

Mayor's Charter Review Commission

Final Report



May, 2018

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CATHERINE E. PUGH
Mayor
250 City Hall, 100 North Holliday Street
Baltimore, Maryland 21202

May 28, 2018

The Honorable Catherine E. Pugh
Mayor of Baltimore City
Baltimore City Hall

Dear Mayor Pugh:

The Mayor's Charter Review Commission (Commission) you established is hereby submitting its final report and recommended changes to the Baltimore City Charter. You charged the Commission to examine the Charter and recommend revisions to increase the effectiveness of City operations, removed arcane or outdated provisions, and updated sections to reflect the current needs of the City. The Commission was divided into six subcommittees focusing on specific functional areas within the Charter:

- Audits
- Budget and Finance
- City Council and Legislative Process
- Mayor's Office and Executive Function
- Procurement and Purchasing
- Pruning and Human Resources

Between early February and early April, these subcommittees held weekly meetings open to the public to discuss potential changes within their respective areas. On March 14th, the Commission held a public hearing on potential charter revisions. In April, each subcommittee recommended changes to the Coordinating Committee, which consisted of the subcommittee co-chairs as well as the two Commission co-chairs. The Coordinating Committee evaluated the subcommittees' reports and made final recommendations that are included herewith.

The final report is divided into four sections. The first section provides a detailed overview of the charge and background on the Commission. The second provides information on how the Commission was organized as well as an overview on the subject areas for each subcommittee. The third section includes the global recommendations from the Commission, which are recommendations that either span the entire Charter or are outside of the Charter itself. These recommendations are as follows:

1. The Mayor and City Council should work with the City Delegation to the General Assembly to revise Article II to eliminate obsolete, dated and duplicative provisions and to generally modernize the grant of legislative powers delegated to the City pursuant to Article XI-A of the Maryland Constitution.
2. The Mayor should appoint a committee to study the efficacy of using a biennial budget process and to consider whether such a process could meet the City's needs.
3. The Mayor should appoint a committee to consider how to better engage the public in the budget process.
4. The Board of Estimates should consider establishing a review panel to adjudicate bid and contract disputes before an item is submitted to the Board of Estimates.
5. The City should convene stakeholders to develop a stronger process for managing grants.
6. All provisions of the Charter that provide for notice and publication should be revised to modernize and reflect the use of electronic forms of communication.
7. The Charter should be reviewed and revised to eliminate gender bias in the language used.
8. After the 2020 census, the Mayor and City Council should examine the following:
 - The appropriate number of Council districts relative to the City's population;
 - Whether districts should be multi- or single-member; as well as
 - Whether there should be additional at-large Council members.

The fourth and final section of the report includes specific recommendations on charter changes. The specific recommendations are included within the actual charter text. Affected articles of the City Charter are included and the changes that the Commission recommends are interlineated within the text and highlighted. Substantive changes are highlighted in yellow and are followed by a callout box, which provides a narrative describing why the change is recommended. Technical changes are highlighted in blue and contain no additional narrative.

The recommendations are intended to streamline the Charter and reflect the basic, organizational, and structural purpose of a local government charter. To that end, provisions may be recommended for deletion, not because the policy or process should be eliminated, but because it should be included in an Ordinance, regulation, or policy. Other recommended changes include new language and/or provisions that are appropriate for a charter. Additions of particular note include:

- Establishing the Office of the Inspector General in the Charter;
- Specifying that the Charter should be reviewed at least once every ten (10) years; and
- Allowing the Mayor and City Council or the Board of Estimates to consider types of contracts or procurements outside of just low-bid or high-score.

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The Commission believes it held true to your charge to focus on streamlining and improving the Charter to make the City more effective. We focused on recommendations that were common sense and that we believe had broad support. We believe the final recommendations will go a long way towards improving the quality and effectiveness of Baltimore City government and are proud to endorse them. The Coordinating Committee stands ready to provide additional support, background, or information as you or others may require.

Respectfully submitted,

Matthew Garbark
Commission Co-Chair

Ricardo Johnson
Commission Co-chair

Kevin Lynch
Audits Subcommittee

Brandon Moore
Audits Subcommittee

William J. McCarthy, Jr.
Budget and Finance Subcommittee

Sharon R. Pinder
Budget and Finance Subcommittee

Rochelle (Rikki) Spector
City Council and Legislative Process
Subcommittee

Earl Adams
City Council and Legislative Process
Subcommittee

Dawn Kirstaetter
Mayor's Office and Executive Function
Subcommittee

Robert Gonzales
Mayor's Office and Executive Function
Subcommittee

Scot Spencer
Pruning and Human Resources Subcommittee

Carolyn Colvin
Pruning and Human Resources Subcommittee

Ernst Valery
Procurement and Purchasing Subcommittee

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1. Charge/Background

The Baltimore City Charter is the primary governing document for the City of Baltimore. The Charter outlines the framework by which the City Government is to operate. However, the City is constantly evolving, and with it, comes the necessity to evolve our governing document to match these changes. There have been several individual amendments to the Charter in recent years. However, the last time the City performed a major Charter overhaul was in 1994. The City and society as a whole have changed significantly in the last 24 years.

As a result, Mayor Pugh established a Mayor's Charter Review Commission, comprised of over 50 representatives from the community, businesses, non-profit institutions, and City government. The Mayor's charge to the Commission was aggressive. In less than two months, she asked the Commission to review the Baltimore City Charter and develop recommendations to streamline and update provisions so that City operations can be performed more effectively and efficiently. She made it clear that the Commission should not focus on controversial or significant structural changes to City government. Rather, it should focus on common-sense updates to bring the Charter into the 21st century and to conform charter provisions to legal standards for what a local government charter should include. The accelerated timeline was established to ensure that any changes could make it on the 2018 General Election ballot.

Local governments are instruments of the State, which means the Maryland Constitution and laws provide for the creation of local governments. The creation and amendment process for a local government charter is established in the Maryland Constitution. Article 11-A of the Maryland Constitution provides that:

“[a]mendments to any charter adopted by the City of Baltimore... may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore ... A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City ... at the next general or congressional election occurring after the passage of the resolution or the filing of the petition.”

In order to make it onto the November 6, 2018 General Election ballot, resolutions containing proposed amendments to the charter must be submitted to the Baltimore City Council. There, the resolutions would follow the same process as any piece of legislation. They would be referred to committee where a public hearing would be held. The committee could make changes to the resolutions. If the committee votes favorably on the resolutions, the entire Council must then vote to approve them. Amendments could also be made when they are considered by the full Council. Since the Maryland Constitution specifies that both the City Council and the Mayor must approve the resolutions, the Mayor has the choice to sign the resolutions passed by the City Council or veto them.

Once the resolutions are passed by the Council and signed by the Mayor, they are sent to the Board of Elections where questions are prepared for the November General Election ballot. The

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questions summarize the changes made by each resolution and must be approved by Baltimore City voters to take effect.

The Commission was briefed by the City Law Department about the legal standards for local government charters. Overall, charters are intended to provide the structure and organization of a local government. As it is subject to voter approval, the Charter must be a simple, straightforward document that provides just enough information to inform the public how their local government is structured and functions. Legislative items should not, and in fact, cannot be included in a charter. Administrative items may be included in a charter so long as they are not so detailed as to become legislative. The courts can strike down charter provisions if they are deemed to go beyond the basic structure and organization of government. A charter is expected to empower a legislative branch to handle legislative matters and an executive branch to handle operational and administrative matters.

Because the Commission is a public body, it was subject to open meetings rules requiring advanced public notice of meetings, the recording of minutes, the posting of meeting agendas, and approval of minutes by the body. With all of this information in mind, the Commission broke into six subcommittees generally co-chaired by two individuals to review specific areas of the charter. To ensure compliance, Robert's Rules of Order were used to govern the overall commission as well as each subcommittee. Per the rules, subcommittees voted on changes and had to have a quorum (majority) of the subcommittee members present to vote.

The subcommittee co-chairs as well as the two Commission co-chairs formed the Charter Commission Coordinating Committee. Subcommittee changes were referred to the Coordinating Committee for consideration. As with the subcommittees, the Coordinating Committee was subject to open meetings requirements and used Robert's Rules of Order to consider the subcommittee recommendations.

In terms of a timeline, the subcommittees met weekly between early March and early April. Reports were submitted to the Coordinating Committee by early-mid April. Draft resolutions of these changes should be prepared and submitted to the Council by early May. The Council would need to approve the resolutions by late July or early August to ensure they can make it on the November ballot.

2. Committee Structure, Membership, and Areas

The Charter Review Committee was segmented into six subcommittees, each focused on a specific subject or area. Each subcommittee consisted, generally, of two co-chairs, approximately 5-10 voting members, one City attorney, one staffer from either the Mayor's Office or the Greater Baltimore Committee, and 2-3 Masters-level students from UMBC to perform research. The subcommittees were as follows:

- **Audits Subcommittee:** This subcommittee was tasked with reviewing the auditing process, including who should participate in auditing accounts and transactions.
 - **Membership:**
 - *Kevin Lynch (co-chair)*
 - *Brandon Moore (co-chair)*
 - Audrey Askew (Member)
 - Steward Beckham (Member)
 - Marie Grant (Member)
 - Sarah Hemminger (Member)
 - Leland Shelton (Member)
 - July Venroy (Member)
 - Brandon Wharton (Staff Support)
 - Mike Mullen (Attorney)
 - Salar Khaleghzadegan (UMBC Researcher)
 - Mike Akama (UMBC Researcher)
 - Aqib Hayat (UMBC Researcher)
- **Budget and Finance Subcommittee:** This subcommittee was tasked with reviewing the processes for preparing, adopting, and altering the City budget. They also reviewed the process and constraints for indebtedness.
 - **Membership:**
 - *Bill McCarthy (co-chair)*
 - *Sharon R. Pinder (co-chair)*
 - Steward Beckham (Member)
 - Ann Cotten (Member)
 - John Brothers (Member)
 - John Hoey (Member)
 - Ellen Janes (Member)
 - Laurie Schwartz (Member)
 - Neb Sertsu (Member)
 - Shaina Hernandez (Staff Support)
 - Elena DiPietro (Attorney)
 - Lucas Manes (UMBC Researcher)
 - Jeremy Matthews (UMBC Researcher)

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- **City Council and Legislative Process Subcommittee:** This subcommittee was tasked with reviewing topics related to the City Council, including the size, composition, and qualifications of City Council members as well as the process by which legislation is passed.
 - **Membership:**
 - *Rochelle Spector (co-chair)*
 - *Earl Adams (co-chair)*
 - Enoch Bevel (Member)
 - Josh Greenfeld (Member)
 - Brian Hammock (Member)
 - Kara Kunst (Member)
 - Tyson King-Meadows (Member)
 - Michael Middleton (Member)
 - Sameer Sidh (Member)
 - Andrew Aleshire (Staff Support)
 - Elena DiPietro (Attorney)
 - Marcus Jones (UMBC Researcher)
- **Mayor's Office and Executive Function Subcommittee:** This subcommittee was tasked with reviewing the qualifications for the Chief Executive, their powers/constraints, and the process by which they are elected.
 - **Membership:**
 - *Dawn Kirstaetter (co-chair)*
 - *Robert Gonzales (co-chair)*
 - Victor Bonaparte (Member)
 - Andy Frank (Member)
 - Kevin Kelly (Member)
 - Fred Lazarus (Member)
 - Caryn York (Member)
 - Anthony Scott (Staff Support)
 - Hilary Ruley (Attorney)
 - Grace De Oro (UMBC Researcher)
 - Caroline Fitchett (UMBC Researcher)
- **Pruning and HR Subcommittee:** This subcommittee was tasked with reviewing the Charter as a whole to identify obsolete or dated provisions, provisions that are legislative in nature or too detailed for a charter, and provisions that could be deemed extraneous.
 - **Membership:**
 - *Scot Spencer (co-chair)*
 - *Carolyn Colvin (co-chair)*
 - Ted Laster (Member)
 - Greg Cross (Member)
 - Kirby Fowler (Member)

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- Roger Hartley (Member)
 - Yu Kang (Member)
 - Mike Kelly (Member)
 - Sabina Kelly (Member)
 - Kimberly Moffit (Member)
 - Christy Wyskiel (Member)
 - Thurman Zollicoffer (Member)
 - Teresa Milio Birge (Staff Support)
 - Victor Tervala (Attorney)
 - Andrew Reinel (UMBC Researcher)
 - Nick Adcock (UMBC Researcher)
- **Procurement and Purchasing Subcommittee:** This subcommittee was tasked with reviewing and updating the specific requirements that are applied to the procurement and purchasing processes as outlined in the Charter.
 - **Membership:**
 - *Ernst Valery (chair)*
 - Harriette Taylor (Member)
 - Navin Dass (Member)
 - Thomas Hickey (Member)
 - Alex McGuire (Member)
 - Theo Ngongang (Member)
 - Alicia Wilson (Member)
 - Jacob Wittenberg (Member)
 - Dominic Lamartina (Staff Support)
 - Michael Schrock (Attorney)
 - Elena DiPietro (Attorney)
 - Xiaobei Dong (UMBC Researcher)
 - Jennifer Gray (UMBC Researcher)
 - Becca Scharf (UMBC Researcher)

Each of the six Subcommittees was overseen by the Coordinating Committee, which was comprised of each of the Subcommittee co-chairs as well as the co-chairs of the full Charter Review Committee (Matthew Garbark and Ricardo Johnson). The Coordinating Committee was tasked with reviewing the findings of the six Subcommittees and making final recommendations to the Mayor.

