL INSPECTORS.

COMMENT: The General Services Department was created by Charter Amendment, without conforming statutory

changes. An amendment to this section is needed to identify the new agency's officials and employees who are required to file financial disclosure statements. Inasmuch as many of the new agency's functions derive from those previously assigned to the Public Works Department, this listing is patterned after the listing for Public Works, as well as the listing for the Transportation Department (also a recent off-shoot of Public Works).

Article 15. Licensing and Regulation

Subtitle 1. Adult-Entertainment Businesses

§ 13. Rules, regulations, and forms.

(a) Board to adopt.

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

(b) Advertising for hearing and comment.

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

(2) The advertisement:

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

(ii) must include:

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

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

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

(c) Adoption; filing.

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

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

....

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

(3) Optional retirement allowances.

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

....

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

....

(i) Line of duty death benefit.

(3) Death without beneficiaries or estate.

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

....

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

....

(o2) Line of duty death benefit.

(3) Death without beneficiaries or estate.

The amounts that would have been paid under this subsection (o2), excluding membership contribution accounts, with interest, forever remain assets of the System if:

....

(ii) that member has no heirs, as enumerated in PARAGRAPHS 2(i)(A) and 2(i)(B) of this subsection (o2); and

....

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".

§ 36A. Postretirement benefit increases to certain retirees and beneficiaries.

(b) Amount of benefit increase.

....

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

....

COMMENT: Inserts inadvertently omitted word.

§ 36B. Deferred Retirement Option Plan.

(a) Eligibility.

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

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.

(k) Lineof duty death benefit.

(3) Special election rule.

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

....

COMMENT: Corrects erroneous cross-reference.

§ 36C. Deferred Retirement Option Plan 2.

(r) DROP 2 experience reports and savings tests.

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

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

(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.

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