

**GENERAL PROVISIONS ARTICLE
OF
BALTIMORE CITY CODE**

(As Established and Last Amended by Ord. 20-431)

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GENERAL PROVISIONS

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GENERAL PROVISIONS

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TITLE 4
ADMINISTRATIVE PROCEDURE ACT – REGULATIONS

Editor’s Note: This Title was added by Ordinance 20-431 (enacted November 16, 2020). Section 3 of that Ordinance provides that the new law takes effect on the 60th day after its enactment (i.e., on January 15, 2021).

Section 4 further provides:

[N]otwithstanding Section 1 and Section 3 of this Ordinance, any regulation that is current and effective on the date this Ordinance is effective need not be re-proposed, re-publicized, or re-adopted in accordance with the procedures set forth in Section 1, provided that any regulation that is current and effective on the date that this Ordinance is effective:

- (1) has been reviewed by the agency, in consultation with the Law Department, to ensure that the regulation conforms to the style set forth in the style manual adopted by the Department of Legislative Reference; and
- (2) is submitted to the Director of Legislative Reference for codification into the Code of Baltimore Regulations Annotated no later than 1 year from the date that this Ordinance has been enacted.

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) *“Includes”; “including”.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(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.)

§ 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.

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.)

§ 4-203. Single subject.

A proposed regulation may not contain more than one subject matter.
(Ord. 20-431.)

§ 4-204. 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.)

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 under 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.)

§ 4-303. Review by Committee.

(a) *“Committee” defined.*

In this section, “Committee” means the Committee on Legislative Investigations, established by City Code Article I, § 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) is in conformity 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.)

§ 4-304. Adoption or re-publication.

(a) *Submittal to City Solicitor.*

- (1) After the 30-day 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 30-day 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.)

§ 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 § 4-204 {"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 may not expire as stated in subparagraph (i) of this paragraph.

(Ord. 20-431.)

SUBTITLE 4
CODIFICATION

§ 4-401. Submission to DLR Director.

A regulation is not effective unless it has been submitted to the Director for COBRA codification.
(*Ord. 20-431.*)

§ 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 by the Mayor and City Council.

(b) *Reason for removal.*

The requesting agency shall state with particularity the reason for 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.)

§ 4-405. Severability.

If a section, paragraph, sentence, clause, phrase, or word of a regulation is declared unconstitutional or invalid by a court of competent jurisdiction, the unconstitutionality or invalidity may not affect any of any remaining sections, paragraphs, sentences, clauses, phrases, or words unless:

(1) the regulation is subject to a provision that prohibits severability; or

(2) the court finds that the remaining valid provisions alone are incomplete and incapable of being carried out in accordance with the regulation's purpose.

(Ord. 20-431.)

TITLES 5 ET SEQ.
{RESERVED}

