

**GENERAL PROVISIONS ARTICLE
OF
BALTIMORE CITY CODE**

(As Last Amended by Ords. 22-224 and 22-225)

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GENERAL PROVISIONS

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TITLE 1
DEFINITIONS; RULES OF INTERPRETATION; TIME

SUBTITLE 1
DEFINITIONS

§ 1-101. In general.

Throughout the Baltimore City Code, the following terms have the meanings indicated, except as otherwise expressly provided.
(*Ord. 21-017.*)

§ 1-102. Adult.

“Adult” means an individual who is 18 years or older.
(*Ord. 21-017.*)

§ 1-103. City.

“City” means the City of Baltimore.
(*Ord. 21-017.*)

§ 1-104. City Code; Code.

“City Code” or “Code” means:

(1) the numbered articles of the Baltimore City Code; and

(2) the unnumbered articles of the Revised Code of Baltimore City.
(*Ord. 21-017.*)

§ 1-105. Includes; Including.

“Includes” or “including” means by way of illustration and not by way of limitation.
(*Ord. 21-017.*)

§ 1-106. Minor.

“Minor” means an individual under the age of 18.
(*Ord. 21-017.*)

§ 1-107. Person.

(a) *In general.*

“Person” means:

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

(b) *Exclusion.*

“Person” does not include, except as otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(Ord. 21-017.)

§ 1-108. State.

(a) *Lower case.*

Except as provided in subsection (b) of this section, “state” means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

(b) *Capitalized.*

When capitalized, “State” means Maryland.

(Ord. 21-017.)

§ 1-109. Street.

“Street” means any street, boulevard, road, highway, alley, lane, sidewalk, footway, or other way that is owned by the City or habitually used by the public.

(Ord. 21-017.)

SUBTITLE 2
RULES OF INTERPRETATION

§ 1-201. In general.

Throughout the Baltimore City Code, the following rules of interpretation apply, except as otherwise expressly provided.

(Ord. 21-017.)

§ 1-202. {Reserved}**§ 1-203. Gender.**

A reference to one gender includes and applies to the other genders.

(Ord. 21-017.)

§ 1-204. Mandatory, prohibitory, and permissive terms.

(a) *Mandatory terms.*

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(b) *Prohibitory terms.*

“Must not”, “may not”, and “no ... may” are each mandatory negative terms used to establish a prohibition.

(c) *Permissive terms.*

“May” is permissive.

(Ord. 21-017.)

§ 1-205. Singular and plural.

The singular includes the plural and the plural includes the singular.

(Ord. 21-017.)

§§ 1-206 to 1-207. {Reserved}**§ 1-208. Captions or headings.**

The captions or headings of various statutory units:

(1) are for convenience of reference only, intended to summarize the statutory provisions that follow; and

(2) are not law and are not to be taken as affecting the meaning or effect of the law.

(Ord. 21-017.)

§ 1-209. Editor's or Revisor's Notes.

Editor's or Revisor's Notes accompanying various statutory units, including any accompanying list of defined terms:

(1) are for convenience of reference only, intended to identify the sources of these provisions and highlight changes made to those sources; and

(2) are not law and are not to be taken as affecting the meaning or effect of the law.
(*Ord. 21-017.*)

§ 1-210. {Reserved}**§ 1-211. Effect of repeal or amendment of statute.**

(a) *In general.*

The repeal, repeal and reenactment, or amendment of a statute does not release, extinguish, or alter a criminal or civil penalty, forfeiture, or liability imposed or incurred under the statute.

(b) *Purposes for which statute remains in effect*

A repealed, repealed and reenacted, or amended statute remains in effect for the purpose of sustaining any:

(1) criminal or civil action, suit, proceeding, or prosecution for the enforcement of a penalty, forfeiture, or liability; and

(2) judgment, decree, or order that imposes, inflicts, or declares the penalty, forfeiture, or liability.

(*Ord. 21-017.*)

§ 1-212. References to other laws.

Whenever a provision of this City Code refers to any other part of the Code or to any other law, the reference applies to any subsequent amendment of the law referred to, unless the referring provision expressly provides otherwise.

(*Ord. 21-017.*)

§ 1-213. {Reserved}**§ 1-214. Severability.**

(a) *In general.*

Except as provided in subsection (b) of this section:

(1) all provisions of this Code *{or of a regulation adopted under this Code}* are severable; and

- (2) if a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstances is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

(b) *Exceptions.*

Subsection (a) of this section does not apply:

- (1) to the extent that a statute *{or regulation}* specifically provides otherwise; or
- (2) if the court finds that the remaining provisions alone are incomplete and incapable of being executed in accordance with the legislative intent.

