

ENVIRONMENTAL CONTROL BOARD
DIGEST OF LAWS, RULES, AND REGULATIONS

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PART 1
LAWS GOVERNING BOARD

ARTICLE 1
MAYOR, CITY COUNCIL, AND MUNICIPAL AGENCIES

SUBTITLE 40
ENVIRONMENTAL CONTROL BOARD

§ 40-1. Definitions.

(a) *In general.*

In this subtitle, the following words have the meanings indicated.

(b) *Board.*

“Board” means the Environmental Control Board of Baltimore City.

(c) *Code Enforcement Officer.*

“Code Enforcement Officer” means a City employee who:

- (1) is in a position of trust, as defined by the Administrative Manual AM-237-1; and
- (2) has been authorized by his or her agency head to issue environmental citations under this subtitle.

(d) *Director.*

“Director” means the Executive Director of the Environmental Control Board of Baltimore City.

(e) *Environmental citation.*

“Environmental citation” means a prepayable citation for violation of any provision of law or regulation under the jurisdiction of the Board.

(f) *Person.*

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, governmental agency, or other entity of any kind; and

(2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.
(*City Code, 1976/83, art. 1, §295.*)
(*Ord. 98-326; Ord. 12-084.*)

§ 40-2. Board established.

(a) *In general.*

The Environmental Control Board of Baltimore City is established as an independent agency of City Government.

(b) *Composition.*

(1) The Board comprises 13 members.

(2) 6 are the following ex officio members, or their respective designees:

- (i) the Commissioner of Health;
- (ii) the Commissioner of Housing and Community Development;
- (iii) the Police Commissioner;
- (iv) the Fire Chief;
- (v) the Director of Public Works; and
- (vi) a member of the City Council, to be appointed by the President of the City Council.

(3) 7 members are appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.

(c) *Qualifications of appointed members.*

Of the members appointed under subsection (b)(3) of this section:

- (1) 2 members must be appointed from the general public; and
- (2) 5 members must be appointed with at least 1 designated as having expertise in each of the following areas:
 - (i) real estate;

- (ii) small business;
- (iii) air or noise pollution;
- (iv) water pollution;
- (v) solid waste.

(d) *Chair.*

The Chair of the Board is appointed by the Mayor from among the members.

(e) *Compensation.*

The members appointed under subsection (b)(3) of this section:

(1) are not entitled to compensation; but

(2) are entitled to reimbursement for expenses incurred as provided in the Ordinance of Estimates.

(City Code, 1976/83, art. 1, §296.)
(Ord. 98-326.)

§ 40-3. General Board functions.

(a) *Hearings.*

The Board is responsible to provide for hearing officers or panels of Board members to conduct hearings on contested environmental citations.

(b) *Appeals.*

The Board is responsible to provide for an opportunity to appeal to the Board or to a panel of the Board from the decision of a hearing officer.

(c) *Collections.*

With the assistance of its Executive Director and staff, the Board is responsible for:

(1) all actions necessary or appropriate to collect fines imposed under this subtitle;
 and

(2) all bookkeeping, accounting, and revenue reconciliations.

(City Code, 1976/83, art. 1, §297.)
(Ord. 98-326.)

§ 40-4. Executive Director; Staff.

(a) *Director.*

- (1) The Executive Director of the Board is appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.
- (2) The Executive Director is entitled to the compensation provided in the Ordinance of Estimates.

(b) *Staff.*

The Executive Director may appoint the assistants, hearing officers, and other employees needed to properly perform the work of the Board, as provided in the Ordinance of Estimates.

(*City Code, 1976/83, art. 1, §298.*)
(*Ord. 98-326.*)

§ 40-5. General jurisdiction of Board.

The Board has full authority to enforce, in accordance with the provisions of this subtitle, the sanitation, environmental, health, safety, and other quality-of-life provisions of law listed in § 40-14 of this subtitle, including any rules and regulations adopted under them.

(*City Code, 1976/83, art. 1, §299.*)
(*Ord. 98-326.*)

§ 40-6. Rulemaking authority.

(a) *In general.*

The Board must adopt and, from time to time, may amend rules and regulations necessary or appropriate to carry out its powers and duties under this subtitle.

(b) *Matters included.*

These rules and regulations must include:

- (1) procedures for the issuance and enforcement of environmental citations for violations of the laws, rules, and regulations subject to the Board's jurisdiction;
- (2) procedures for the adjudication of these violations, including the conduct of hearings and appeals by hearing officers, panels of the Board, or the full Board;
and

- (3) procedures for enforcement of any abatement order that is contained in a citation or made part of an order or decision of a hearing officer, panel of the Board, or the full Board.

(City Code, 1976/83, art. 1, §300.)

(Ord. 98-326.)

§ 40-7. Environmental Citations.

- (a) *Board to prescribe.*

The Board must prescribe the form and wording of environmental citations.

- (b) *Required contents.*

In addition to any other matters that the Board prescribes, an environmental citation must include:

- (1) the name, if known, of the person cited;
- (2) the violation with which the person is cited, including a reference to the specific law in question;
- (3) the manner and time in which the person must either:
 - (i) pay the prepayable fine prescribed for the violation; or
 - (ii) request a hearing on the violation;
- (4) the time within which the violation, if ongoing, must be abated; and
- (5) a notice that failure to act in the manner and time stated in the citation may result in a default decision and order entered against the person.

- (c) *Service of citations.*

An environmental citation must be:

- (1) issued by a Sanitary Enforcement Officer or other City employee who has been authorized to act as a Special Enforcement Officer under Article 19, § 71-1 of the City Code, by a Code Enforcement Officer, or by a Baltimore City Police Officer; and
- (2) served on the person cited by 1 of the following methods:

- (i) in person;
- (ii) certified mail, return receipt requested;
- (iii) delivery to a person of suitable age and discretion who resides at the cited person's last known address; or
- (iv) for service on an occupant of the premises at which the violation occurred:
 - (A) posting on the main entrance of the premises; and
 - (B) mailing by regular mail to the person cited, at that person's last known address.

(d) *Tenor of citation.*

When issued and served, the citation or a copy of it:

- (1) constitutes full and complete notice of the violation cited in it;
- (2) if abatement is ordered, constitutes a full and complete notice of the order of abatement; and
- (3) if sworn to or affirmed, is prima facie evidence of the facts contained in it.

(e) *Single document permissible.*

A single document may be used to issue two or more separately numbered citations.

(f) *Electronic signature.*

An electronic signature may be used to execute a citation and to serve as an affirmation, under penalties of perjury, that the facts stated in the citation are true.

(g) *Record of citation to be kept.*

The original or a copy of the citation must be filed and retained in the records of the Board.

(City Code, 1976/83, art. 1, §301.)
(Ord. 98-326; Ord. 02-362; Ord. 07-425; Ord. 12-084.)