3. Global Recommendations

The Charter Commission established a comprehensive review of the City Charter based on extensive feedback from the Mayor's Office, City Council, the Comptroller's Office, and Executive Departments, along with the general public. Based on this process, the Commission produced a series of recommendations to improve and clarify charter language that were either global in nature or specific to particular provisions. This section summarizes those global recommendations that the Commission accepted from the aforementioned subcommittees.

The Pruning Subcommittee identified obsolete or dated provisions that were legislative in nature or too detailed for a charter, and provisions that could be deemed extraneous. This review produced the following recommendations that the Commission accepted:

- The Mayor and City Council should work with the City Delegation to have the Maryland General Assembly revise Article II to eliminate obsolete, dated and duplicative provisions and to generally modernize the grant of legislative powers delegated to the City pursuant to Article XI-A of the Maryland Constitution.
- All provisions of the Charter that provide for notice and publication should be revised to modernize and reflect the use of electronic forms of communication.
- The Charter should be reviewed and revised to eliminate gender bias in the language used.

The Budget and Finance Subcommittee reviewed the processes for preparing, adopting, and altering the City budget. The Commission has accepted the following recommendations from this subcommittee:

- Biennial budget –The recommendation of the subcommittee is to appoint a Task Force to study of efficacy of using a biennial budget process and to develop a form of biennial budgeting that suits the City's needs. This could include studying jurisdictions that currently use this process. This proposal was of interest to the subcommittee because of how time-consuming and intensive the current process has become. The Bureau of the Budget and Management Research (BBMR) has very little time that is not consumed by preparing the next fiscal year budget or participating in the adoption process. This leaves little time to do budget and fiscal policy research and planning which could lead to more innovation in the budgeting process and other fiscal policy areas. Biennial Budgeting is supported and endorsed by both the Budget Director and the Director of Finance. The subcommittee decided that a biennial budget should be seriously considered and that the supplementary appropriation process should be retained to provide for flexibility. The subcommittee, however, felt it had insufficient time to thoroughly study the impact of such a change and how it could be best implemented in Baltimore City.

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- Public engagement around the budget process – The subcommittee was very interested in the concept of participatory budgeting and engaging the community in the process in some way but did not think that this was appropriate for the Charter. The recommendation is that a committee be formed to consider how to better engage the public in the budget process.
- Bid protests – Although not part of the Subcommittee's focus, the subcommittee discussed the lack of a bid process for contractors to follow in order to protest an award of a contract by the Board of Estimates. The recommendation is that the Charter be amended to require the Board of Estimates to establish a best practices process for bid protests. A specific recommendation is for the establishment of an independent body such as a Board of Contract Appeal. This Board of Contract Appeal would adjudicate bid and contract disputes between the City government and contractors or vendors doing business with the City – before it is presented before the Board of Estimates.
- Grant Administration – While there is not a Charter change recommendation, the Subcommittee recommends that the city convene stakeholders toward several goals, including the development of a stronger process of managing grants. This is to ensure that all allotted city grant funding is being used to meet the city's most pressing current needs and that there is a coordinated and collaborative effort to obtain new grant dollars from state, federal and private sources that meaningfully builds upon current and future budgets.

Finally, the City Council Subcommittee reviewed items related to the size, composition, and qualifications of City Council members. Despite the changes to the City's population since 2000, the Commission accepted the City Council Subcommittee's decision to defer discussion on the size of the City Council until after the 2020 Census. However, after the 2020 census, the Commission recommends the Mayor and City Council reexamine the following topics related to the City Council:

- Number of City Council Seats
- Multi-Member Districts vs. Single Member Districts
- At-Large Members vs. Districts

4. Specific Recommendations

The specific charter changes recommended by the Commission are included in this section. In order to view the recommendations in context with other related provisions in the charter, the text from Articles I, III, IV, V, VI, VII, VIII, and IX are included in numerical order and the changes are added directly to the text. A convention is used to denote the changes as follows:

- New language is in **BOLD SMALL CAPS**
- Removal or deletion of language is ~~struck through with one line~~
- Substantive changes are highlighted in yellow
- Non-substantive or technical changes are highlighted in blue

There is a key in the footer on each page of this section to assist the reader in following the convention. In addition, below each substantive change, there is a callout box describing why the change is recommended.

Finally, it should be noted that no changes were recommended to Article II of the City Charter. Article II includes the powers provided by the Maryland General Assembly. As a result, the City cannot change those provisions through this process. Any changes to provisions in Article II must be made first by the Maryland General Assembly. The first global recommendation of the Commission is to work with the City's delegation to review the provisions included in Article II of the Charter and update or modernize as necessary.

The Commissions-specific recommendations to the Charter, starting with Article I, are as follows:

ARTICLE I GENERAL PROVISIONS

§ 7. Records; Reports

THE MAYOR AND CITY COUNCIL SHALL PROVIDE FOR APPROPRIATE RECORD-KEEPING AND THE PUBLIC SHALL HAVE THE RIGHT TO INSPECT PUBLIC RECORDS IN ACCORDANCE WITH STATE LAW.

(a) *Required maintenance; Admissibility; Public inspection.*

A suitable record of all the proceedings, financial transactions and official acts of all municipal agencies, shall be kept, and a certified copy of the record, or any part thereof, under the corporate seal of the City shall be admissible in evidence in any court of this State as proof of such record, or a part thereof. A record shall be available for public inspection unless otherwise expressly ordered by the head of the agency or the municipal officer by or on behalf of whom the record is kept; and in the event that written demand shall be made for the public disclosure of any matter deemed confidential by the head of an agency or by a municipal officer, the demand shall at once be referred to the Board of Estimates and the Board, after consultation with the City Solicitor as to the legal propriety of its action, may order the demanded disclosure to be made in whole or in part.

(b) *Microfilm, etc.*

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The City may provide by ordinance for the making and keeping of all or some records on microfilm or by other method of reproduction and, when so made, for the destruction of the original records. Any such reproduction or print therefrom shall be in all respects the equivalent of the original from which made, and when authenticated as above provided shall be admissible in evidence in any court of this State as proof of that record, or part thereof.

(e) *Annual report; Other information:*

Unless otherwise directed by the Board of Estimates, every municipal agency of the City shall prepare annually a written report of its work and proceedings. A copy of each report shall be filed with the Mayor and a copy shall also be filed with the Department of Legislative Reference; additional copies of each report, or parts thereof, shall be prepared and made available as from time to time may be directed by the Board of Estimates.

Upon request of the Mayor or Board of Estimates every municipal agency shall promptly supply the Mayor or the Board with all requested information with respect to the practice and proceedings of the agency; provided, however, that this information need not be given with respect to any undetermined policy or opinion, nor shall the Board of Municipal and Zoning Appeals make any disclosure as to any pending appeal other than to furnish a copy of the testimony and papers filed with it pertaining to that appeal.

Paragraphs (a) and (b) already are required by State law and the referenced technology is obsolete. The provisions of Paragraph (c) in some cases are not being performed and, in other cases, are being performed routinely. In effect, the requirements in this paragraph are unremarkable and need not be contained in the Charter. The proposed language is broad enough so that the Mayor and City Council can exercise whatever document control needs to be imposed.

§ 8.—Official time. [RESERVED]

The official time of the City of Baltimore shall conform to standard time based upon the time of the seventy-fifth meridian, except that, from two o'clock a.m. of the last Sunday in April until two o'clock a.m. of the last Sunday in September of each year, the official time throughout the City of Baltimore shall be advanced one hour, and all courts, public offices, legal and official proceedings, insofar as the same are subject to or under the control of the Mayor and City Council of Baltimore, shall be regulated thereby, and all time shown by the public clocks shall agree therewith. Provided, however, that the Mayor and City Council by ordinance passed not less than fifteen days before the change would become effective, may extend the period during which the one hour variation from standard time shall be effective in any year or years. The extension may be to change the advance in time up to two o'clock a.m. on the last Sunday in March, or back to two o'clock a.m. on the last Sunday in October, or both such changes, or any portion or portions of either. Any such extension may be provided only if other municipalities or sections of the United States shall have made such a change, and in the opinion of the Mayor and City Council thereby have caused inconvenience and annoyance to the commercial, economic, industrial or social affairs of the residents of Baltimore City.

This section is obsolete.

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§ 10. Affordable housing funds.

(a) *Authorization.*

By Ordinance, the Mayor and City Council of Baltimore may establish 1 or more continuing, nonlapsing funds for purposes of promoting economically diverse housing in City neighborhoods, including:

- (1) providing assistance, by loan, grant, or otherwise, for the planning, production, maintenance, or expansion of affordable housing in the City;
- (2) providing assistance, by loan, grant, or otherwise, to persons unable to obtain affordable housing; and
- (3) otherwise increasing housing opportunities for working families and other persons of low and moderate income.

(b) *Revenue sources.*

A fund established under this section may comprise:

- (1) money appropriated to the fund in the annual Ordinances of Estimates; and
- (2) grants or donations made to the fund.

(c) *Continuing nature of fund.*

Notwithstanding any other provision of this Charter, unspent portions of a fund established under this section:

- (1) remain in the fund, to be used exclusively for their ordained purposes;
- (2) do not revert to the general revenues of the City; and
- (3) their appropriations do not lapse.

Subsections (b) and (c) are not necessary for a Charter and add nothing that an Ordinance could authorize, as indicated in the first subsection.

ARTICLE III CITY COUNCIL

§ 7. Council districts.

(a) *Criteria for redistricting.*

The City shall be divided by ordinance into districts for the election of members of the City Council. The criteria in redistricting shall be equality of population, contiguous territory, compactness, natural boundaries, **existing council district lines**, and the standards established by the Supreme Court of the United States.

This change removes the requirement that existing council district lines be considered when redistricting. The removal still allows them to be considered, though it would not be required.

ARTICLE IV MAYOR

§ 4. General powers.

(a) *Conservator of peace; Financial oversight; Report on state of City.*

The Mayor, by virtue of the office, shall have all the powers of a conservator of the peace.

THE POWERS OF A CONSERVATOR OF THE PEACE INCLUDE ANY ACTION NECESSARY AND NOT CONTRARY TO LAW TO KEEP THE PEACE DURING A RIOT, DISTURBANCE OR DISORDERLY ASSEMBLY.

The Mayor may call upon any officer of the City entrusted with the receipt or expenditure of public money, for a statement of account as often as the Mayor thinks necessary, and may at any time by expert accountants and bookkeepers, examine the books and accounts of any department, commission, board, officer, assistant, clerk, subordinate or employee.

The Mayor shall report to the City Council as soon as practicable after the end of each fiscal year, the general state of the City, with an accurate account of the money received and expended, to be published for the information of the citizens.

This addition clarifies the powers of a conservator, however should not be misconstrued to limit them.

(b) *Chief executive officer.*

The Mayor shall be the chief executive officer of the City, shall see that ordinances and resolutions are duly and faithfully executed, and shall have general supervision over all municipal officers and agencies.

(c) **GENERAL WELFARE AND** *Economic development.*

Subject to more specific provisions of the Charter, the Mayor shall have general responsibility for the **HEALTH, WELFARE, AND** economic development of the City **THAT ARISE FROM THE EXECUTIVE DUTIES OF THE OFFICE.**

This addition captures other responsibilities that proceed from the Mayor's executive duties, but does not limit them.

§ 6. Appointments of municipal officers.

(a) *Appointment subject to confirmation.*

Except as otherwise provided in the Charter, the Mayor shall have the sole power of appointment of all municipal officers, subject to confirmation by the City Council by a majority vote of its members; provided the Council shall take action on the nomination within the first three regular meetings of the Council after the nomination is sent to it by the Mayor. If the Council fails to take action within this time, then the person nominated shall be, by operation of

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this subsection, confirmed by the Council. If the Council, by the required vote and in the prescribed time, shall refuse to confirm the nomination, the Mayor shall send to it another name for the office, who shall be subject to confirmation pursuant to this subsection.

(b) *Terms of officers.*

The terms of all municipal officers appointed by the Mayor shall expire at the end of four years or at the end of the Mayor's term of office, whichever first occurs, with the exception of the terms of some of the members of the Board of School Commissioners, the Civil Service Commission, the Planning Commission, the Board of Municipal and Zoning Appeals, and those boards and commissions governed by State or federal law. The terms of the members of these boards and commissions are prescribed elsewhere in the Charter or by other law.