(Ord. 21-017.)

SUBTITLE 3
TIME COMPUTATIONS

§ 1-301. In general.

Throughout the Baltimore City Code, time shall be calculated in the manner provided by this subtitle, except as otherwise expressly provided.

(Ord. 21-017.)

§ 1-302. Computation of time after an act, event, or default.

- (1) In computing any period of time prescribed by this Code, 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.

(Ord. 21-017.)

§ 1-303. Computation of time before an act, event, or default.

- (1) In determining the latest day for performing an act that is required by this Code 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.

(Ord. 21-017.)

TITLES 2 TO 3
{RESERVED}

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TITLE 4
ADMINISTRATIVE PROCEDURE ACT – REGULATIONS

Editor’s Note: *See Editor’s Note* at end of this Title 4.

SUBTITLE 1
DEFINITIONS; GENERAL PROVISIONS

§ 4-101. Definitions

(a) *In general.*

In this title, the following terms have the meanings indicated.

(b) *Agency.*

“Agency” means:

- (1) any department, board, commission, council, authority, committee, office, or other unit of City government; and
- (2) any officer or other individual who exercises authority comparable to that of the head of a unit of City government.

(c) *Code; COBRA.*

“Code” or “COBRA” means the Code of Baltimore Regulations Annotated.

(d) *Director.*

“Director” means the Director of Legislative Reference or the Director’s designee.

(e) *{Repealed}*

Editor’s Note: For the Code-wide standard definition of “includes” and “including”, *see* § 1-105 of this Article.

(f) *Regulation.*

(1) *In general.*

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

- (i) has general application;
- (ii) has future effect;
- (iii) details or carries out the law that the City or an agency of the City administers;
and

(iv) is in any form, including:

- (A) a guideline;
- (B) an executive order;
- (C) a requirement;
- (D) a standard;
- (E) a statement of interpretation; or
- (F) a statement of policy.

(2) *Exclusions.*

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

- (i) does not affect directly the rights of the public or the procedures available to the public; and
- (ii) either:
 - (A) concerns only internal management of City government; or
 - (B) requires compliance by City employees with provisions limited to attendance, conduct, training, discipline, or internal procedure.

(*Ord. 20-431; Ord. 22-125.*)

§ 4-102. Scope.

(a) *In general.*

This title applies only to regulations adopted by an agency that is authorized by law to adopt regulations.

(b) *Implied authority.*

If a law authorizes an agency to implement or enforce that law, the agency may adopt a regulation to implement or enforce that law even if the authority to adopt the regulation is not expressly stated in that law.

(c) *Adoption authorized by federal or state law.*

This title does not apply to any regulation adopted under the authority provided by federal or State law, to the extent that the federal or State law requires an adoption procedure that differs from the procedures required under this title.

§ 4-103. Repeal of a regulation.

Except as provided in § 4-404 {"Removal of obsolete provisions"} of this title, the repeal of all or part of a previously adopted regulation shall be subject to the requirements and procedures set forth in this title.

(Ord. 20-431.)

SUBTITLE 2
FORM OF REGULATIONS; SUBMISSION TO CITY SOLICITOR

§ 4-201. Citation of statutory authority.

A regulation is not effective unless it contains a citation of the statutory authority for the regulation.
(*Ord. 20-431.*)

§ 4-202. Form of proposed regulation.

Except as otherwise provided in § 4-203 of this subtitle, regulations shall be written in plain English and shall conform to the style set forth in a style manual adopted by the Department of Legislative Reference.
(*Ord. 20-431; Ord. 21-055.*)

§ 4-203. Incorporation by reference.

(a) *“Incorporate by reference” defined.*

In this section, “incorporate by reference” means the method by which a regulation makes provisions of another document part of the regulation by reference to the other document.

(b) *In general.*

An agency may incorporate by reference another document within a regulation if:

- (1) both the Director and the agency find that restating the text or graphics of the document within the regulation would be unduly cumbersome, expensive, or otherwise inexpedient;
- (2) the reference within the regulation fully identifies the:
 - (i) incorporated document by title and date of publication or issuance;
and
 - (ii) the page or pages of the incorporated document the regulation comprises;
- (3) the reference clearly states which part or parts of the document are being incorporated, if the agency intends to incorporate only a portion of a document; and
- (4) the agency maintains a copy of the incorporated document that is:
 - (i) available for public inspection on the agency’s website; and
 - (ii) indexed in plain language so that the public may easily search for the location of different topics contained in the regulation.