§ 40-8. Default by person cited.*(a) Failure to respond constitutes admission of liability.*

Any person cited under an environmental citation is conclusively considered to have admitted liability for the violation cited and responsibility for abating the violation if, within the time allowed by the rules of the Board, the person:

- (1) neither pays the prescribed prepayable fine nor requests a hearing on the violation; or
- (2) having requested a hearing, fails to appear on a designated hearing date.

(b) Board order; default penalty.

Under either of the circumstances described in subsection (a) of this section, the Board may:

- (1) render a default decision and order against the person cited; and
- (2) impose a civil penalty that, based on relevant standards to be set by Board regulation (e.g., nature and severity of underlying violation, history of past violations, mitigating or aggravating circumstances), is:
 - (i) no less than the amount of the prepayable fine specified for the violation in question; and
 - (ii) no more than the lesser of:
 - (A) \$1,000; or
 - (B) 3 times the prepayable fine specified for the violation in question.

(c) Notice of default order.

Before an order based on a default becomes final, the Board must notify the respondent, by first-class mail, of:

- (1) the default decision and order;
- (2) the amount of all penalties imposed; and

- (3) the right of the respondent, within 30 days of the notice, to avoid a final judgment and collection proceedings by requesting a stay of default for good cause shown and a hearing on the request.

(City Code, 1976/83, art. 1, §302.)

(Ord. 98-326.)

§ 40-9. Administrative adjudications.

(a) *In general.*

The Board, acting by or through its hearing officers, panels of the Board, and other authorized agents:

- (1) must conduct hearings and other proceedings for adjudicating violations of the laws, rules, and regulations enforced by it; and
- (2) has full authority to render decisions and orders, as well as impose the civil penalties provided by law for those violations.

(b) *Unappealed decision of hearing officer or panel.*

Unless otherwise specified by the Board, every decision of a hearing officer or panel of the Board from which no timely appeal is taken to the Board constitutes a final decision of the Board.

(City Code, 1976/83, art. 1, §303.)

(Ord. 98-326.)

§ 40-10. Judicial and appellate review.

(a) *Judicial review.*

Any person who, after having exhausted all administrative remedies available, is aggrieved by a final decision of the Board may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Appellate review.*

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

(City Code, 1976/83, art. 1, §304.)

(Ord. 98-326; Ord. 04-672.)

§ 40-11. Enforcement of Board orders.(a) *Penalty as debt and lien.*

Any civil penalty imposed on a person by the Board, whether on hearing, on default, or otherwise:

- (1) is a personal debt owed by that person to the City; and
- (2) if the offense involves real property owned by that person, creates a lien on that property in favor of the City.

(b) *Collection of penalties and liens.*

All penalties and liens incurred under this subtitle:

- (1) are collectible from and enforceable against any of the assets of the person who incurred the penalty; and
- (2) may be collected and enforced in the same way that the City collects and enforces other debts due to it or liens in its favor.

(c) *Priority over other liens and encumbrances.*

All penalties and liens incurred under this subtitle have priority over all other liens and encumbrances, except taxes or other government assessments.

(City Code, 1976/83, art. 1, §305.)

(Ord. 98-326.)

§ 40-12. Judicial assistance in enforcement.

The Board may apply to a court of competent jurisdiction for enforcement of any decision, order, or subpoena issued by the Board.

(City Code, 1976/83, art. 1, §306.)

(Ord. 98-326.)

§ 40-13. Subtitle not exclusive.

The issuance of an environmental citation does not preclude pursuit of any other remedy or enforcement action authorized by law.

(City Code, 1976/83, art. 1, §307.)

(Ord. 98-326.)

§ 40-14. Violations to which subtitle applies.

{NOTE: For the full text of the statutory offenses listed in subsection (e) of this section, go to <http://archive.baltimorecity.gov/Government/CityCharterCodes.aspx>, and consult the corresponding code article and section(s).}

(a) *In general.*

The jurisdiction and authority of the Board extends to each of the provisions of the Baltimore City Code that are specified in subsection (e) of this section, as those provisions may be amended from time to time, including any rules and regulations adopted under them from time to time.

(b) *Prepayable fines.*

(1) The basic prepayable civil fine for violation of a provision is as specified next to the listing of that provision in subsection (e) of this section.

(2) The basic prepayable fine is doubled, however, on any environmental citation that is issued to a person if, within the past 12 months:

(i) a final order of the Board, whether issued on hearing, on default, or otherwise, imposed a penalty on that person for a violation of the same provision; or

(ii) that person prepaid an environmental citation for a violation of the same provision.

(c) *Continuing violations.*

(1) If a provision of law provides that the continuation or recurrence of a violation constitutes a separate offense, a separate environmental citation may be issued for each separate offense.

(2) The payment of a penalty under this subtitle does not relieve the offender of the duty to fully abate and correct any continuing violation or other unlawful act.

(d) *Prior notice not required.*

Notwithstanding any other provision of the City Code to the contrary, notice need not be given before issuance and enforcement of an environmental citation for any of the provisions listed in subsection (e) of this section.

(e) *Provisions and penalties enumerated.***(.5) Article 2. Consumer Protections**

Subtitle 16. Ticket Sales	\$750
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(.5a) Article 7. Natural Resources

Division I. Floodplain Management	\$500
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(1) Article 13. Housing and Urban Renewal

Subtitle 4. Registration of Non-Owner-Occupied Dwellings, Rooming Houses, and Vacant Structures	
Non-owner-occupied dwellings	\$100
Rooming houses	\$100
Vacant Structures	\$500

Subtitle 5. Licensing of Multiple-Family Dwellings and Rooming Houses	\$500
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(2) Article 15. Licensing and Regulation

Subtitle 12. Parking Facilities – Generally	\$750
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Subtitle 13. Parking Facilities – Special-Event Parking Lots	\$750
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Subtitle 16. Plastic Bag Reduction	
1 st offense	\$250
2 nd offense in same 6-month period	\$500
3 rd or subsequent offense in same 6-month period	\$1,000

Subtitle 17. Street Vendors	\$500
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(3) Article 19. Police Ordinances

§ 1-2. Placement <i>{of advertising circulars}</i> without permission	
1 st offense	\$ 50
2 nd offense	\$100
3 rd or subsequent offense	\$500

§ 7-2. Vehicle alarms: Prohibited devices	\$100
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Subtitle 8. Burglar Alarms - Registration and Regulation