(c) *Removal – In general.*

The Mayor shall have the power to remove at pleasure all municipal officers, except members of boards and commissions established by Charter or other law, appointed by the Mayor in the manner prescribed in this section and confirmed by the City Council; provided, however, that appointees holding office pursuant to the provisions of the Charter relating to the Civil Service may be removed from office only in accordance with such provisions.

(d) *Removal – Boards and commissions.*

Except as otherwise provided by law, the Mayor may remove members of boards and commissions established by Charter or other law by majority vote of the members of the City Council. Removal shall date from the time of City Council approval.

(e) *Term limits.*

No person, except ex officio members, shall serve more than two consecutive full terms, in addition to any unexpired term served, on the same board or commission.

(f) *Vacancies – In general.*

Upon the vacancy in any office subject to this section, whether by resignation, removal, death, end of a term or otherwise, the Mayor shall fill the vacancy by an appointment in the manner prescribed in this section for the remainder of the term, if any, of the former incumbent.

(g) *Vacancies – Boards and commissions.*

When a vacancy occurs on a board or commission established by this Charter, or other law, the Mayor shall have, for 120 days after the occurrence of that vacancy, the sole power of appointment to the vacant office. Such appointment shall be subject to confirmation by the City Council in the manner prescribed in this section.

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If the Mayor fails to submit a nomination within the time prescribed in this subsection, the power of appointment shall vest and be held by the board or commission to which the vacancy shall apply, and that board or commission, by majority vote, shall certify the name of a person to the City Council for confirmation in the manner prescribed in this section.

For the purposes of this subsection only, a vacancy shall occur upon the occurrence of an event enumerated in subsection (f) hereof, and also upon the rejection by the City Council of a nomination to a board or commission.

(h) *Vacancies – Office of director or similar.*

When a vacancy occurs in an office to which a municipal officer may be appointed who is subject to removal as provided in subsection (c), the Mayor may, in the interest of governmental efficiency and in order to provide uninterrupted municipal services, designate a person within the department or agency affected to perform the duties of the vacant office. Such a person shall cease to perform the duties of the office when a municipal officer is appointed and confirmed in the manner prescribed in this section, or one year after designation, or sixty days after the City Council shall by resolution, passed by majority vote and not subject to veto, direct the Mayor to appoint, subject to confirmation, a municipal officer, whichever first occurs; provided, however, that the City Council shall have no power to direct the appointment of any individual.

(i) *Oath and commission.*

All persons appointed by the Mayor, as well as those municipal officers elected by the people or by the City Council, shall qualify for office by taking before the Mayor an oath faithfully to perform the duties of their offices, and to support the laws and constitutions of the United States and of the State of Maryland. A test book shall be kept by the Mayor, which shall be signed at the time of taking the oath, and after qualifying, the Mayor shall issue to the officers a commission signed by the Mayor with the corporate seal attached.

(j) *Recess appointments.*

Whenever a vacancy that the Mayor is empowered to fill subject to confirmation by the City Council shall occur during the recess of the City Council, the Mayor may temporarily appoint a person to fill that vacancy until the next regular meeting of the City Council. At that meeting, the Mayor shall present such appointment for confirmation as provided for in this section for other appointments by the Mayor.

(k) *Holding over; Dual offices of profit prohibited.*

All elected municipal officers provided for in the Charter or other law, shall hold their offices until their successors are appointed or elected and qualified.

No person shall at any time hold more than one office yielding pecuniary compensation under the Mayor and City Council of Baltimore.

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This subsection is unnecessary because the Maryland Declaration of Rights, Article 35 already prohibits this.

ARTICLE V COMPTROLLER

§ 5. Department of Real Estate – Duties.

The Department of Real Estate shall have the following responsibilities in all matters relating to the acquisition, sale, lease, exchange or other disposition of real property of the City; provided, however, that nothing in this section shall affect the exercise by the City by ordinance of the powers granted to it in subsection (15) of Article II, or by the Mayor of the powers provided by Section 4(c) of Article IV relating to economic development:

(a) *Negotiation of acquisitions.*

Subject to any limitation on this power elsewhere in the Charter, any purchase (other than by condemnation) of real property or an interest therein by the City shall (unless and to the extent otherwise provided by the Board of Estimates) be negotiated and made on its behalf by the Department of Real Estate in such a manner as the Board of Estimates shall from time to time authorize and instruct.

(b) *Disposition of City property.*

The Department shall (unless and to the extent otherwise provided by the Board of Estimates) arrange for the disposition of any building or parcel of land (or any other real property) no longer needed by the City for public use. **THE DISPOSITION SHALL BE AUTHORIZED BY ORDINANCE AND APPROVED BY THE BOARD OF ESTIMATES.**

~~Any such disposition shall be authorized by ordinance, shall be approved by the Board of Estimates with the approval entered in its minutes, and shall be made at public sale unless a private sale or other manner of disposition shall be expressly authorized by the Board of Estimates and entered in its minutes. The instrument of conveyance of any building or parcel of land (or any other real property) whose disposition has been so authorized and approved shall be executed on behalf of the City by the Comptroller or Deputy Comptroller and attested to by the Director of Finance or the Deputy Director of Finance.~~

(c) *Leasing City property.*

The Department is authorized to lease any building or parcel of land (or any other real property) not needed by the City for public purposes on a month to month basis, unless otherwise provided by ordinance. It is also authorized to lease such property for fixed terms provided such leases are first approved by the Board of Estimates.

(d) *Inventory of City property.*

The Comptroller, working in conjunction with the heads of other affected municipal agencies, shall maintain a public inventory of the City's properties.

The deleted material is purely administrative in nature and the proposed language captures the substance of the deleted paragraph.

§ 6. Real Property Account.

~~Except as may be otherwise provided by ordinance with regard to the exercise by the City of the powers granted to it in subsection (15) and subsection (15A) of Article II, the Comptroller shall cause to be credited to an account to be known as the "Mayor and City Council Real Property Account", the proceeds from the sale by the City of any real or leasehold property or interest therein.~~

~~Moneys received from such sales shall be appropriated in the Ordinance of Estimates only for the purchase of land, and the purchase or construction of buildings, and other construction work and projects, and to carry out the industrial and economic development powers vested in the Mayor and City Council of Baltimore by the provisions of subsection (15A) of Article II, it being the intent of this provision to limit the use of such moneys to the purposes specifically mentioned in this section, and otherwise to prohibit their use for current expenses of the City.~~

~~The annual Ordinance of Estimates shall include the appropriations which are proposed to be charged to the "Mayor and City Council Real Property Account", and the state of the account, with the particulars as to sources of receipts, shall be reported by the Comptroller annually to the City Council.~~

PROCEEDS FROM ANY SALE OF REAL OR LEASEHOLD PROPERTY OR INTEREST THEREIN SHALL BE APPROPRIATED IN THE ORDINANCE OF ESTIMATES AND USED SOLELY TO PURCHASE LAND OR TO FUND CAPITAL IMPROVEMENTS. THE PROCEEDS MAY NOT BE USED TO PAY FOR ITEMS IN THE CITY'S OPERATING BUDGET.

The proposed language is intended to frame the substance of the deleted material.

§ 7. Department of Audits – Established.

(a) *Establishment; City Auditor.*

There shall be a Department of Audits, the head of which shall be the City Auditor.

The City Auditor shall be a certified public accountant who is licensed by the State of Maryland, shall be appointed by the Comptroller in accordance with the provisions of the Charter relating to the Civil Service, and shall hold office in accordance with these provisions.

(B) *THERE SHALL BE A DEPUTY CITY AUDITOR.*

THE DEPUTY CITY AUDITOR SHALL BE A CERTIFIED PUBLIC ACCOUNTANT WHO IS LICENSED BY THE STATE OF MARYLAND AND APPOINTED BY THE COMPTROLLER. WHENEVER A

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VACANCY SHALL OCCUR IN THE OFFICE OF THE CITY AUDITOR OR WHENEVER THE CITY AUDITOR IS INCAPACITATED OR OTHERWISE UNAVAILABLE FOR DUTY FOR ANY CAUSE, THE DEPUTY AUDITOR SHALL BE THE ACTING CITY AUDITOR UNTIL THE CITY AUDITOR IS AVAILABLE FOR DUTY OR THE VACANCY IS FILLED.

The language includes the position of "Deputy Auditor" in the Charter along with the authority to act for the Auditor as needed.

(b) *Staff; Budget.*

The City Auditor shall appoint such employees as may be provided in the Ordinance of Estimates.

Sufficient funds shall be included in the Ordinance of Estimates for the Department of Audits to enable the City Auditor to perform the duties prescribed herein.

§ 8. DEFINITIONS.

(A) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) AUDIT.

(1) "AUDIT" MEANS AN AUDIT UNDERTAKEN IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS AND FEDERAL AND STATE LAW.

(2) "AUDIT" INCLUDES BOTH:

(I) A FINANCIAL AUDIT OF A PRINCIPAL AGENCY'S FINANCIAL TRANSACTIONS, INCLUDING ALL REVENUES AND RECEIPTS; AND

(II) A PERFORMANCE AUDIT THAT ASSESSES A PRINCIPAL AGENCY'S PRACTICES TO DETERMINE WHETHER THE AGENCY IS OPERATING ECONOMICALLY AND EFFICIENTLY AND WHETHER CORRECTIVE ACTIONS FOR IMPROVING ITS PERFORMANCE ARE APPROPRIATE.

(C) PRINCIPAL AGENCY.

"PRINCIPAL AGENCY" MEANS ANY OF THE FOLLOWING EXECUTIVE DEPARTMENTS:

(1) DEPARTMENT OF FINANCE.

(2) DEPARTMENT OF PUBLIC WORKS.

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(3) FIRE DEPARTMENT.

(4) DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(5) DEPARTMENT OF GENERAL SERVICES.

(6) MAYOR'S OFFICE OF INFORMATION TECHNOLOGY (OR SUCCESSOR ENTITY TO THIS OFFICE).

(7) MAYOR'S OFFICE OF HUMAN SERVICES (OR SUCCESSOR ENTITY TO THIS OFFICE).

(8) DEPARTMENT OF LAW.

(9) DEPARTMENT OF HUMAN RESOURCES.

(10) DEPARTMENT OF TRANSPORTATION.

(11) POLICE DEPARTMENT.

(12) DEPARTMENT OF RECREATION AND PARKS.

(13) DEPARTMENT OF PLANNING.

(14) DEPARTMENT OF HEALTH.

(15) MAYOR'S OFFICE OF EMPLOYMENT DEVELOPMENT (OR SUCCESSOR ENTITY TO THIS OFFICE).

This section has been moved forward in this article to appear just after the enabling section. Further, given that the Baltimore Development Corporation (BDC) has its own audit process, separate from the City's, the BDC was removed as one of the principal agencies requiring biennial audits. The Department of Audits retains the authority to audit BDC, if needed, and such a requirement could be done by ordinance or regulation.

§ 89. Department of Audits – General powers and duties.

(a) *In general.*

In accordance with generally accepted government auditing standards and State and federal law, the City Auditor:

- (1) shall at appropriate intervals conduct an audit of the financial transactions of every municipal agency, except the Department of Audits;

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- (1) shall conduct an annual audit of all accounts, revenues, and receipts **FINANCIAL STATEMENTS OF THE CITY;**

The revised language is more inclusive and gives broader authority to the Auditor. Financial statements include accounts, revenues, and receipts.

- (3) shall conduct biennial audits of principal agencies, as provided in § 44-12 of this article;
- (4) may audit the expenditure of City-granted funds by any public or private agency that receives such funds;
- (5) may audit City contracts, grants, subgrants and other agreements as required by the terms and conditions of these instruments and, when the contracts, grants, subgrants and other agreements require that audits be conducted by other auditors, review such audits; **and**
- (6) shall make such other audits as the Comptroller or the Board of Estimates may request, provided that those requested audits do not, in the judgment of the City Auditor, unduly hinder the performance of regular audits;
- (7) SHALL REFER TO THE OFFICE OF THE INSPECTOR GENERAL ANY REASONABLE SUSPICION OF FRAUD, WASTE OR ABUSE THAT ARISES FROM AUDITS PERFORMED BY THE CITY AUDITOR OR FROM REPORTS RECEIVED FROM CREDIBLE SOURCES; AND**

This language clarifies the duty and authority of the Auditor.

- (8) SHALL ADOPT RULES AND REGULATIONS, SUBJECT TO THE APPROVAL OF THE COMPTROLLER, TO CARRY OUT THE POWERS, FUNCTIONS AND DUTIES OF THE DEPARTMENT, WHICH SHALL INCLUDE THE SCHEDULING OF AUDITS AND REQUIREMENTS TO PROVIDE CITY AGENCIES WRITTEN REPORTS OF AGENCY AUDITS AND AN OPPORTUNITY TO RESPOND TO THE FINDINGS OF AN AUDIT.**

This language clarifies that the Department of Audits has authority to adopt internal rules and regulations governing how the Department shall function.

§ 910. Department of Audits – Comprehensive annual financial report.