(c) *Subsequent amendments to incorporated material.*

An agency may incorporate later amendments or editions of a document previously incorporated by reference within a regulation only after compliance with the proposal, notice and publication, and adoption procedures set forth in this title.

(*Ord. 21-055.*)

§ 4-204. Single subject.

A proposed regulation may not contain more than one subject matter.

(*Ord. 20-431; Ord. 21-055.*)

§ 4-205. Submission to Solicitor.

(a) *Initial submission.*

Before publishing notice of a proposed regulation, an agency shall submit the proposed regulation to the City Solicitor for approval as to the form described in this subtitle and legal sufficiency.

(b) *Modification.*

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

(c) *Effect of noncompliance.*

If an agency fails to comply with this section or if the City Solicitor fails to approve the regulation as specified in subsection (a):

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

(2) if adopted, is not effective.

(*Ord. 20-431; Ord. 21-055.*)

SUBTITLE 3
NOTICE AND COMMENT PERIOD; ADOPTION

§ 4-301. Notice of proposed regulation.

(a) *In general.*

After a proposed regulation has been approved by the City Solicitor, as described in § 4-204 of this title, the agency shall publish notice of the proposed regulation and seek public comment for at least 30 days.

(b) *Method of publication.*

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

- (i) posting the notice in a conspicuous place on its website;
- (ii) posting a copy of the notice in a public and conspicuous place at its agency offices;
- (iii) providing a copy of the notice to each public library in the City;
- (iv) providing a copy of the notice to each councilmember; and
- (v) providing a copy of the notice to the Department of Legislative Reference.

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

(c) *Contents of notice.*

The notice required by this section shall include:

- (1) a brief description of the proposed regulation;
- (2) an online link to the full text of the proposed regulation;
- (3) the mailing address and email address to which a person may send written comments; and
- (4) if the agency proposes or is otherwise required to hold a public hearing on the proposed regulation, the date, time, and location of that hearing.

(Ord. 20-431.)

§ 4-302. Effect of notice.

Publication of the notice required by this subtitle:

(1) creates a rebuttable presumption that the proposed regulation was adopted properly; and

(2) is deemed to give a person who is subject to or affected by the proposed regulation notice of the contents of the proposed regulation.

(Ord. 20-431; Ord. 22-124.)

§ 4-303. Review by Committee.

(a) *“Committee” defined.*

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

(b) *In general.*

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

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

(c) *Scope of review.*

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

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

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

(d) *Effect of review period.*

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

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

(Ord. 20-431; Ord. 22-124.)

§ 4-304. Adoption or re-publication.

(a) *Submittal to City Solicitor.*

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

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

(b) *Determination of material change.*

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

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

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

- (1) securing the written approval of the agency head; and
- (2) filing the regulation with the Director for COBRA codification.

(d) *Failure to adopt.*

If an agency fails to adopt a proposed regulation within 180 days after the date it initially published notice of the proposed regulation, the regulation shall be deemed withdrawn and may not be adopted unless proposed anew and adopted in accordance with the requirements of this subtitle.

(Ord. 20-431; Ord. 21-055.)

§ 4-305. Emergency regulations.

(a) *“State of emergency” defined.*

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

- (1) a proclamation has been issued by the Governor declaring a state of emergency under Title 14, Subtitle 3 of the State Public Safety Article {“Governor's Emergency Powers”};
- (2) a proclamation has been issued by the Governor declaring a catastrophic health emergency under Title 14, Subtitle 3A of the State Public Safety Article {“Governor's Health Emergency Powers”}; or
- (3) an order or proclamation has been issued by the Mayor declaring a state of emergency under § 14-111 {“Local state of emergency”} of the State Public Safety Article.

(b) *Temporary regulations.*

(1) *In general.*

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

- (i) the underlying cause of the state of emergency requires its adoption; and
- (ii) the public interest will be materially harmed if the regulation does not take effect immediately.

(2) *Effective date.*

Any temporary regulation adopted under this section is effective on:

- (1) approval by the City Solicitor for form and legal sufficiency; and
- (2) filing with the Director.