§ 8-8. False alarm fees.	
Failure to pay-	
Residential users	\$100
Non-residential users	\$500
All other provisions.	
Users	\$100
Contractors, Monitors, Others	\$500
§ 14-2. Drinking or possessing open containers in public places – In general	\$250
§ 14-3. Drinking or possessing open containers in public places – Parents or guardians of minors	\$150
§ 32-3. Sales to minors [in proximity to liquor stores]	\$500
§ 32-4. Inducing minor to purchase	\$500
§ 32-5. False representation by minor	
1 st offense	\$ 50
2 nd or subsequent offense	\$150
§ 41-2. Outdoor telephones: Prohibited placement	\$500
§ 45-2. Signs on or affecting public property: Posting prohibited	\$500
Subtitle 46. Signs – Campaign Signs in Residential Areas	\$100
§ 50-2. Obstructing street, etc., or gutter	\$ 50
§ 50-3. Merchandise projecting from building	\$ 50
§ 51-2. Compliance with park rules	
1 st offense	\$250
2 nd offense	\$500
3 rd or subsequent offense	\$1,000

(4) **Article 23. Sanitation**

§ 2-1. Mixed refuse: Receptacles	
Residential properties	\$ 50
Commercial properties	\$100

§ 2-2. Mixed refuse: Handling	
Residential properties	\$ 50
Commercial properties	\$100
§ 4-1 or § 4-2. Receptacles on collection days	
Residential properties	\$ 50
Commercial properties	\$100

(4a) **Article 24. Water**§ 21-1. Rules and regulations *{to protect water supply & facilities}*

Watershed Regulations

Polluting or depositing trash, etc., in reservoir waters or tributaries	\$500
Trespassing or otherwise entering or traversing property in violation of rule or regulation	\$150
Boating without a required permit or otherwise in violation of rule or regulation	\$100
Hunting without a required permit or otherwise in violation of rule or regulation	\$100
Fishing without a required permit or otherwise in violation of rule or regulation	\$ 60
Other recreational activity (horseback riding, bicycling, picnicking, etc.) in violation of rule or regulation	\$ 60
Smoking except where expressly allowed	\$ 75
All other violations	\$100
All other rules and regulations of Department to protect water supply and facilities	\$250
§ 21-2. Suspension, etc., of certain uses	\$100
§ 21-3. Injuring fire hydrants	\$250
§ 21-4. Wrongful use after cut-off	\$150

§ 21-5. Refusal of entry	\$100
§ 21-6. Interference with equipment; illegal use of water	\$500
(4b) Article 26. Surveys, Streets, and Highways	
Subtitle 6. Building Address Numbers	\$ 25
(5) Article 31. Transit and Traffic	
§ 14-43. [Valet parking: Violation that is cause for] suspension or revocation [of license or permit] – Enforcement by citation	
First offense	\$500
Subsequent offense	\$1,000
§ 16-12. Vehicles on sidewalks	\$ 50
(5a) Building, Fire, and Related Codes – Building Code	
§ 105.14. Work without permit	\$500
§ 115.3. Stop-work order: Unlawful continuance	\$500
§ 123.8. Failure to comply with notice	
Unsafe structures {§ 116}	\$900
Condemnation proceedings {§ 120}	\$500
All other notices (excluding citations)	\$250
§ 3302.2. Construction Safeguards: Waste and debris	\$250
§ 3808. Traffic-Mitigation Enforcement	\$1,000
(6) Building, Fire, and Related Codes – Fire Code	
§ 107.5. Maintenance: Overcrowding	
1-99 persons over capacity	\$250
100-199 persons over capacity	\$500
200 or more persons over capacity	\$1,000
§ 110.1. Unsafe buildings: General	\$250
§ 1001.2. Means of Egress: Minimum requirements	\$250

(6a) ***Building, Fire, and Related Codes –
Property Maintenance Code***

Chapter 3. General Requirements

§ 305.5.1. Motor vehicles and trailers: Registered owner responsible	\$150
All other provisions	
Residential properties	\$ 50
Commercial properties	\$100

(7) ***Health Code***

Title 3: Health Facilities

Subtitle 5: Limited-Service Pregnancy Centers	\$150
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Title 4: Disease Control

 Subtitle 6: Screening for Lead Poisoning

§ 4-601. Parental Responsibility	\$100
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Title 5: Nuisance Control

 Subtitle 2: Nuisance Abatement

§ 5-210. Abatement notice	\$100
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Subtitle 4: Lead-Based Paint	\$100
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 Subtitle 5: Bodily Wastes

§ 5-501. Spitting	\$100
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§ 5-503. Urinating, etc. - In general	\$500
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§ 5-504. Urinating, etc. - Parents	\$150
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Subtitle 7: Weeds	\$ 50
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Title 6: Food Service Facilities	
Subtitle 2: License Required	
§ 6-201. In general	\$300
Subtitle 5: Miscellaneous Regulations	
§ 6-506. Litter and rubbish prohibited	\$200
All other provisions	\$100
Title 7: Waste Control	
Subtitle 2: Solid Waste Collection	\$100
Subtitle 4: Landfills	\$200
Subtitle 6: Prohibited Disposal	
Less than 25 lbs & less than 10 cu. ft. in 24-hour period	\$500
25 lbs or more or 10 cu. ft. or more in 24-hour period	\$1,000
Subtitle 7: Littering	\$500
Title 8: Air Pollution	\$100
Title 9: Noise Regulation	
Subtitle 2: Basic Sound Level Standards	\$100
Subtitle 3: Entertainment and Commercial Noise	\$ 50
Subtitle 4: Amplified Sounds in Market Center	\$ 50
Title 10: Animal Control and Protection	
Subtitle 1: General Provisions	
§ 10-112. Obstructing, etc., officer; False Statements	\$500
Subtitle 2: Licensing	
Part I. Dog and Cat Licenses	\$100

Part II. Facility Licenses	
Animal fanciers	\$100
All other facilities	\$250
Subtitle 3: General Care and Control	
§ 10-301. Rabies – Vaccinations	\$250
§ 10-302. Rabies – Possible exposure	\$250
§ 10-303. Humane care required	\$500
§ 10-307. Restraints required	
1 st offense	\$200
2 nd offense within 12 months of 1 st	\$400
3 rd offense within 12 months of 1 st	\$600
§ 10-313. Animal waste	\$200
All other provisions	\$1,000
Subtitle 4: Animal Protection	\$1,000
Subtitle 5: Public Nuisance Animals	\$200
Subtitle 6: Wild Animals, etc.; Prohibited Animals	\$500
Subtitle 7: Attack Dogs; Dangerous and Vicious Animals	
§ 10-701. Attack dogs	\$1,000
§ 10-702. Dangerous animals	\$250
§ 10-706. Vicious animals – Keeping prohibited	\$1,000
Subtitle 9: Horse Riding and Driving	
§ 10-918. Sick or injured horses	\$1,000
All other provisions	\$200
Title 11: Swimming Pools	
Subtitle 3: Public Swimming Pools	\$200

Title 12: Tobacco Products and Smoking Devices

Subtitle 1: Indoor Smoking	
Person smoking	\$500
Employer, other person in charge	\$750
Subtitle 2: Sale of Unpackaged Cigarettes	\$500
Subtitle 4: Placement of Tobacco Products and Smoking Devices	\$500
Subtitle 5: Distribution to Minors	\$500
Subtitle 6: Flavored Tobacco Wrappings	\$500
Subtitle 7: Mobile Vendors	\$500
Subtitle 8: Smoking Near Playgrounds	\$500

Title 15: Ephedrine Products

Subtitle 2: Distribution to Minors	\$500
Subtitle 3: Product Placement	\$500

(8) Zoning Code

§ 2-402. Use permit required	\$500
§ 3-107. Prohibited uses - storage, etc., of vehicles	\$ 50
§ 17-401(c). Conditional-use live entertainment	\$500

(City Code, 1976/83, art. 1, §308.)