- (a) *Audit of report.*

The City Auditor, under the supervision of the Comptroller, shall audit the comprehensive annual financial report of the City, prepared by the Director of Finance. This report shall be a public document.

- (b) *Access to records.*

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To carry out the Auditor's duties, the Auditor shall have access at all times to the financial records of all municipal agencies and the relevant financial records of contractors with, and grantees of, the City.

§ 1011. Department of Audits – Independent auditors.

(a) *Required engagement.*

The Board of Estimates, at appropriate intervals, shall engage an independent firm of certified public accountants to audit:

(1) the financial transactions of the Department of Audits; and

(2) the comprehensive annual financial report of the City.

(b) *Permissive engagement.*

The Board of Estimates may engage an independent firm of certified public accountants to audit the financial transactions of any municipal agency and to examine the fiscal procedures, records, accounts, and methods of any municipal agency, including the Department of Audits.

(c) *Reports.*

The independent firm of certified public accountants shall make reports of its audits, examinations, and recommendations to the Board of Estimates.

§ 1112. Department of Audits – Biennial audits of principal agencies.

(a) *Definitions.*

(1) *In general.*

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

(2) *Audit.*

(i) “Audit” means an audit undertaken in accordance with generally accepted government auditing standards and federal and state law.

(ii) “Audit” includes both:

(A) a financial audit of a principal agency’s financial transactions, including all revenues and receipts; and

(B) a performance audit that assesses a principal agency’s practices to determine whether the agency is operating economically and efficiently and whether corrective actions for improving its performance are appropriate.

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(3) *Principal agency.*

"Principal agency" means any of the following executive departments:

(i) *Group A—*

1. Department of Finance.
2. Department of Public Works.
3. Fire Department.
4. Department of Housing and Community Development.
5. Department of General Services.
6. Baltimore Development Corporation.
7. Mayor's Office of Information Technology (or successor entity to this Office).
8. Mayor's Office of Human Services (or successor entity to this Office). (ii)

(ii) *Group B—*

1. Department of Law.
2. Department of Human Resources.
3. Department of Transportation.
4. Police Department.
5. Department of Recreation and Parks.
6. Department of Planning.
7. Department of Health.
8. Mayor's Office of Employment Development (or successor entity to this Office).

These items were moved to Section 8.

(bA) *Biennial audit required.*

(1) *In general.*

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At least twice during every 4 year term of the Mayor and City Council ONCE BIENNIALLY, AND IN ACCORDANCE WITH THE SCHEDULES AND PROCEDURES ESTABLISHED BY THE DEPARTMENT AND IN CONSULTATION WITH THE BIENNIAL AUDITS OVERSIGHT COMMISSION, the City Auditor shall conduct an audit of each principal agency's operations for the preceding 2 fiscal years.

(2) Staggered schedule.

These audits shall be staggered so that:

(i) audits of the principal agencies listed in subsection (a)(3)(i) as "Group A" are initiated in odd numbered calendar years; and

(ii) audits of the principal agencies listed in subsection (a)(3)(ii) as "Group B" are initiated in even numbered calendar years.

The audit schedule and timing should be done with input from the Department of Audits and the Audits Oversight Committee rather than set in the Charter.

(eB) Costs of audit.

In each fiscal year preceding the fiscal year in which audits are to be conducted under this section, the Comptroller shall include the costs of those audits in the estimates that the Comptroller submits for the next year's Ordinance of Estimates.

(eC) Status of prior recommendations.

(1) In general.

Each report of an agency audit conducted under this section shall include an ancillary report on the status of all recommendations for executive action that resulted from that agency's immediately preceding audit under this section.

(2) Content of report.

The ancillary report shall:

(i) designate each recommendation's status either as "implemented", "partially implemented", or "not implemented"; and

(ii) provide justification AS DETAILED BY SUCH APPLICABLE AGENCIES for the status designation assigned.

(eD) Publication of reports.

Reports of all audits conducted under this section shall be:

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- (1) posted on a public website maintained by the City Comptroller;
- (2) filed with the Department of Legislative Reference; and
- (3) submitted to each member of:
 - (i) the Board of Estimates;
 - (ii) the City Council; and
 - (iii) the Biennial Audits Oversight Commission.

(fE) Biennial Audits Oversight Commission.

(1) Commission established.

There is a Biennial Audits Oversight Commission.

(2) Composition.

The Commission comprises the following 7 members:

- (i) the Director of Finance;
- (ii) the Inspector General;
- (iii) the Comptroller;
- (iv) the City Council President; and
- (v) 3 members of the City Council, appointed by the City Council President.

(3) Officers.

- (i) The City Council President shall designate 1 of the members to serve as Chair of the Commission.
- (ii) The members of the Commission, by majority vote, may elect any other officers that they consider necessary or appropriate.

(4) Meetings; voting.

- (i) The Commission shall meet at the call of the Chair as frequently as required to perform its duties.

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(ii) 4 members of the Commission constitute a quorum for the transaction of business.

(iii) An affirmative vote of at least 4 members is needed for any official action.

(5) Procedures.

The Commission may adopt rules of procedure to govern its meetings and operations.

(6) Powers and duties.

The Commission:

(i) shall provide guidance and advice to the City Auditor in determining the scope of a principal agency's performance audit **AND THE SCHEDULE OF BIENNIAL AUDITS;**

(ii) shall hold at least 2 publicly advertised meetings a year, at which meetings the City Auditor shall appear and report on the status of the audits and recommendations under this section; **and**

(iii) for good cause shown by a principal agency, may waive the requirement for a financial audit to be conducted under this section.

Subparagraph (iii) was added to Charter in 2016 to permit the Baltimore Development Corporation (BDC) to waive an audit by the City, if BDC conducted an independent audit. Since the Committee recommends that BDC be removed from the definition of principal agency subject to City audits, subsection (iii) is unnecessary.

ARTICLE VI BOARD OF ESTIMATES

§ 6. Adoption of proposed Ordinance of Estimates.

(a) *Adoption, submission, and publication.*

After the public notice and hearings prescribed by Section 3(b), the Board shall adopt a proposed Ordinance of Estimates by a majority vote of all the members. The Board shall deliver the proposed Ordinance of Estimates to the President of the City Council and contemporaneously publish a copy of the proposed ordinance in two daily newspapers in Baltimore City NOTICE IN A MANNER THAT ENSURES ADEQUATE NOTICE TO THE PUBLIC.

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces costs.

(b) *Accompanying materials.*

The proposed Ordinance of Estimates that the Board submits to the City Council shall be accompanied by the following materials:

- (1) a breakdown of the amounts stated for each program, purpose, activity, or project of each municipal agency in the proposed operating budget by standard categories of expenditure, for
 - (a) personal services,
 - (b) materials, supplies, and equipment, **AND**
 - (c) debt service, **and**
 - (d) such other categories as the Board of Estimates may deem advisable.

This deletes duplicative language that follows in (b)(7) of this section.

The personal services category shall include the compensation of every officer and salaried employee of the City; provided, however, that the salaries for employees in the same classification who have a uniform salary or salary range may be combined into a single entry, which shall indicate the number of such employees, their aggregate salaries, and the name or title of the classification.

- (2) a comparison by standard categories of expenditures of the appropriations contained in the proposed operating budget with
 - (a) the amounts requested by the municipal agencies in their budget submissions

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- (b) the amounts appropriated for the current fiscal year and
 - (c) the amounts expended in the prior fiscal year;
- (3) detailed information about the sources of funds to meet the aggregate total of the appropriations contained in the proposed Ordinance of Estimates;
 - (4) the long-range capital improvement program adopted by the Board and for each capital project included in the capital budget, the following:
 - (a) a brief description and location, the total estimated cost,
 - (b) the appropriations authorized to date,
 - (c) the appropriations proposed for the next fiscal year,
 - (d) the appropriations required thereafter to complete the project, and
 - (e) the estimated additional annual maintenance and operation cost.
 - (5) a statement setting out:
 - (a) the revenues which the City can reasonably expect to receive in the next fiscal year from all existing sources of revenue at existing rates other than the full rate property tax but including amounts believed to be collectible from taxes for prior years and including an estimate of the surplus expected at the end of the current fiscal year;
 - (b) the difference between the revenues expected under (a) above and the total amount of appropriations provided in the proposed Ordinance of Estimates;
 - (c) the estimated taxable basis for the next ensuing fiscal year for the levy of full rate property taxes;
 - (d) the rate for the levy of full rate property taxes which, given the revenues expected under (a) above, the total appropriations in the proposed Ordinance of Estimates, and the taxable basis, will be necessary to raise sufficient total revenues to cover total anticipated expenditures;
 - (e) new sources of revenue or new rates on existing sources of revenue, and the amounts which can reasonably be expected from each of them, which the Board of Estimates believes should be adopted for the next fiscal year; also the rate for the levy of full rate property taxes which, in view of such new sources of revenue or new rates on existing sources of revenue, will be necessary to bring total

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expected revenues for the next fiscal year into balance with total anticipated expenditures for the year;

- (6) a message from the Mayor explaining the major emphasis and objectives of the City's budget for the next fiscal year;
- (7) such other information as the Board of Estimates may deem advisable.

§ 11. Procurement.

- (a) *Board of Estimates responsible.*

The Board of Estimates shall be responsible for awarding contracts and supervising all purchasing by the City as provided in this section and elsewhere in the Charter.

- (b) *Authority of City Council.*

- (1) **THE BOARD OF ESTIMATES SHALL RECOMMEND TO** ~~By ordinance passed by two-thirds of the City Council members, the Mayor and City Council shall set the dollar thresholds for:~~
 - (i) contracts that must be formally advertised; and
 - (ii) contracts that must be approved by the Board of Estimates.
- (2) **UNLESS AN ORDINANCE ESTABLISHING DIFFERENT THRESHOLDS IS PASSED BY TWO-THIRDS OF THE CITY COUNCIL MEMBERS WITHIN 90 DAYS OF THE DATE OF THE RECOMMENDATION, THE DOLLAR THRESHOLDS RECOMMENDED PURSUANT TO SUBSECTION (B)(1) OF THIS SECTION SHALL BECOME EFFECTIVE.**
- (3) **DURING THE RESPONSE PERIOD ESTABLISHED PURSUANT TO (B)(2) OF THIS SECTION, Pending enactment of an Ordinance under this subsection, the Board of Estimates shall UTILIZE**
 - (I) **THE set initial threshold amounts SET PURSUANT TO A BOARD OF ESTIMATES RESOLUTION ADOPTED ON DECEMBER 22, 2010; OR**
 - (II) **THE LATEST ESTABLISHED THRESHOLD AMOUNTS SET LATER THAN DECEMBER 22, 2010 BY BOARD OF ESTIMATES RESOLUTION OR BY ORDINANCE. These initial amounts shall remain in effect until different amounts have been set by Ordinance under this subsection.**

As currently written, the Council could enact an ordinance to change the threshold for contracts going to the Board. As the Board is the fiscal policy entity for the City, this change would state the Board determines the threshold and the Council can act to change it within 90 days.

(c) *Formal advertisement.*

In contracting for any public work, or the purchase of any supplies (unless otherwise provided by ordinance for foodstuffs and related perishables), materials, equipment, or services other than professional services, for the City or by any municipal agency, involving an expenditure of greater than the threshold set under subsection (b) of this section, advertisements for **BIDS OR** proposals shall first be published ~~at least twice in two or more newspapers of general circulation published in Baltimore City, and published electronically to the public, unless otherwise provided by the Charter IN A MANNER THAT ENSURES ADEQUATE PUBLIC NOTICE.~~ The first publication shall be made not less than 10 nor more than ~~90~~120 days prior to the day set for opening the bids **OR PROPOSALS.**

These changes:

- 1. Specify that “bids” as well as proposals are subject to publishing requirements;**
- 2. Modernize the publication requirement;**
- 3. Extend the amount of time a notice can be posted prior to award; and**
- 4. Include proposals as well as bids. While proposal and bid mean the same thing functionally, there may be a legal distinction.**

(d) *Professional services.*

All professional services contracted for by the City shall be engaged in the manner prescribed by resolution of the Board of Estimates.

(e) *Emergencies, etc.*

- (i1) When any supplies, materials, equipment, services, or public works are of such a nature that no advantage will result in seeking, or it is not practicable to obtain, competitive bids **OR PROPOSALS**, or when the need for supplies, materials, equipment, services, or public works is of an emergency nature and the using agency certifies this in writing to the Board of Estimates, with written notice to the Department of Finance, the provisions of subsection (c) of this section may be dispensed with. However, the purchase may not be made, nor may the City incur any obligation for it, until approved by the Board of Estimates after considering the recommendation of the Department of Finance. When practicable, the City’s intent to make a purchase under this exception shall be posted electronically to the public for comment prior to the approval of the purchase by the Board of Estimates.