(3) *Expiration.*

- (i) Except as provided in subparagraph (ii) of this paragraph, any temporary regulation adopted under this section expires and no longer has legal effect on the 90th day after the state of emergency has been lifted.
- (ii) If, within the 90 days after a state of emergency has been lifted, an agency submits a temporary regulation to the City Solicitor as set forth in § 4-205 {"Submission to Solicitor"} of this title and otherwise follows the notice and publication procedures set forth in this title to adopt that regulation as permanent, the regulation does not expire as stated in subparagraph (i) of this paragraph.

(Ord. 20-431; Ord. 22-124.)

SUBTITLE 4
CODIFICATION

§ 4-401. Submission to DLR Director.

A regulation is effective on submission to the Director for COBRA codification, unless a later effective date is specified by law or in the adopted regulation.

(Ord. 20-431; Ord. 21-055.)

§ 4-402. Code of Baltimore Regulations Annotated.

(a) *In general.*

The Code of Baltimore Regulations Annotated is established.

(b) *Contents.*

The Director shall publish a Code of Baltimore Regulations Annotated (COBRA) that includes:

- (1) each then-current regulation adopted by an agency;
- (2) any other document that the Director determines should be included;
- (3) any explanatory annotation the Director deems necessary; and
- (4) an index by agency and subject matter.

(c) *Mode of publication.*

The Code shall be published on the Department of Legislative Reference's website.

(Ord. 20-431.)

§ 4-403. Correction of errors.

After providing notice to, and in consultation with, the City Solicitor and the relevant agency, the Director may correct non-substantive drafting, style, or typographical errors within the Code.

(Ord. 20-431.)

§ 4-404. Removal of obsolete provisions.

(a) *In general.*

With the approval of the City Solicitor, an agency may request that the Director remove from the Code:

- (1) a part of a regulation that has been held unconstitutional by a court of competent final jurisdiction; or
- (2) a regulation whose specific enabling law has been repealed.

(b) *Reason for removal.*

The requesting agency shall state with particularity why the regulation is obsolete and, if approved for removal by the City Solicitor, the Director shall include that reason as an annotation within the Code.

(Ord. 20-431; Ord. 22-124.)

§ 4-405. {Repealed by Ord. 22-125}

Editor's Note: For the Code-wide standard for severability of provisions, *see* § 1-214 of this Article.

EDITOR'S NOTE TO TITLE: This Title was initially enacted by Ordinance 20-431 (effective January 15, 2021) and, more recently, substantively amended by Ordinance 21-055 (effective October 18, 2021).

Section 4 of Ord. 20-341, as amended by Ord. 21-055, provides:

- (a) Notwithstanding Section 1 and Section 3 of this Ordinance, any regulation that is current and effective as of January 15, 2021, shall remain effective if:
- (1) the regulation is submitted, in digital form, to the Director of Legislative Reference by January 15, 2022, for COBRA codification;
 - (2) the regulation is not abrogated by:
 - (i) the agency that adopted it; or
 - (ii) a court of competent jurisdiction; and
 - (3) no part of the text of the regulation is materially changed, which the City Solicitor shall determine and, if the City Solicitor does determine a material change has been made, the City Solicitor shall deem the revised text to be a proposed regulation, which:
 - (i) is not effective unless adopted in accordance with the requirements of General Provisions Article, Title 4; and
 - (ii) does not affect the lawfulness of the existing regulation until the proposed regulation becomes effective pursuant to General Provisions Article, Title 4.
- (b) Any regulation that may be affected by the provisions of this Ordinance and that was current and effective as of January 15, 2021, and not filed with the Director of Legislative Reference by January 15, 2022, shall terminate and no longer have legal effect.
- (c) Any regulation that may be affected by the provisions of this Ordinance and that was current and effective as of January 15, 2021, and filed with the Director of Legislative Reference by January 15, 2022:
- (1) shall be placed in a special section of the COBRA entitled "Regulations Existing as of January 15, 2021";
 - (2) need not conform to a style set forth in the style manual adopted by the Department of Legislative Reference pursuant to General Provisions Article, § 4-202; and
 - (3) the Department of Legislative Reference shall:
 - (i) revise each regulation in accordance with the adopted style manual;
 - (ii) remove the regulation from the COBRA special section; and
 - (iii) recodify the revised regulation in a format consistent with the remaining sections of the COBRA.

Section 5 of Ord. 20-341 further provides:

[T]he Director of Legislative Reference may, in consultation with the Law Department, correct and conform, with no further action required by the Mayor and City Council, cross-references and terminology [elsewhere] rendered obsolete or incorrect by this Ordinance. The Director shall adequately describe any correction or conforming change that is made in an editor's note following the section affected.

TITLES 5 ET SEQ.
{RESERVED}