(Ord. 98-326; Ord. 99-487; Ord. 99-491; Ord. 99-520; Ord. 99-547; Ord. 99-548; Ord. 00-030; Ord. 00-069; Ord. 00-118; Ord. 01-172; Ord. 01-176; Ord. 02-322; Ord. 02-475; Ord. 02-476; Ord. 03-572; Ord. 03-621; Ord. 04-672; Ord. 04-854; Ord. 06-183; Ord. 06-205; Ord. 06-232; Ord. 06-247; Ord. 07-392; Ord. 07-424; Ord. 07-430; Ord. 07-623; Ord. 08-040; Ord. 08-058; Ord. 08-063; Ord. 09-100; Ord. 09-113; Ord. 09-148; Ord. 09-169; Ord. 09-171; Ord. 09-172; Ord. 09-175; Ord. 09-217; Ord. 09-232; Ord. 09-234; Ord. 09-241; Ord. 09-252; Ord. 10-268; Ord. 10-340; Ord. 10-342; Ord. 11-414; Ord. 11-478; Ord. 11-520; Ord. 11-523; Ord. 11-529; Ord. 11-572; Ord. 11-573; Ord. 12-046; Ord. 12-061; Ord. 12-065; Ord. 13-093; Ord. 13-098; Ord. 13-111; Ord. 13-157; Ord. 13-161; Ord. 14-208; Ord. 14-212; Ord. 14-237; Ord. 14-310.)

ARTICLE 19
POLICE ORDINANCES

SUBTITLE 71
SPECIAL ENFORCEMENT OFFICERS

§ 71-1. Appointment; duties.

(a) *Agency certification; appointment.*

The following officials shall from time to time certify to the Police Commissioner the names of employees of their respective departments for appointment by the Police Commissioner as Special Enforcement Officers:

- (1) Commissioner of Health.
- (2) Chief of the Fire Department.
- (3) Director of Public Works.
- (4) Commissioner of Housing and Community Development.
- (5) Director of Recreation and Parks.
- (6) Director of Transportation.

(b) *Duties.*

- (1) On appointment, a Special Enforcement Officer may serve summonses and issue criminal citations to appear before the housing or other appropriate part of the District Court for Baltimore City in proceedings to enforce any City ordinance, rule or regulation, or public local law pertaining to buildings, housing, zoning, fire, public health, parks, and sanitation.
- (2) "Criminal citation" means a written or printed charging document with a summons to appear for trial.

(c) *Officers have no arrest powers.*

The officers appointed may not arrest or take into custody any violator or otherwise have the power of arrest in their official capacity.

(d) *Record of appointments; revocation.*

A record of appointment of the officers shall be kept by the Police Commissioner and any appointment may be revoked by the Commissioner at any time.

(e) *Badge and uniform.*

The form of badge and type of uniform, if any, worn by the appointed officers shall be approved by the Police Commissioner.

(f) *Additional authority.*

In addition to issuing prepayable criminal citations under § 71-2 of this subtitle, Special Enforcement Officers may issue and serve civil administrative citations to appear before the Environmental Control Board under Article 1, Subtitle 40 {"Environmental Control Board"} of the City Code.

(City Code, 1976/83, art. 19, §144.)

(Ord. 74-509; Ord. 89-224; Ord. 90-612; Ord. 91-835; Ord. 98-359; Ord. 03-572; Ord. 07-399.)

PART 2
BOARD RULES AND REGULATIONS

ARTICLE 1
GENERAL RULES

§ 1-01. Definitions.¹

(a) *In general.*

In these rules and regulations, the following terms shall have the meanings indicated.

(b) *Administrative hearing officer.*

“Administrative hearing officer” means an individual designated by the Director to conduct hearings or proceedings.

(c) *Board.*

“Board” means the Environmental Control Board of Baltimore City.

(d) *Charging agency.*

“Charging agency” means the department, bureau, agency, or other unit of City government that issues a citation.

(e) *Citation.*

“Citation” means a prepayable citation issued for violation of a law or regulation under the jurisdiction of the Board.

(f) *Director.*

“Director” means the Executive Director of the Board or the Director’s designee.

(g) *Party.*

“Party” means a charging agency or a respondent.

(h) *Person.*

“Person” means:

- (1) an individual;

¹ **Editor’s Note:** See also notes below for “translations” (adapted from *Black’s Law Dictionary*) of various technical, legal terms used in these rules and regulations.

- (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (3) a partnership, firm, association, corporation, governmental agency, or other entity of any kind.

(i) *Respondent.*

“Respondent” means the person to whom a citation is issued.

§ 1-02. Scope of Rules.

These rules and regulations govern all proceedings under:

- (1) Article 1, Subtitle 40, of the Baltimore City Code; or
- (2) any other relevant provisions of the City Code.

§ 1-03. Filings with Director.

All documents permitted or required to be filed with the Board shall be filed at the office of the Director.

§ 1-04. Form and Service of Documents.

(a) *Captions.*

Each document filed with the Board shall contain a caption that sets forth:

- (1) the title of the action;
- (2) the citation number or the docket number assigned to the proceeding; and
- (3) a brief descriptive title of the document that indicates its nature.

(b) *Signature – By attorney.*

- (1) Every document of a party represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State.
- (2) The signature of an attorney constitutes a certification that:
 - (i) the attorney has read the document;

(ii) to the best of his or her knowledge, information and belief, there is good ground to support it; and

(iii) it is not interposed for delay.

(c) *Signature – By party.*

Every document of a party who is not represented by an attorney shall be signed by the party.

(d) *Signature – Sanctions.*

If a document is not signed as required (except inadvertent omission to sign, if promptly corrected) or is signed with intent to defeat the purpose of this rule, it may be stricken, and the action may proceed as though the document had not been filed.

(e) *Service.*

(1) This subsection applies to all documents, except for citations, that are required to be served on other parties.