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(ii2) In the event of an emergency of such a nature that the public welfare would be adversely affected by awaiting the approval of the Board of Estimates, the Department of Finance, upon application by the head of the municipal agency involved, may proceed to obtain the supplies, materials, equipment, services, or public works required without reference to the provisions of subsection (c) of this section. A full report of any this action shall be promptly submitted to the Board of Estimates.

(f) *Contracts subject to Board of Estimates approval.*

All purchases of services other than professional services, of property other than real estate or interests therein (except as may be otherwise provided by ordinance for foodstuffs and related perishables), and all other contracts involving an expenditure greater than an amount set under subsection (b) of this section, except those awarded by the Board of Estimates pursuant to the provisions of subsection (h) of this section, made by any municipal agency, in addition to compliance with other applicable provisions of the Charter, shall be submitted to the Board of Estimates for its approval and shall be binding upon the City only when so approved. The Board of Estimates may adopt rules and regulations governing the procedures and requirements to be followed by any municipal agency in making purchases or other contracts involving an expenditure that does not require formal advertising under subsection (c) of this section.

(g) *Prequalification of bidders.*

In contracting for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency, the Board of Estimates may establish, maintain, and modify rules, regulations, and standards for the prequalification of bidders.

(h) *Bid awardsAWARDS.*

(1) (i) All bids **OR PROPOSALS** made to the City in response to the formal advertising procedures contained in this section, for materials, supplies, equipment, services, or public works, or for any other purpose, unless otherwise provided in the Charter, shall be opened by the Board of Estimates **OR THE BOARD'S DESIGNEE.**

This would allow the Board to designate a person or entity to open bids on its behalf.

(ii) **After opening the bidsUPON RECOMMENDATION OF THE PROCURING AGENCY,** the Board of Estimates shall:

1. award the contract, as an entirety to the lowest responsive and responsible bidder or **PROPOSER,**

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2. AWARD THE CONTRACT by items to the respective lowest responsive and responsible bidders OR PROPOSERS, or

3. in the case of Requests for Proposals, AWARD THE CONTRACT to the highest OVERALL scoring responsive and responsible bidder PROPOSER, or

For requests for proposals, this change allows the award to be made by the highest score when accounting for the technical and prices proposals.

4. AWARD THE CONTRACT IN ANY MANNER AUTHORIZED BY ORDINANCE OR BY THE BOARD, OR

This would allow the Council or Board to authorize a new manner of awarding a contract. This broadens the potential for new and varied types of contracts into which the City can enter, such as public-private partnerships.

5. shall reject all bids OR PROPOSALS.

(III) However, whenever alternative bids OR PROPOSALS are invited for two or more different things, then, after all bids OR PROPOSALS have been opened, the Board may select the particular item that will be procured, and shall award the contract to the lowest responsive and responsible bidder or in the case of Requests for Proposals to the highest scoring responsive and responsible bidder PROPOSER for that particular item.

(iii) In the event of tie bids, the using agency, with written notice to the Department of Finance, shall make a written recommendation and report to the Board of Estimates setting forth all pertinent considerations and the reasons for its recommendation. The Board, after also considering the recommendation of the Department of Finance, may then award the contract in its discretion, as long as the total cost to the City does not exceed the amount of the tie bid.

(iv) Once filed, bids OR PROPOSALS are irrevocable.

(v) Any recommendation that is made by any municipal agency to the Board of Estimates as to the appropriate award to be made by the Board is advisory only and not binding on the Board.

(vi) Notwithstanding the competitive bid provisions of this Charter, the Board of Estimates may adopt rules and regulations that establish uniform procedures for providing, on a neighborhood service, neighborhood public work, or neighborhood public improvement contract, limited bid preferences to responsive

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and responsible bidders **OR PROPOSERS** who are residents of, or have their principal places of business in, that neighborhood.

- (2) (i) **1.** All bids **OR PROPOSALS** for construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works shall be accompanied by a ~~check or bid bond~~**BID SECURITY**.

Bid security is broader and more encompassing than a bond. There may be other forms of security that are valid.

- 2. SUBJECT TO BOARD OF ESTIMATES APPROVAL, FOR FOR** all other contracts, the Director of Finance shall implement policies and procedures to determine whether a ~~bond~~**BID SECURITY** is required for a contract, the term and face value of the ~~bond~~**SECURITY**, and the manner in which the ~~bond~~**SECURITY** shall be provided and refunded.

The Department of Finance developed policies on bid security for non-construction contracts. This language requires that the Board approve those policies.

- (ii) Except as otherwise provided in this paragraph (2), the check shall be a certified check of the bidder **OR PROPOSER**, a bank cashier's check, or a bank treasurer's check, drawn on a clearing house bank. The check shall be in an amount provided by ordinance, by the bid **OR PROPOSAL** specifications, or by an order or regulation of the using agency. In the case of bid **OR PROPOSAL** checks of \$5,000 or less, the check may be of any type drawn on any banking institution of the United States.
- (iii) The bid ~~bond~~**SECURITY** shall be in the form and amount provided by the rules and regulations of the Board of Estimates, and shall be filed by the bidder **OR PROPOSER** with the Department of Finance.
- (3) (i) The successful bidder **OR PROPOSER** promptly shall execute a formal contract, to be approved as to its form, terms, and conditions by the City Solicitor.
- (ii) For all construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works, the bidder **OR PROPOSER** shall execute and deliver to the Mayor a good and sufficient performance bond, irrevocable letter of credit, or certification that the successful bidder **OR PROPOSER** meets the requirements under the City's self-insurance program for performance coverage. For all other contracts, the Director of Finance shall implement policies and

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procedures to determine whether a performance bond is required for a contract, the term and face value of the bond, and the manner in which the bond shall be provided.

(iii) The bond, letter of credit, or certification shall be:

1. in an amount equal to the full contract price; or
2. for each year in a multi-year contract (other than a construction contract), in an amount equal to the estimated contract price for that year, as determined by the Director of Finance.

(iv) Any successful bidder **OR PROPOSER** who fails to execute promptly and properly the required contract, performance bond, irrevocable letter of credit, or certification, as applicable, shall forfeit the amount deposited, or an equivalent amount under the bid **bondSECURITY**. This amount shall be taken and considered as liquidated damages and not as penalty for the bidder's **OR PROPOSER'S** failure.

- (4) When the successful bidder **OR PROPOSER** executes the contract and, if required, the performance bond, the bid checks shall be returned to all bidders **OR PROPOSERS** or the equivalent amounts charged against their bid **bondSECURITY** shall be released. If the City has deposited bid checks, the City shall reimburse these bidders **OR PROPOSERS** in the amounts of the bid checks.
- (5) If a bidder **OR PROPOSER** is not required to file a bid **bondSECURITY** under the policies and procedures adopted by the Director of Finance and the bidder **OR PROPOSER** fails to execute and perform any contract awarded to that bidder **OR PROPOSER**, the exempted bidder **OR PROPOSER** shall forfeit the right to bid on **OR SUBMIT A PROPOSAL FOR** any future City contract for a period of time determined by the Board of Estimates, and shall be liable for any costs incurred by the City as a result of the default.

(i) *Local, small, and disadvantaged business enterprise programs.*

The Mayor and City Council may, by ordinance, establish programs that grant purchasing preferences to local, small, or disadvantaged businesses and, for that purpose, waive or modify the application of this section (with the exception of subsection (a)) to certain transactions.

§ 14. **Bonds of municipal officers.**

~~Except as otherwise provided by State law, the Board of Estimates shall determine which officials of the City shall be bonded for the faithful performance of their duties and the form and amount of such bonds. All premiums on official bonds shall be paid by the City. All bonds executed in favor of the City shall be approved by the Mayor.~~

This eliminates unnecessary detail for a charter. These requirements should be contained in administrative or policy documents.

§ 16. Salaries of State's Attorney's Office.

The Board of Estimates is hereby authorized and empowered to fix the salaries of the State's Attorney, the Deputy State's Attorney, and Assistant State's Attorneys of Baltimore City, in amounts not less than those prescribed by the Constitution of Maryland.

This would allow for inclusion of the State's Attorney in the Elected Official Employee Compensation Commission. The Deputy and Assistant State's Attorneys would be set in the Ordinance of Estimates and does not need to be specified in the Charter.

§ 17. Expenditures for new improvements.

Except as provided in Section 61 of Article VII, no expenditure for any new improvement shall be made out of any appropriation in the Ordinance of Estimates unless the plans for such improvement are first submitted to and approved by the Board of Estimates.

This section provides administrative detail that need not be regulated by the Charter but by custom or by the Board of Estimates.

ARTICLE VII EXECUTIVE DEPARTMENTS

GENERAL PROVISIONS

§ 3. General provisions: Bureaus and divisions.

(a) *Establishment or abolition.*

With the approval of the Board of Estimates, the head of a municipal department (except as otherwise provided for the Department of Public Works), commission, or board provided for by the Charter may establish and abolish bureaus and divisions within that department, commission or board.

Bureaus in the Department of Public Works shall be established or abolished from time to time by an ordinance which shall have been recommended to the City Council by the Board of Estimates and shall have been duly passed by the City Council by a majority vote of its members and shall have been approved by the Mayor.

(b) *Allocation of powers and duties.*

~~Subject to the authority of the Board of Estimates, the head of any department, commission, or board may assign among the bureaus or divisions in that department, commission, or board, duties and powers of that department, commission, or board. A board or commission may act under this subsection only by the majority vote of its membership.~~

The reassignment of duties within a department by a department head is common place and well within the scope of a director's responsibilities, except for the presence of this charter provision. If a reassignment is made that proves to be controversial, the absence of this charter provision would not be a deterrent to having it corrected either by the Board or the Mayor.

DEPARTMENT OF FINANCE

§ 5. Department of Finance: Established.

There is a Department of Finance, the head of which shall be the Director of Finance.

§ 6. Department of Finance: Director.

(a) *Duties; Qualifications.*

The Director of Finance shall supervise and direct the Department. The Director shall have substantial experience in financial administration.

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(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

§ 7. Department of Finance: Deputy Director; Employees.

(a) *Deputy – Appointment.*

The Director shall appoint a Deputy Director of Finance pursuant to this section.

(b) *Deputy – As Acting Director.*

Whenever a vacancy shall occur in the office of Director, or whenever the Director shall be incapacitated or otherwise unavailable for duty for any cause, the Deputy Director appointed pursuant to this section shall be the Acting Director.

(c) *Other employees.*

The Director may appoint such other employees as provided in the Ordinance of Estimates.

§ 8. Department of Finance: Budget preparation.

In accordance with rules established by the Board of Estimates, the Department shall prepare the preliminary operating budget for the consideration of the Board of Estimates, shall make reports and recommendations on the capital budget and capital improvement program, and shall otherwise participate in the making of the proposed Ordinance of Estimates.

§ 9. Department of Finance: Budget administration.

Under the direction of the Board of Estimates, the Director shall implement the Ordinance of Estimates. In the interest of economy and efficiency, the Director shall survey the administration and organization of municipal agencies to support the Director's recommendations to the Board of Estimates on the budget requests of the agencies and the Director's reports to the Mayor on measures which might be taken to improve the organization and administration of City government.

§ 10. Department of Finance: Disbursements.

~~The Department shall have general supervision and charge over all payments and disbursements made by the City and no payment or disbursement shall be made by the City without the approval of the Department.~~

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The provisions are provided in Section 12(b).

§ 11. Department of Finance: Accounting.

(a) *In general.*

(1) The Department shall keep all general accounts of the City, prepare the City's financial statements, and maintain an adequate system of accounting that, at all times, reflects the actual financial condition of the City resulting from income accrued and liabilities incurred, property owned, and funded obligations, estimated revenue and authorized appropriations, cash received and disbursed, among other factors. The Department shall also maintain complete physical and cost records of all property owned by the City, including perpetual inventory records itemizing materials and supplies on hand.

(2) **THE DEPARTMENT SHALL EMPLOY AT LEAST ONE CERTIFIED PUBLIC ACCOUNTANT IN THE PERFORMANCE OF THESE DUTIES.**

This provision will ensure that the Finance Department employs a Certified Public Accountant. It currently employs several, but this change will ensure that at least one must be employed.

(b) *Agency oversight.*

The Department shall supervise and direct the accounting and bookkeeping of all municipal agencies. After consulting with the City Auditor, the Director shall install, maintain and prescribe the accounts and financial records that municipal agencies must keep to assure proper accounting. The accounting methods that the Director prescribes and uses shall prevent, where possible, unnecessary and unlawful expenditures.

(c) *Submissions.*

On a monthly basis, the Director shall submit general operating statements to the Board of Estimates and the Board of Finance. At least once annually, the Director shall submit to both these boards financial statements that include total municipal income and expenses and the City's assets and liabilities.

§ 12. Department of Finance: Collections, deposits, withdrawals, etc.

(a) *In general.*

UNLESS OTHERWISE PROVIDED BY LAW, THE The Director shall receive, collect, and account for all moneys due the City and deposit these moneys in depositories selected by the Board of Finance.