(2) If service is required on a party represented by an attorney, service shall be made on the attorney unless service on the party is ordered by the Board.

(3) Each document shall be accompanied by a signed certificate of service that specifies the date and manner of service.

§ 1-05. Computation of Time.

(a) *Computation of time after an act, event, or default.*

(1) In computing any period of time prescribed by these rules and regulations, the day of the act, event, or default after which the designated period of time begins to run is not included.

(2) If the period of time allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays are counted.

(3) If the period of time allowed is 7 days or less, intermediate Saturdays, Sundays, and legal holidays are not counted.

(4) The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) *Computation of time before a day, act, or event.*

- (1) In determining the latest day for performing an act that is required by these rules and regulations to be performed a prescribed number of days before a certain day, act, or event, all days preceding that day, including intervening Saturdays, Sundays, and legal holidays, are counted in the number of days so prescribed.
- (2) The latest day is included in the determination unless it is a Saturday, Sunday, or legal holiday, in which event the latest day is the first preceding day that is not a Saturday, Sunday, or legal holiday.

(c) *Mailing.*

When mail is used for service of any document (other than a citation) on an opposing party, the opposing party has 3 additional days within which to take any action or make any response required or permitted by these rules and regulations.

§ 1-06. Appearances.

(a) *In general.*

Persons are permitted to participate in proceedings before the Board as provided in this section.

(b) *Individuals.*

An individual respondent may appear:

- (1) in person, in his or her own behalf;
- (2) by an attorney licensed to practice in the State of Maryland; or
- (3) by another individual who has a notarized authorization from the respondent to represent the respondent in the proceedings.

(c) *Businesses, etc.*

A business, non-profit organization, or government agency may appear:

- (1) by an attorney licensed to practice in the State of Maryland; or
- (2) to the extent allowed by law, by any officer, employee, or authorized agent.

§ 1-07. Records.*(a) Director to keep.*

The Director shall maintain files containing all documents, evidence, and other items and information submitted to or produced by an administrative hearing officer or the Board during the course of a proceeding.

(b) Files to be public.

These files shall be available for public inspection in accordance with the Maryland Public Information Act.

ARTICLE 2
PRE-HEARING PROCEDURES

§ 2-01. Citation.

(a) *Proceedings commenced by citation.*

All proceedings shall be commenced by the issuance of a citation on a form approved by the Board.

(b) *Contents.*

The citation shall contain:

- (1) the name of the respondent;
- (2) the violation with which the person is cited, including a reference to the specific law in question;
- (3) the date and address of the violation;
- (4) the amount of the applicable fine;
- (5) information on whether the offense is a repeat offense;
- (6) the manner and time in which the respondent must either:
 - (i) pay the fine; or
 - (ii) request a hearing on the violation;
- (7) the time within which the violation, if ongoing, must be abated;
- (8) a notice that, if the offense involves real property, a lien will be placed on the property; and
- (9) a notice that failure to act in the manner and time indicated in the citation may result in a default decision and an order entered against the respondent.

(c) *Service.*

A citation shall be served on a respondent as provided in Article 1, § 40-7(c) of the Baltimore City Code.

(d) *Filing.*

A copy of the served citation:

- (1) shall be made accessible to the Board;
- (2) shall be filed with the Bureau of Treasury Management;
- (3) may be filed with other departments, bureaus, agencies, or other units of the City;
and
- (4) shall be maintained by the charging agency.

§ 2-02. Admissions and Payments.

(a) *In general.*

A respondent may admit to the violation charged and pay the fine indicated on the citation in the manner and time directed by the citation.

(b) *Effect of payment.*

Payment in full is deemed an admission of liability and no further administrative hearing or subsequent appeal to the Board will be allowed.

§ 2-03. Pre-Hearing Requests to Reschedule.

(a) *Director may grant.*

On written application to the Director and for good cause shown, the Director may postpone a scheduled hearing for a brief period or reschedule the hearing.

(b) *Subsequent requests.*

In the case of a request for a subsequent postponement or rescheduling, the Director may:

- (1) deny the request;
- (2) require that the respondent appear at the scheduled hearing; and
- (3) allow the respondent to present his or her request for rescheduling to the administrative hearing officer.

§ 2-04. Consolidation.

In the interest of convenient, expeditious, and complete determination of cases involving the same or similar issues or the same parties, the administrative hearing officer may consolidate two or more citations for adjudication at one hearing.

§ 2-05. Discovery by Respondent.*(a) In general.*

- (1) On timely, written request, a respondent is entitled to receive from the charging agency:
 - (i) a list of the names of witnesses intended to be called; and
 - (ii) copies of documents intended to be submitted into evidence.
- (2) To be timely, the request must be submitted to the Director at least 15 days before the scheduled hearing.
- (3) The Director shall forward the request to the charging agency within 48 hours of submission.
- (4) Within 7 days after it receives the request from the Director, the charging agency shall serve a written response on the respondent, with a copy to the Director.

(b) Limitations.

- (1) Pre-hearing discovery is limited to the matters enumerated in subsection (a) of this section.
- (2) All other applications or motions for discovery, including depositions on oral examination, shall be made to the administrative hearing officer at the start of the hearing, and the administrative hearing officer may order further discovery as it finds appropriate.

(c) Supplementation.

If a party has responded to a request for discovery and, before the hearing, obtains further material information, the party shall supplement the response promptly.

(d) *Sanctions.*

If any party fails to properly respond to a lawful discovery request or order or wrongfully refuses to answer questions or produce documents, the administrative hearing officer may take appropriate action, including, but not limited to, precluding evidence or witnesses of the offending party or striking the pleadings or defenses of that party.

ARTICLE 3
HEARING PROCEDURES

§ 3-01. Scheduling; Notice.

(a) *In general.*

If a respondent timely requests a hearing, the Director shall:

- (1) set the date, time, and place for the hearing before an administrative hearing officer; and
- (2) provide the parties with at least 20 days' notice of the hearing.

(b) *Contents of notice.*

The notice shall state:

- (1) the date, time, place, and nature of the hearing;
- (2) the right of a party to be represented, at the party's own expense, by an attorney or, if permitted by law, other representative;
- (3) the right of a party to seek discovery under § 2-05;
- (4) the right of a party to call witnesses and submit documents or other evidence under § 3-13 of this article; and
- (5) that failure to appear for the scheduled hearing may result in an adverse action against the party.

§ 3-02. Timing of Hearing.

(a) *In general.*

Absent a showing of good cause, the hearing date shall be within 180 days of the citation's service.

(b) *Accelerated hearing.*

If the respondent waives the 20 days' notice and requests an accelerated hearing, the Director may assign the case for immediate hearing, on appropriate notice to the charging agency and opportunity for the charging agency to appear.

§ 3-03. General Nature of Hearing.

(a) *Orderly but informal*

All hearings shall be conducted in an orderly but informal manner.

(b) *Expedition.*

- (1) Hearings shall proceed with all reasonable expedition and, to the extent practicable, shall be held at one place and continue without suspension, except for brief recesses, until concluded.
- (2) The administrative hearing officer may grant brief adjournments, for good cause shown and consistent with the requirements of expedition.

§ 3-04. Record.

The Board shall arrange for a stenographic or mechanically-created record of all hearings.

§ 3-05. Order of Proceedings.

Subject to modification by the administrative hearing officer for good cause, all hearings shall be conducted in the following order:

- (1) presentation and argument of motions preliminary to a hearing on the merits;
- (2) presentation of opening statements, if any;
- (3) charging agency's case in chief;
- (4) respondent's case in chief;
- (5) charging agency's case in rebuttal;
- (6) respondent's case in rebuttal;
- (7) respondent's closing argument; and
- (8) charging agency's closing argument.

§ 3-06. Oaths.(a) *In general.*

Before testifying, a witness is required to declare that he or she will testify truthfully.

(b) *Administration.*

The declaration shall be by oath or affirmation, administered:

- (1) in the form of Maryland Rule 1-303; or
- (2) in special circumstances, in some other form or affirmation calculated to impress on the witness the duty to tell the truth.

§ 3-07. General Duties and Powers of Administrative hearing officer.(a) *General duties.*

The administrative hearing officer has the duty to:

- (1) conduct a fair and impartial hearing;
- (2) take all necessary action to avoid delay in the disposition of proceedings; and
- (3) maintain order.

(b) *General powers.*

The administrative hearing officer has all powers necessary to these ends, including the power to:

- (1) administer oaths and affirmations;
- (2) issue discovery orders and rule on objections to those orders;
- (3) receive evidence and rule on offers of proof;
- (4) regulate the course of the hearing and the conduct of the parties and their representatives;
- (5) hold conferences for simplification of issues or for any other proper purpose;
- (6) interrogate witnesses;

- (7) consider and rule on all procedural and other motions, including requests for adjournment; and
- (8) make and file recommended decisions and orders.

§ 3-08. Ex Parte Communications.

An administrative hearing officer may not receive any ex-parte communication from the charging agency or from individual members of the Board about a proceeding, other than communications limited to ministerial matters.

§ 3-09. Impartiality.

(a) *Scope.*

This section is in addition to any applicable requirements of City Code Article 8 {"Ethics"}, § 4-2 {"Conflicts of interest; disqualification"}.

(b) *In general.*

An administrative hearing officer should disqualify him- or herself from any hearing in which his or her impartiality might reasonably be questioned, including any instances in which the administrative hearing officer:

- (1) has a personal bias or prejudice about a party;
- (2) has personal knowledge of disputed evidentiary facts in the proceeding;
- (3) served as a lawyer in the matter in controversy or was professionally associated with another person while that person served as a lawyer in the matter in controversy;
- (4) has been a material witness to the matter;
- (5) has a financial interest in the subject matter in controversy or in a party to the proceeding;
- (6) has any other interest that could be substantially affected by the outcome of the proceeding; or
- (7) knows that his or her spouse or dependent child:

- (i) is serving as a lawyer in the matter in controversy or is professionally associated with another person who is serving as a lawyer in the matter in controversy;
- (ii) is likely to be a material witness in the proceeding;
- (iii) has a financial interest in the subject matter in controversy or in a party to the proceeding; or
- (iv) has any other interest that could be substantially affected by the outcome of the proceeding.

(c) *Motion to disqualify.*

- (1) A party may request that an administrative hearing officer disqualify him- or herself for good cause shown. The request shall be ruled on by the administrative hearing officer in the proceeding.
- (2) If the administrative hearing officer denies the request, the party may obtain a brief adjournment to seek review by the Director.
- (3) If the Director affirms the denial, the party may raise the issue on appeal to the Board.

(d) *Notice of disqualification.*

When an administrative hearing officer disqualifies him- or herself from a proceeding, he or she shall do so on the record and shall notify the Director of the recusal.

(e) *Replacement.*

On disqualification of an administrative hearing officer, the Director shall appoint another administrative hearing officer to conduct the hearing.

§ 3-10. Maintaining Discipline.

(a) *Power of administrative hearing officer.*

After a warning, the administrative hearing officer may bar any person, including a party or an attorney or other representatives of a party, from continued participation in a hearing if that person refuses to comply with the administrative hearing officer's directions or behaves in a disorderly, dilatory, or obstructionist manner.

(b) *Review by Director.*

- (1) Any person so barred may promptly apply to the Director for a review of the administrative hearing officer's action.
- (2) Unless the Director orders that further proceedings be stayed pending a decision on the application, the hearing may continue at the administrative hearing officer's discretion without the person's participation,.
- (3) The Director's decision to grant or deny the application is not subject to an interlocutory appeal to the Board. ²

§ 3-11. Amendments to Citation.

(a) *Administrative hearing officer may allow.*

If doing so will facilitate the determination of a controversy on the merits, the administrative hearing officer may allow appropriate amendments to a citation, subject to conditions necessary to avoid injustice or unfair surprise to a party.

(b) *Conformance to evidence.*

When issues reasonably within the scope of a citation, but not expressly raised by the citation, are tried by the express or implied consent of the parties:

- (1) the issues shall be treated in all respects as if they had been raised by the citation; and
- (2) amendments of the citation may be made at any time as necessary to make it conform to the evidence.

§ 3-12. Burden of Proof.

(a) *In general.*

The charging agency has the burden of proof in establishing by a preponderance of the evidence that the respondent has committed the violation charged in the citation. ³

² As to interlocutory appeals, generally, see § 3-14 below and accompanying note.

³ "Preponderance of the evidence" denotes the greater weight of the evidence – evidence that, though not sufficient to free the mind from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

(b) *Citation as prima facie evidence.*⁴

If a citation is sworn to or affirmed, the citation constitutes prima facie evidence of the facts stated in it.

§ 3-13. Evidence.

(a) *In general.*

Except as otherwise provided by these rules and regulations, formal rules of evidence and trial procedures do not apply.

(b) *Right to submit.*

On a genuine issue of fact, a party is entitled to:

- (1) call witnesses;
- (2) offer evidence, including rebuttal evidence;
- (3) cross-examine any witness that another party calls; and
- (4) present summation and argument.

(c) *Scope.*

The administrative hearing officer:

- (1) may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence;⁵
- (2) may not exclude evidence solely on the basis that it is hearsay;
- (3) shall give effect to a privilege recognized by law;

⁴ “Prima facie evidence” denotes evidence sufficient to establish a fact or sustain a judgment unless contradictory evidence is presented.

⁵ “Probative” means tending to prove or disprove a point in dispute.