(b) *Withdrawals.*

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UNLESS OTHERWISE PROVIDED BY LAW, THE The Director shall approve the withdrawal of City moneys from its depositories.

There has been discussion about allowing the Department of Public Works to manage the utility fund in its entirety. The language added would allow an ordinance to be passed authorizing such a change.

(c) *Required signatures for checks.*

Unless otherwise provided by law, all checks of the City shall be signed by the Director or Deputy Director, and counter-signed by the Mayor, except payroll, pension, and similar checks, which shall bear the signatures of the Director or Deputy Director and of a person in the Department of Finance designated by the Director to sign as disbursing officer; such designation shall be made in writing by the Director and filed with all banks on which such checks are drawn. Any signature on checks of the City may be manual or facsimile.

(d) *Local and state taxes.*

~~In addition to collecting all taxes and assessments levied or made by the City, the Director shall collect such State taxes and perform such other duties for the State as may be prescribed by law. The salary provided the Director in the Ordinance of Estimates shall include compensation for collecting State taxes and such other duties as the Director may perform for the State.~~

~~After the levy of the full rate property tax has been made, the Director shall prepare the tax bills and shall have them ready for payment by the taxpayers on the first day of the fiscal year for which the levy is made or as soon thereafter as is possible. To encourage the payment of taxes prior to the date on which they become in arrears, the Department shall allow such discounts upon payment prior to such date as may be provided by law.~~

This subsection contains information already covered by State law. It should not be included in the Charter.

(e) {Repealed by Res. 00-010, ratified November 2000.}

§ 13. Department of Finance: Lien records.

(a) *Keeping records; Issuing lien certificates.*

The Department shall keep a record of all municipal charges and assessments and shall provide for the issuance of a lien certificate stating whether any, and, if so, what municipal charges or assessments exist against any particular property. The Department shall make such charge for the issuance of a lien certificate as may be fixed by the Board of Estimates.

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(b) *Contents of certificates; Charges constitute liens.*

A lien certificate shall show all charges and assessments of every character due the City, including State and City taxes and special paving tax, water and sewer billings, street benefit assessments, minor privilege charges, charges for street, alley and footway paving, sewerage connections, nuisance abatements and other charges. All of the charges and assessments shall be liens, until paid, against the property named in the lien certificate; provided that no then existing charge shall be a lien against a property after the issuance of a lien certificate for that property unless that charge be shown on the lien certificate.

(c) *Tax lien records.*

The Department shall maintain at all times tax lien records that record tax liens and all other municipal liens. The tax lien records shall show the location of the property, the character of the liens against the property, and the amount of the liens as of the date of recording. After a lien shall have been recorded in the tax lien records, it shall remain a lien until paid and no statute of limitations shall operate as a bar to the collection of the lien.

Subsection (a) provides for the general activities described in subsections (b) & (c). Much of these subsections provide administrative detail and activities regulated by State law. There is no charter in Maryland that discusses liens as it is an administration function and not an overarching mechanism of the City government.

§ 14. Department of Finance: Notices of lien.

The Director shall provide notice of a lien to a property owner as provided by law.

§ 15. Department of Finance: Distraint or levy for taxes.

(a) *Good or chattels—Notice of proposed sale.*

Whenever the Director shall distrain or levy upon any goods or chattels in Baltimore City for nonpayment of any taxes, state or municipal, due by the owner thereof, before making sale of property so distrained or levied upon, the Director shall give notice as required by law, including notice by advertisement published twice a week for one week prior to the day of sale, and also on the day of sale, in three of the daily newspapers published in the City, that the Director will sell for cash, at public auction, to the highest bidder, on the day and at the time and place mentioned in the advertisement, the property therein specified, unless on or before the day of sale the entire amount of taxes for which such distraint or levy shall have been made, with interest thereon, and costs of making the levy and advertisement, shall be paid.

(b) *Goods or chattels—Application of proceeds.*

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Whenever the Director shall sell any goods or chattels levied or distrained upon for taxes, state or municipal, in Baltimore City, after due advertisement as required in the preceding paragraph, the Director shall retain out of the proceeds of sale the amount of taxes due from the delinquent, for which the levy or restraint shall have been made, with interest thereon, and all costs incurred in making the sale, and shall pay over the surplus, if any, to the owner of the property so levied upon and sold.

(e) *Other sales.*

All other sales of real or personal property, or interests therein, for nonpayment of taxes or other charges shall be conducted by such persons and in such manner as may be prescribed by law.

These are activities required by State law and they will be performed in accordance with its requirements. No reasons for this to be discussed in the Charter.

§ 16. Department of Finance: Taxes as personal debt and lien.

All taxes and charges in the nature of taxes shall be the personal debt of the person against whom they are charged and recoverable as such, and shall also become a lien against the property assessed in the manner and to the extent provided by law.

§ 17. Department of Finance: Purchasing.

(a) *Central purchasing system.*

The City shall have a centralized purchasing system, and the Department of Finance and all other municipal agencies shall cooperate fully to obtain the maximum benefits from this system.

(b) *Department to procure or approve procurement; Competitive bidding.*

The Department shall procure, by purchase, lease or other acquisition, or shall approve the procurement of, all materials, supplies, and equipment, and all services, other than professional services, that municipal agencies use ("using agencies").

The Department shall insure that competitive bidding is used, and competitive prices are obtained, in purchasing these materials, supplies, equipment and services, to the fullest practicable extent.

(c) *Rules and regulations; Standards.*

Subject to the approval of the Board of Estimates, the Department shall adopt rules and regulations that prescribe when, and the manner and form in which, using agencies will submit estimates of their procurement needs, make requisitions, and enter into contracts.

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In cooperation with the using agencies, the Department shall adopt standards for materials, supplies, equipment, and services required by the using agencies.

(d) *Responsibility for storing, distributing, etc.*

Unless special exception is made by resolution of the Board of Estimates, the Department shall be responsible for disposing of and reclaiming materials, supplies, and equipment purchased for municipal agencies.

(e) *Exceptions.*

Unless otherwise provided by the Board of Estimates, nothing in this section shall be construed to apply to public works done under contract, to records and briefs printed for the Department of Law, or to professional services.

(f) *Board of Estimates to settle agency disputes.*

In the event of a disagreement between departments, the Board of Estimates shall determine whether a proposed procurement is for public works, materials, supplies, equipment, services or professional services.

§ 18. Department of Finance: Registrar of debt; Custodian of funds and securities; Keeper of Seal.

(a) *Registrar of debt; Custodian of funds and securities.*

The Director shall be the registrar of the public debt and responsible for all moneys and securities belonging to the City including the actuarial retirement systems and shall provide for the safekeeping and transfer of stocks, bonds, and securities owned or held by the City or any agency thereof, ~~provided, however, that the designation of depository institutions shall be as set forth in Article VII, Section 21(b).~~

~~To help the Director discharge the Director's duties as custodian of the moneys and securities of the actuarial retirement systems of the City, the administrators of those systems shall provide the Director with the financial information and assurances that he may request. The Director, acting under the supervision of the Board of Estimates, may contract with banks or trust companies that have appropriate charter authority to be custodians of cash and securities of the retirement systems. The Director shall have no personal liability for the performance, lack of performance, misfeasance or malfeasance of a bank or trust company so selected.~~

These provisions are unnecessary detail about carrying out this function – and the Charter cannot regulate any entity other than the city government and its officers and employees.

(b) *Securities; Advancements.*

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The Director shall perform such duties relating to the stocks, bonds, and other evidences of indebtedness or securities issued by the City as may be directed by the Board of Finance. In exercising powers as the custodian of the moneys of the City, the Director may advance funds in the Director's custody for the discharge of obligations incurred in connection with projects for which bond issues of the City have been approved and moneys therefor appropriated, prior to the issuance of the bonds; provided that repayment of any advances shall be made out of the proceeds of sale of the bond issue concerned.

(c) *Keeper of City Seal.*

The Director or the Director's delegate, designated in writing by the Director, shall have charge of the corporate seal of the City ~~and shall use it in all cases where the use of the seal is required by federal or State laws, ordinances, or the uses and customs of nations, and shall charge a fee as may be fixed from time to time by the Board of Estimates for each impression of the seal except such as shall be affixed to or impressed upon documents for the City.~~

Possession of the seal implies use in accordance with law. Whether a fee is attached to use is not a matter important enough to include in a charter.

DEPARTMENT OF PUBLIC WORKS

§ 27. Department of Public Works: Established.

There is a Department of Public Works, the head of which shall be the Director of Public Works.

§ 28. Department of Public Works: Director.

(a) *Head of Department; Qualifications.*

The Director of Public Works shall supervise and direct the Department.

The Director shall have had substantial administrative experience in the construction and maintenance of public works, public improvements and the delivery of related public services or ten years experience as an engineer.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

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§ 29. Department of Public Works: Staff.

(a) *Deputy; Other employees.*

The Director shall appoint a Deputy Director pursuant to this section and such employees as provided in the Ordinance of Estimates, provided, however, that bureau heads in the Department of Public Works shall be appointed by the Mayor in the manner prescribed in Section 6 of Article IV and shall hold their offices as therein provided.

(b) *Deputy as Acting Director.*

Whenever a vacancy shall occur in the office of Director or whenever the Director shall be incapacitated or otherwise unavailable for duty for any cause, the Deputy Director shall be the Acting Director, until the Director is again available for duty or the vacancy is filled.

§ 30. Department of Public Works: Supervision of public works.

~~The Director shall supervise all public works in Baltimore City or elsewhere, made by or for the City or any municipal agency, that relate to the Department's powers under this Charter. All plans and specifications for these public works, including those involving engineering questions, shall be submitted to the Director for approval.~~

This provision merely says the director supervises the public works of the department. This provision adds nothing that is not already understood to exist. It also does not give the director the authority to supervise the public work performed by other departments because it says the director only supervises public works related to the department's charter powers.

§ 31. Department of Public Works: Construction, maintenance, and repair.

Unless otherwise provided by this Charter, the Department has charge of the construction, demolition, alteration, operation and maintenance of all public works that relate to the Department's powers under this Charter.

§ 32. {Repealed by Res. 08-003, ratified Nov. 4, 2008.}

§ 33. Department of Public Works: Water supply.

The Department shall have charge of the water supply of the City and of all the properties, reservoirs, streams, pumping and filtration stations, pipes, apparatus and equipment appurtenant thereto and shall exercise all the powers and perform all the duties connected with the operation thereof and the supplying of water to the City.

§ 34. Department of Public Works: Sewage.

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The Department shall have charge of the construction, operation and maintenance of all drains, sewers, and sewage disposal facilities, of the inspection or supervision of sewer or drain construction and repair work, and of waste disposal.

§ 35. Department of Public Works: Street cleaning.

The Department shall be responsible for cleaning the streets and for the collection, disposal and recycling of garbage, ashes, refuse, trash, and other waste matter, except as otherwise provided by law.

§ 36. {Repealed by Res. 08-003, ratified Nov. 4, 2008.}

§ 37. Department of Public Works: Testing.

~~At the request of a municipal agency, the Department shall test materials and supplies purchased or used by the agency.~~

This provision is administrative in nature and should not be in a charter.

§§ 38 to 40. {Repealed by Res. 08-003, ratified Nov. 4, 2008.}

§ 41. Department of Public Works: Correcting physical obstruction.

(a) *Correction required.*

~~Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.~~

(b) *Condemnation.*

~~The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.~~

**Subsection (a) is legislative in nature and should not be included in a charter.
Subsection (b) is redundant because the power is already addressed in Article II, as indicated.**

§ 42. Department of Public Works: Assistance to other agencies.

~~On the request of the head of a municipal agency, the Director shall:~~

~~(1) supply estimates of the cost of work proposed to be done for that agency during the next fiscal year; and~~

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(2) perform services for the municipal agency of the same general character as those carried on by the Department, the cost of which shall be charged to the agency requesting the services and shall be paid out of the funds appropriated to it.

These provisions are matters best left to the discretion of the department or the Mayor's office and should, therefore, not be included in the Charter.

§§ 43 to 46. {Repealed by Res. 08-003, ratified Nov. 4, 2008.}

FIRE DEPARTMENT

§ 47. Fire Department: Established.

There is a Fire Department, the head of which shall be the Chief.

§ 48. Fire Department: Chief.

(a) *Head of Department.*

The Chief of the Fire Department shall supervise and direct the Department.

(b) *Appointment; Term.*

The Chief shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Chief shall be paid a salary as provided in the Ordinance of Estimates.

(d) *Staff.*

The Chief may appoint such employees as provided in the Ordinance of Estimates.

§ 49. Fire Department: Board of Fire Commissioners – Established.

There is a Board of Fire Commissioners, which shall advise the Chief and exercise those powers and perform those duties provided by the Charter.

§ 50. Fire Department: Board of Fire Commissioners – Composition; Appointment; Terms.

(a) *In general.*

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The Board shall consist of three persons, which number may be increased by ordinance to five, who shall be appointed, must be confirmed, and shall serve pursuant to Article IV, Section 6.