(4) may take official notice of a fact that is judicially noticeable or that is general, technical, or scientific and within the specialized knowledge of the administrative hearing officer;⁶ and

(5) may exclude evidence that is:

- (i) incompetent;
- (ii) irrelevant;
- (iii) immaterial; or
- (iv) unduly repetitious.

(d) *Exceptions.*⁷

Formal exception to an adverse ruling is not required at the time of the ruling.

§ 3-14. Interlocutory Appeals.⁸

(a) *Leave required.*

Interlocutory appeals from rulings of an administrative hearing officer may be filed only if leave to file has been obtained from the administrative hearing officer.

(b) *Criteria for leave.*

Leave to appeal will not be granted except on a showing that:

- (1) the ruling complained of involves substantial rights and will materially affect the final decision; and
- (2) a determination of its correctness before hearing ends is essential to serve the interests of justice.

⁶ “Official notice” (in an administrative proceeding) and “judicial notice” (in a court proceeding) refer to the acceptance, for purposes of convenience and without requiring a party’s proof, of a well-known and indisputable fact.

⁷ As to exceptions, generally, *see* § 4-01 below and accompanying note.

⁸ An “interlocutory appeal” is one taken on a particular issue in a case before a ruling has been made on the entire case.

(c) *Board's discretion.*

In its discretion, the Board may refuse to hear an interlocutory appeal, even though leave to appeal was obtained from the administrative hearing officer.

(d) *Effect.*

Unless the administrative hearing officer orders otherwise, an interlocutory appeal does not stay the proceeding or extend the time for the performance of an act.

§ 3-15. Stipulation Instead of Hearing.⁹

(a) *Stipulation authorized.*

At any time before the administrative hearing officer issues a recommended decision and order, the charging agency may offer the respondent a settlement of the matter by stipulation instead of further hearing.

(b) *Required elements.*

The stipulation shall:

- (1) be in the manner and form set by the Director; and
- (2) contain:
 - (i) an admission of the violation;
 - (ii) the facts stipulated to;
 - (iii) the amount of the penalty to be imposed; and
 - (iv) the compliance to be ordered, if any.

(c) *Before initial hearing.*

- (1) If the stipulation is entered into and filed with the Board before the initial hearing on the matter, the stipulation shall be reviewed by the Director.
- (2) Within a reasonable time after the stipulation has been filed, the Director shall:

⁹ A "stipulation" is a voluntary agreement between opposing parties.

- (i) issue a final decision and order that incorporates the terms of the stipulation;
or
- (ii) if the stipulation is not acceptable to the Director, order the matter to be rescheduled for hearing by an administrative hearing officer.

(d) *During hearing.*

If the stipulation is entered into during the course of a hearing and if the administrative hearing officer approves the stipulation, it shall be incorporated into the administrative hearing officer's recommended decision and order.

(e) *Stipulation not appealable.*

Decisions and orders based on stipulations are not appealable.

§ 3-16. Recommended Decisions and Orders.

(a) *Administrative hearing officer to prepare.*

The administrative hearing officer shall prepare a recommended decision and order within 30 days of completion of a hearing.

(b) *Recommended decision.*

The administrative hearing officer's decision shall set forth:

- (1) findings of fact and conclusions of law; and
- (2) the administrative hearing officer's reasons for its findings on all material issues.

(c) *Recommended order.*

If the administrative hearing officer recommends that the charges in the citation be upheld, the administrative hearing officer shall prepare a recommended order that sets forth:

- (1) the proposed penalty; and
- (2) if the Board is authorized by law to impose remedial relief or other sanction, the proposed remedial relief or sanctions.

(d) *Filing.*

The recommended decision and order shall be filed with the Director and served on all parties.

(e) *Finality.*

If timely exceptions are not filed under § 4-01, the administrative hearing officer's recommended decision and order:

- (1) may be adopted by the Board, without further action; and
- (2) constitutes the Board's final action in the matter.

ARTICLE 4
ADMINISTRATIVE AND JUDICIAL REVIEW

§ 4-01. Exceptions to Recommended Decision and Order. ¹⁰

(a) *Filing.*

- (1) Any party aggrieved by the recommended decision and order may file written exceptions with the Board.
- (2) Except as otherwise provided in § 4-02 of this article, the exceptions must be filed within 30 days after the recommended decision and order is delivered or mailed to the parties.
- (3) The exceptions must contain:
 - (i) a concise statement of the issues presented;
 - (ii) specific objections to the findings of fact and conclusions of law set forth in the recommended decision and order; and
 - (iii) arguments that present clearly the points of law and facts relied on in support of the position taken on each issue.
- (4) The exceptions must be accompanied by payment in full of both of the following, to the extent not previously paid:
 - (i) the fine imposed by the recommended decision and order; and
 - (ii) the fee for any transcript requested under § 4-02 of this article.

(b) *Answer.*

- (1) Within 20 days after the exceptions have been served on a party, that party may file an answer in support of the recommended decision and order.
- (2) The answer must comply with the requirements of subsection (a) of this section for contents and service.

(c) *Replies.*

Further briefing is not permitted unless the Board otherwise directs.

¹⁰ An “exception” is a formal objection to a ruling by a party who wants to preserve the objection for future appeal.

§ 4-02. Transcripts.

(a) *In general.*

A party may apply in writing for a written copy of the transcript of the hearing at any time:

- (1) within the period allowed for filing exceptions; or
- (2) if later, within 30 days after the other party has filed exceptions.

(b) *Extension of time.*

If an application is timely made under subsection (a) of this section, the time within which exceptions must be filed is extended to 20 days from the date when the transcript is delivered or mailed to the party who requested it.

(c) *Fee.*

The Board may charge the person who requested the transcript a fee for the transcript, including the expense of transcription.

§ 4-03. Applications to Extend Time.

An application to extend the time for filing exceptions or answers for any reason must be:

- (1) made in writing to the Director; and
- (2) supported by evidence of impossibility or other explanation of inability to file timely.

§ 4-04. Review Panels.

(a) *Panels authorized.*

From time to time, the Board may establish panels from among its members to undertake the review of exceptions to administrative hearing officers' recommended decisions and orders.

(b) *Subsequent review by Board.*

If a review is undertaken by a panel, that panel shall report its findings to the Board for final resolution.

§ 4-05. Review to be on Record.*(a) In general.*

When exceptions have been filed, the Board shall consider the entire matter on the basis of the record before it.

(b) Record elements.

For this purpose, the record comprises:

- (1) the citation;
- (2) the transcript of the hearing;
- (3) all briefs filed and exhibits received in evidence; and
- (4) the administrative hearing officer's recommended decision.

(c) Witness credibility.

The Board shall give due regard to the administrative hearing officer's opportunity to judge the credibility of any witnesses.