(b) *President.*

The Mayor shall designate one member of the Board as its President and may withdraw such designation and so designate another member.

§ 51. Fire Department: Board of Fire Commissioners – Powers and duties.

(a) *Advise Chief.*

The Board generally shall advise the Chief.

(b) *Review disciplinary policies.*

AT THE REQUEST OF THE CHIEF, THE The Board shall review the disciplinary policies and practices of the Department and make appropriate recommendations to the Chief.

(c) *Investigations of Department conduct.*

In giving advice, the Board may investigate all matters affecting the conduct of the Department.

IT SHALL BE THE SOLE DISCRETION OF THE CHIEF WHETHER TO ACCEPT SUCH RECOMMENDATIONS MADE RELATED TO SUCH INVESTIGATIONS.

These changes ensure that the final authority on disciplinary policies and investigations related to the Fire Department rests with the Fire Chief.

(d) *Appeal panels.*

The Board may sit in panels of not less than two to hear appeals under the Fire Prevention Code.

§ 52. Fire Department: Board of Fire Commissioners – Retirement of employees.

As to employees not covered by the Employees' Retirement System or the Fire and Police Employees' Retirement System of the City, the Board may retire from office in the Department any permanent or call member thereof who has become permanently disabled, while in the actual performance of duties, from risks taken in the performance of those duties and not due to any wilful misconduct on the member's part, or who has performed faithful service in the Department for a period of not less than twenty consecutive years, or who may become unable to perform further service by reason of age or other physical or mental disabilities, and place the member so retired upon a pension roll. The amount of such annual pension to be allowed by the Board to each pensioner shall be equal to one-half the yearly salary received by members of the Department in active service in the same grade or occupying the same position as, or position most similar to, that occupied by the pensioner at the time of his retirement, payable in monthly installments. The Board

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~~may also provide for the relief of widows and children of members of the Department who may have been killed in the discharge of their duties or have died as a result of injuries sustained in the performance of their duties, provided that the injuries were caused solely by risks taken in the performance of their duties and not due to the wilful misconduct of the deceased.~~

~~The annual amount which shall be paid to the widows and/or to the children under the age of 18 years, of members of the Department who may have been killed in the discharge of their duties or have died as a result of injuries sustained in the performance of their duties shall be in the discretion of the Board, but shall not exceed the full amount of the yearly salary received by members of the Department in active service in the same grade and occupying the same position as, or position most similar to, that occupied by the deceased at the time of his death, payable in monthly installments.~~

~~The Board may also provide for the relief of unremarried widows, by marriages existing at the time of retirement or death, of employees of the Department who are not members of the Employees' Retirement System or the Fire and Police Employees' Retirement System who die, whether death occurs before or after their retirement, subject to the Ordinance of Estimates. The annual amount which shall be paid to such widow of such a deceased member shall not exceed fifty per centum (50%) of the yearly pension to which such deceased member would have been entitled to receive had that member lived and been retired under the provisions of this section.~~

~~The City Council may provide by ordinance a system of benefits payable to the unremarried widows and children under age 18 of persons who were employees or retired employees of the Department who were not members of the Employees' Retirement System or the Fire and Police Employees' Retirement System and who died or retired prior to June 7, 1963, subject to such exceptions, conditions, restrictions and classifications as may be provided therein.~~

This section is outdated as the Board of Fire Commissioners no longer performs these functions. The Fire Department no longer has a separate retirement system. It is now combined with the Baltimore Police Department.

§ 53. Fire Department: Arbitration for fire fighters and officers.

(a) *Request for arbitration.*

If the certified employee organization or organizations representing fire fighters and fire officers within the Fire Department and the employer have not reached a written agreement concerning terms and conditions of employment by March 1 of any year, either party may request arbitration by a board of arbitration, as herein provided, which request must be honored.

(b) *Board of arbitration – Selection; Proceedings generally.*

The board of arbitration shall be composed of three members, one appointed by the Mayor, and one appointed jointly by the certified employee organizations representing the fire fighters and fire officers involved. These members shall be selected within four days of the request for arbitration. The third member shall be selected within four additional days by the two arbitrators

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previously chosen and in accordance with the procedures of the American Arbitration Association from a list furnished by the Association. Such member selected shall act as chairman of the board of arbitration.

The board of arbitration thus established shall commence the arbitration proceedings within seven days after the chairman is selected and shall make its decision, by a majority vote, within fifteen days after the commencement of the arbitration proceedings. For good cause the chairman may extend the time requirement set forth herein.

(c) *Submission of last proposals.*

Within three days after the selection of the chairman of the board of arbitration, the Labor Commissioner or **his THE COMMISSIONER'S** designated representative shall provide to each member of the board of arbitration and to all parties, a detailed itemization of the last proposal made by the respective parties during the negotiations.

The Commission recommended eliminating gender-specific pronouns.

(d) *Considerations.*

The board of arbitration shall identify the major issues in the dispute, review the positions of all parties and shall take into consideration wages, benefits, hours, and other working conditions of other fire department and public safety employees in Maryland as well as in comparable metropolitan political subdivisions in other states, and shall also consider the value of other benefits available to or received by other employees of the Mayor and City Council of Baltimore as compared with private sector employees in the metropolitan Baltimore City area and as compared with employees of other fire departments and other public safety employees. The board of arbitration shall further consider consumer prices for goods and services and other related items, cost of living data, and such other factors, not confined to the foregoing, which are normally utilized in the determination of wages and other benefits in the collective bargaining process and shall also take into account the financial condition of the City.

(e) *Oaths, subpoenas, etc.*

The board of arbitration shall have the power to administer oaths, compel the attendance of witnesses, and require the production of evidence by subpoena.

(f) *Decision – In general.*

The board of arbitration after hearing witnesses and considering and receiving such written evidence as may be submitted shall, by written decision, order the implementation, in its entirety, of the last proposal of one of the respective parties previously submitted in accordance with subparagraph (c) of this section.

(g) *Decision – Implementation.*

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The decision of the majority of the board of arbitration thus established shall be final and binding upon the Mayor and City Council of Baltimore and upon the certified employee organizations involved in the proceedings. No appeal therefrom shall be allowed. Such decision shall constitute a mandate to the Mayor of Baltimore City in respect to such matters which can be remedied administratively by **him THE MAYOR**, and as a mandate to the Board of Estimates and the City Council with respect to matters which require legislative action necessary to implement the decision of the Board of Arbitration.

The Commission recommended eliminating gender-specific pronouns.

With respect to matters which require legislative action for implementation, such legislation shall be enacted within forty-five days following the date of the arbitration decision.

With respect to salaries and wage scales, the amounts determined by the final decision of the Board of Arbitration shall be included in the proposed Ordinance of Estimates in accordance with Article VI, Section 4(a), shall not be reduced by the City Council in accordance with Article VI, Section 7(a), and shall be adopted by the Board of Estimates as the salary and wage scales for employees of the Fire Department in accordance with Section 12 of Article VI.

(h) *Costs.*

The cost of the arbitration proceedings provided for herein shall be borne equally by the parties involved.

DEPARTMENT OF RECREATION AND PARKS

§ 65. Department of Recreation and Parks: Established.

There is a Department of Recreation and Parks, the head of which shall be the Director of Recreation and Parks.

§ 66. Department of Recreation and Parks: Director – Appointment, etc.

(a) *Head of Department; Qualifications.*

The Director shall supervise and direct the Department.

The Director shall be qualified by personal background, education and experience to establish, maintain and operate parks and recreational facilities.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

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The Director's salary shall be set in the Ordinance of Estimates.

(d) *Staff.*

The Director may appoint such employees as provided in the Ordinance of Estimates.

§ 67. Department of Recreation and Parks: Director – Powers and duties.

The Director of Recreation and Parks shall have the following powers and duties:

- (a) subject to the provisions of Article V relating to the acquisition and disposition of real property, to establish, maintain, operate and control parks, zoos, squares, athletic and recreational facilities and activities for the people of Baltimore City, and to have charge and control of all such property and activities belonging to, or conducted by, the City;
- (b) to provide concerts, symphonies and other musical entertainment for the people of Baltimore City;
- (c) to provide for the protection and maintenance of all monuments belonging to the City;
- (d) subject to the provisions of Article V relating to the acquisition and disposition of real property, to rent for department use buildings and other places suitable for the conduct of the activities of the Department. The Director is hereby authorized and empowered, with the consent of any other municipal agency, to organize and conduct play and recreational activities on grounds and in buildings under the control of such other agency and on such conditions as may be agreed to by such other agency.
- (e) to charge and collect fees for admission, services and the use of facilities, and rentals for the use of property controlled by the Department; provided, that no lease of such facilities shall be made for a period of thirty days or more (or for successive periods aggregating thirty days or more) without the prior approval of the Board of Estimates. All moneys collected by the Department shall be accounted for as the Director of Finance prescribes.
- (f) to adopt and enforce rules and regulations for the management, use, government and preservation of order with respect to all land, property, and activities under the control of the Department. To carry out such regulations, fines may be imposed for breaches of the rules and regulations as provided by law.

§ 68. Department of Recreation and Parks: Board – Established; Duties.

There is a Board of Recreation and Parks, which shall advise the Director and exercise those other powers and perform those other duties prescribed by law.

§ 69. Department of Recreation and Parks: Board – Composition; Appointment; Terms.

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(a) *In general.*

The Board shall consist of seven members, who shall be appointed **BY THE MAYOR** from among those deemed most capable, by reason of character, education, intelligence, experience, and commitment to conservation and environmental protection, of promoting public recreation, parks, and music for the people of Baltimore City. The members must be confirmed, and shall serve, pursuant to Article IV, Section 6.

This change clarifies that it is the Mayor who appoints the members of the Board of Recreation and Parks.

(b) *President.*

The Mayor shall designate one member of the Board as its president and may withdraw that designation and so designate another member.

DEPARTMENT OF PLANNING

§ 70. Department of Planning: Established.

There is a Department of Planning, the head of which shall be the Planning Commission.

§ 71. Department of Planning: Commission – Composition; Appointment; Terms.

(a) *In general.*

The Planning Commission shall consist of nine members,

one of whom shall be the Director of Public Works ex officio,

one of whom shall be the Mayor of the City ex officio, and

one of whom shall be a member of the City Council ex officio, who shall be elected by that body, and

six of whom shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

The terms of three appointed members shall expire on the last day of the year in which the term of the Mayor begins pursuant to Article IV, Section 1, and the four year terms of three appointed members shall expire two years thereafter.

(b) *President.*

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The Mayor shall designate one appointed member of the Commission as its President, and may withdraw such designation and so designate another appointed member.

(c) *Designees of Mayor, Public Works Director.*

The Mayor may designate a municipal officer or member of the Mayor's personal staff to attend meetings of the Commission and to vote thereon in the Mayor's place, and the Director of Public Works may delegate an employee in that department to attend any meeting of the Commission and to vote in the Director's place.

(d) *Salaries.*

Compensation for each of the members of the Commission, excluding those serving ex officio, except the member of the City Council, shall be set in the Ordinance of Estimates.

(e) *Qualifications.*

Each member of the Commission shall be a resident and registered voter at the time, and during the term, of appointment.

§ 72. Department of Planning: Commission – Powers and duties.

The Planning Commission:

- (a) shall adopt rules and regulations to exercise the powers and perform the duties of the Department.
- (b) shall meet regularly as the Commission may determine, and hold special meetings at the call of the President or upon the written request of three members.
- (c) shall hold hearings at the Commission's discretion or upon the written request of any member of the City Council.
- (d) may, at its hearings, administer oaths and compel the attendance of witnesses.
- (e) shall keep minutes of its proceedings and maintain a public record of its decisions, showing the vote of each member.
- (f) shall investigate and study land uses, the development of subdivisions of land, and zoning within the City of Baltimore.
- (g) shall adopt and revise a master plan **IN ACCORDANCE WITH STATE LAW** for the proposed physical development of Baltimore City.

This phrase is in the new Zoning Code and should be included in this section.

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(h) before adopting or revising the master plan, shall hold a public hearing, **AND PROVIDE** reasonable notice ~~of which shall be given~~ in the neighborhood of the properties affected ~~and by publication in a newspaper of general circulation in Baltimore City~~ **IN A MANNER THAT ENSURES ADEQUATE PUBLIC NOTICE.**

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces cost.