(d) Additional evidence or argument.

If the Board or a panel of the Board considers it necessary or appropriate, it may:

- (1) order further testimony or evidence to be taken or submitted; or
- (2) order oral argument on any or all of the questions raised on appeal.

§ 4-06. Decision and Order.*(a) In general..*

- (1) After review, the Board shall issue its decision and order in the matter.
- (2) In its decision and order, the Board may:
 - (i) concur with, reverse, or modify the administrative hearing officer's recommended decision and order; or
 - (ii) remand the matter for further proceedings.

(b) *Decision.*

The Board’s decision shall contain findings of fact and conclusions of law.

(c) *Order.*

The Board shall issue an order that:

- (1) is consistent with its decision; and
- (2) exercises those powers of the Board that the Board considers appropriate.

§ 4-07. Corrections to Board Decision and Order.

(a) *In general.*

To correct ministerial errors or errors due to mistake of fact or law, any party may apply to the Board for a superseding appeal decision.¹¹

(b) *Time for filing.*

The application must be filed within 10 days after the mailing of the Board’s final decision and order.

§ 4-08. Impartiality.

(a) *Scope.*

This section is in addition to any applicable requirements of City Code Article 8 {“Ethics”}, § 4-2 {“Conflicts of interest; disqualification”}.

(b) *In general.*

A Board member should disqualify him- or herself from any hearing in which his or her impartiality might reasonably be questioned, including any instances in which the Board member:

- (1) has a personal bias or prejudice about a party;
- (2) has personal knowledge of disputed evidentiary facts in the proceeding;

¹¹ A “ministerial error” is an error in the course of obeying instructions rather than in the exercise of some special discretion, judgment, or skill.

- (3) served as a lawyer in the matter in controversy or was professionally associated with another person while that person served as a lawyer in the matter in controversy;
- (4) has been a material witness to the matter;
- (5) has a financial interest in the subject matter in controversy or in a party to the proceeding;
- (6) has any other interest that could be substantially affected by the outcome of the proceeding; or
- (7) knows that his or her spouse or dependent child:
 - (i) is serving as a lawyer in the matter in controversy or is professionally associated with another person who is serving as a lawyer in the matter in controversy;
 - (ii) is likely to be a material witness in the proceeding;
 - (iii) has a financial interest in the subject matter in controversy or in a party to the proceeding; or
 - (iv) has any other interest that could be substantially affected by the outcome of the proceeding.

(c) *Motion to disqualify.*

- (1) A party may request that a Board member disqualify him- or herself for good cause shown. The request shall be ruled on by the Board.
- (2) If the Board denies the request, the party may raise the issue on judicial review.

§ 4-09. Judicial Review.

(a) *In general.*

Any party who is aggrieved by a final decision and order of the Board may appeal that decision as provided in Article 1, § 40-10 of the Baltimore City Code and Title 7 of the Maryland Rules.

(b) *No stay.*

The filing of an appeal does not stay the Board's order, unless the Circuit Court for Baltimore City grants a stay.

§ 4-10. Agency Application for Reduction in Fines, Penalties, and Interest.

(a) *Application.*

Notwithstanding a final decision of the Board, where penalties are a lien against a property and where judicial review has not been undertaken, the charging agency may apply to the Board for a reduction in fines, penalties, and interest for the express purpose of effecting the transfer of property.

(b) *Approval.*

The Board, panels of the Board, the Executive Director, or other authorized agent may reduce fines, penalties, and interest where said amounts are hindering the transfer of property and transfer of the property would better serve the purpose of the Board in enforcing the environmental, health, safety, and other quality of life provisions under its jurisdiction or said reduction would otherwise be in the best interests of the City.

ARTICLE 5
DEFAULT PROCEEDINGS

§ 5-01. Acts Constituting Default.

A respondent is in default if:

- (1) the respondent fails to pay the prescribed fine or to request a hearing within the time specified on the citation; or
- (2) having requested a hearing:
 - (i) the respondent fails to appear at the hearing; or
 - (ii) the respondent appears and willfully disrupts or obstructs the proceedings so as to cause him or her to be barred from the proceedings under § 3-10 of these rules and regulations.

§ 5-02. Default Penalty.

On a respondent's default, the Board may:

- (1) impose a default decision and order against the respondent; and
- (2) impose a civil penalty of 3 times the amount of the prescribed fine, subject to the maximum allowed by law.

§ 5-03. Notice of Default.

(a) *Notice required.*

Before a default order becomes final, the Board shall mail a Notice of Default to the respondent.

(b) *Contents.*

The Notice shall:

- (1) contain a copy of the default decision and order;
- (2) specify the amount of all penalties imposed; and
- (3) notify the respondent of the right to request a waiver of penalties for good cause shown.

§ 5-04. Request for Waiver.

(a) *In general..*

A request for a waiver must be made in writing within 30 days after the mailing of the Notice of Default.

(b) *Delayed request.*

If a request is made later than the time required by subsection (a) of this section but within 90 days after the mailing of the Notice of Default, the Director may process the request if the respondent shows good cause for his or her delay in making the request.

§ 5-05. Consideration of Request.

(a) *First default.*

For a first default, the Director may:

- (1) grant the waiver for good cause shown; or
- (2) refer the request to the Board.

(b) *Second or subsequent default.*

For a second or subsequent default on the same citation, the Director shall refer the request to the Board.

§ 5-06. Action by Board.

The Board may waive or reduce a default penalty after considering:

- (1) the nature and severity of the underlying violation;
- (2) the respondent's history of past violations; and
- (3) any mitigating or aggravating circumstances.

**ARTICLE 6
ENFORCEMENT**

§ 6-01. Fines and Penalties.

(a) *As personal debt.*

Fines and penalties imposed by the Board are:

- (1) personal debts owed by the respondent to the City; and
- (2) collectable from and enforceable against any of the assets of the respondent.

(b) *As lien.*

If the violation involves real property owned by the respondent, fines and penalties imposed by the Board, whether on hearing, on default, or otherwise, are liens on that property in favor of the City.

§ 6-02. Abatement Orders.

(a) *Payment does not relieve obligation to correct.*

- (1) Payment of a fine does not relieve the respondent of the obligation to correct ongoing violations by the date specified in the citation.
- (2) Additional citations may be issued for uncorrected violations.

(b) *Correction does not relieve obligation to pay.*

The correction of a violation does not relieve the respondent of the obligation to pay the prescribed fine.

§ 6-03. Citation not Exclusive.

The issuance of a citation does not preclude pursuit of any other remedy or enforcement action authorized by law.

§ 6-04. Application to Court.

The Board may apply to a court of competent jurisdiction for enforcement of any decision or order of the Board.

Adopted: July 30, 2003

As Amended: February 25, 2009
February 25, 2015