- (i) shall consider, and may approve, if they are consistent with the master plan, among other things:
 1. development plans
 2. an enterprise or public or private improvement that requires a permit
 3. urban renewal plans
 4. plans for the subdivision and consolidation of public and private parcels of land.
- (j) shall submit for the consideration of the Board of Estimates a recommended capital budget for inclusion in the Ordinance of Estimates, a recommended long-range capital improvement program, and a report explaining both, all of which shall be made public.
- (k) shall issue a report and recommendation, which shall state the nature of the investigation made by the Commission, whether hearings were held thereon, reasons for the recommendation, and the number of members voting for or against it:
 1. on every proposed amendment to the Baltimore City Zoning Ordinance referred to it; and
 2. on the creation of, and proposed amendments to, an urban renewal plan.
- (l) may report and submit to the City Council amendments to the Baltimore City Zoning Ordinance. Any such amendment shall be submitted only by resolution, adopted by the affirmative vote of two-thirds of the entire membership of the Commission.
- (m) shall have reasonable access, through its agents and employees, to the plats and records of all other municipal agencies of the City and, subject to the approval of the Board of Estimates, may require the assistance of any other municipal agency of the City.
- (n) may take such other actions, subject to the provisions of this Charter and law, that it deems necessary and appropriate to assure that development is well-planned, efficiently coordinated by the City, and consistent with the health, order, security, safety and morals of the inhabitants of Baltimore City, as well as the aesthetic and natural environment of the City.

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§ 73. Department of Planning: Director and staff.

(a) *Director – Appointment; Term.*

The Mayor shall appoint a Director from a list of candidates provided by the Commission. If, within 120 days of a vacancy in the position of Director, the Commission fails, by a majority vote of its members, to provide such a list to the Mayor, the Mayor may select the Director in the Mayor's discretion.

The Director must be confirmed by the City Council pursuant to Article IV, Section 6(a). The Mayor, after consulting with the Commission, may suspend, demote or dismiss the Director.

(b) *Staff.*

The Commission shall also appoint such other employees (including part time consultants) for the conduct of the office of the Commission, as may be provided for in the Ordinance of Estimates.

(c) *Director – Qualifications.*

The Director shall be qualified by personal background, education and experience to advance the development and planning of Baltimore City.

(d) *Director – Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

§ 74. Department of Planning: Master Plan.

(a) *Purpose.*

The Master Plan shall be made for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of Baltimore City to promote the health, order, security, safety, and morals of its inhabitants, and to preserve and enhance the aesthetic and natural environment of the City.

(b) *Scope.*

~~The Master Plan may consist of a series of component plans.~~

~~It shall show, among other things, the future general location and extent of all public improvements and enterprises, including among other things, the general location and extent of streets, highways, boulevards, viaducts, bridges, subways, tunnels and all uses of land for purposes of public transportation, and also the general location and extent of piers, wharves, docks and bulkheads, and buildings or structures thereon, whether publicly or privately owned or operated, and also the general location and extent of publicly owned places of recreation, such as~~

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~~playgrounds, squares, and parks, and all public buildings and other public property, including school buildings, and all existing and proposed zoning areas or districts, and all public utilities, services and terminals, such as water, gas, electricity, sewerage, telephone, telegraph and transportation, whether privately or publicly owned or operated.~~

This information in this subsection does not need to be in a charter. It is too detailed.

(c) *Revisions.*

After the adoption of the Master Plan, or any part thereof, by the Commission, the plan may be revised **AS PROVIDED BY STATE LAW AND** only by a resolution of the Commission, carried by the affirmative vote of not less than six members of the Commission, or by ordinance adopted by the City Council by the affirmative vote of not less than three-fourths of its members.

~~An original copy of the revision, duly signed by the President, or by the Mayor if made by ordinance, shall be filed with the Department of Legislative Reference.~~

(d) *Conformity with Plan required.*

~~No public improvement or enterprise, including, among other things, streets, highways, boulevards, viaducts, bridges, subways, tunnels or other uses of land for purposes of public transportation, and piers, wharves, docks, and bulkheads, and buildings or structures thereon, whether publicly or privately owned or operated, and publicly owned places of recreation, such as playgrounds, squares or parks, and public buildings, including school buildings, and public utilities, services or terminals, including gas, water, electricity, sewerage, telephone, telegraph or transportation, whether privately or publicly owned or operated, within the scope of the Master Plan shall be authorized or constructed in Baltimore City unless the location and grade thereof and, in cases of the use of land for purposes of transportation, the width thereof, shall be in conformity with the Master Plan and have been first approved by the Commission. PUBLIC AND PRIVATE IMPROVEMENTS SHALL BE IN CONFORMITY TO THE MASTER PLAN TO THE EXTENT REQUIRED BY LAW.~~

The changes truncate the language and allow greater flexibility while retaining the concepts and the legal requirements.

§ 75. Department of Planning: Subdivisions **In general.**

(A) The Commission shall publish rules and regulations for the development of subdivisions which will require that development plans include adequate provision for all public improvements, enterprises and all public utilities, whether privately or publicly owned or operated; for the proper width, grade and arrangement of streets, and all uses of land for public transportation, and the relation thereof to existing streets; for adequate and convenient open spaces for traffic and the access of fire fighting apparatus; for proper drainage; and which will require that all such subdivisions and the owners thereof comply in all respects with the Master Plan.

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- (B) NO PERMITS MAY BE ISSUED FOR ANY PROJECT OR DEVELOPMENT THAT IS SUBJECT TO A PROPOSED SUBDIVISION PLAN UNTIL THE COMMISSION AND THE DEPARTMENT OF TRANSPORTATION HAVE APPROVED THE PLAN
- (C) EVERY PLAT SHOWING AN IMPROVED SUBDIVISION PLAN SHALL BE FILED AMONG THE LAND RECORDS OF BALTIMORE CITY.

§ 76. Department of Planning: Subdivisions—Definition.

A subdivision plan shall mean a plan submitted by the owner of not less than one third of the land included therein showing one or more new streets or parks, or showing the division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or other divisions of land for the purpose, whether immediate or future, of sale or building development.

§ 77. Department of Planning: Subdivisions—Approvals.

(a) *Commission approval required.*

All plans for subdivision of land shall be filed for record with the Commission, and no permits shall be issued by any department of the City for any work of any character whatsoever, to be done in such subdivision of land, until the plan thereof shall have been approved by the Commission as in conformity with the rules and regulations formulated and published by the Commission.

(b) *Deadline for decision.*

In the event the Commission shall fail to approve or disapprove any such subdivision plan within thirty days from the date of submission thereof to the Commission, such plan shall be deemed to have been approved by the commission unless the applicant waives this requirement and consents to an extension of such period.

§ 78. Department of Planning: Subdivision regulation—Recording.

Every plat showing a subdivision plan shall be filed among the Land Records of Baltimore City and with the Department of Legislative Reference, but not until after the plan has been endorsed with the approval of the Commission and of the Department of Transportation.

The language added to Section 75 incorporates the necessary provisions in Sections 76-78.

§ 79. Department of Planning: Appeals.

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Any applicant for a permit who is aggrieved by any decision of the Commission may appeal as provided by law.

§ 80. Department of Planning: Penalties.

~~Any person who shall violate any of the provisions or requirements of Sections 71 to 80 shall be guilty of a misdemeanor, and, upon conviction in any court of competent jurisdiction, shall be fined as provided by law. Every day that such violation continues shall be deemed a separate offense.~~

Penalties are legislative in nature and should not be included in the Charter.

DEPARTMENT OF MUNICIPAL AND ZONING APPEALS

§ 81. Department of Municipal and Zoning Appeals: Established.

There is a Department of Municipal and Zoning Appeals, the head of which shall be the Board of Municipal and Zoning Appeals.

§ 82. Board of Municipal and Zoning Appeals: Established; Composition, etc.

(a) *Composition, appointment, terms, qualifications.*

(1) The Board shall consist of five members, at least one of whom shall be a lawyer, **AND AT LEAST ONE ALTERNATE MEMBER, EACH OF WHOM** who shall be appointed, **must be confirmed and shall serve pursuant to Article IV, Section 6 and State law.**

(2) **AN ALTERNATE MEMBER MAY SIT ON THE BOARD WHEN ANOTHER MEMBER OF THE BOARD IS ABSENT OR RECUSED.**

(3) **WHEN AN ALTERNATE MEMBER IS ABSENT OR RECUSED, THE MAYOR MAY DESIGNATE A TEMPORARY ALTERNATE.**

(4) Each member of the Board shall be a registered voter and resident of the City at the time, and during the term of, appointment.

These changes reflect current State law, which requires the Mayor to appoint an alternate Board member to sit in for a Board member who is absent. State law also allows the Mayor to appoint a temporary alternate should the alternate be unavailable when needed. These changes merely reflect the current law.

(b) *President; Salaries.*

The Mayor shall designate one member of the Board as its President and may withdraw that designation and so designate another member.

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The salary of the President and each member of the Board shall be set in the Ordinance of Estimates.

§ 83. Board of Municipal and Zoning Appeals: General powers and duties.

(a) *Meetings; Minutes; Hearings.*

The Board shall hold meetings at such times as it may by rule prescribe. Minutes shall be kept of all its proceedings, showing those present and their vote on each question submitted. These minutes and all other records of the Board shall be public records and kept at the office of the Board. All hearings held by the Board or its panels shall be open to the public.

(b) *Rules of proceedings.*

The Board shall adopt rules for the conduct of its proceedings, which may be modified or repealed by **THE BOARD OR BY** ordinance **OF THE MAYOR AND CITY COUNCIL**. The rules shall be in writing and when adopted shall be ~~immediately filed in the office of the Board and shall be a public record. A copy thereof (and of any amendments thereto) shall also be AVAILABLE TO THE PUBLIC AND~~ filed with the Department of Legislative Reference.

This language clarifies the subsection and allows the Board to modify or change its rules without requiring an ordinance.

(c) *Zoning appeals.*

The Board shall sit to hear zoning appeals. The hearing shall be conducted by all members present and if five members of the Board are present, the concurring vote of at least four members of the Board is necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter on which it is required to pass under a zoning ordinance or to effect any variation in such ordinance. If only four members of the Board are present, the concurring vote of at least three members is necessary to take any action under this subsection. In other cases, the Board may sit in panels of not less than two members each and, in such cases, the concurrence of at least two members shall be required to make a decision of the Board.

(d) *Oaths and subpoenas.*

The Board shall have power to administer oaths in hearings before it, to compel the attendance of witnesses and, pursuant to its rules, to require any person to answer in writing and under oath any interrogatories it may direct to such person as to any matter pending before it or subject to its action or review.

(e) *Executive Secretary; Staff.*

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The Board shall appoint an Executive Secretary. ~~and such other employees as may be provided in the Ordinance of Estimates.~~

(f) Access to agency records.

~~The Board shall have access, through its agents and employees, to the plats and records of all other departments of the City.~~

All public records and access is required by State law and by other provisions in the Charter. The ability to hire other employees is already authorized. There is no need to contain this provision.

§ 84. Board of Municipal and Zoning Appeals: Zoning appeals.

Appeals from the Zoning Commissioner shall be determined by the Board and shall be taken pursuant to law. Upon such appeals, the Board shall have such powers and be subject to such restrictions as may be provided by law. The Board, after public hearing, may grant special individual exceptions to the provisions of the zoning ordinances or regulations as provided by law.

§ 85. Board of Municipal and Zoning Appeals: Paving assessments.

(a) Appeal to Board.

~~Whenever the Department of Transportation levies an assessment or charge for the paving of a street, alley, or sidewalk under § 116 of this article, the owner of the property on which the assessment or charge is levied may, within 30 days of the mailing to the owner of a notice of the assessment or charge, bring the assessment or charge to the Board for its review.~~

(b) Decision.

~~On reasonable notice in accordance with its rules and this Charter, the Board shall:~~

~~(1) determine whether the assessment or charge is proper; and~~

~~(2) if not, set it at the amount that the Board determines to be proper.~~

THE BOARD SHALL HEAR APPEALS CONCERNING THE ASSESSMENT OF FEES AND CHARGES FOR THE PAVING OF A STREET, ALLEY OR SIDEWALK AND SET AN AMOUNT THE BOARD DETERMINES PROPER.

The proposed substituted language adequately covers the essential concepts in the deleted provisions. Setting time limits to appeal a decision is implied in the power to hear appeals and need not be established in a charter.

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§ 86. Board of Municipal and Zoning Appeals: Review powers conferred by law.

The Board shall have such additional powers to examine, review and revise acts or rulings of other departments and officers of the City affecting the construction, alteration, use or operation of land or buildings in the City or other charges as may from time to time be conferred upon it by law, but the powers conferred upon it in the Charter shall not be diminished or abridged by ordinance, nor may the Board be given power to review or alter determinations of the Planning Commission.

§ 87. Board of Municipal and Zoning Appeals: Additional powers conferred by law.

The Board of Municipal and Zoning Appeals shall have and exercise all the rights, powers, duties, obligations and functions conferred by law upon the Board of Zoning Appeals not otherwise conferred by the Charter on other agencies of the City and not inconsistent with its provisions.
THE BOARD BY ORDINANCE MAY BE GRANTED ADDITIONAL POWERS TO REVIEW ADMINISTRATIVE ACTIONS, PROVIDED THE ADDITIONAL POWERS GRANTED ARE NOT INCONSISTENT WITH THIS CHARTER OR LAW. IN NO EVENT MAY THE BOARD BE GRANTED THE POWER TO REVIEW OR ALTER DECISIONS OF THE PLANNING COMMISSION.

The proposed new language is intended to capture the key concepts of Sections 86 and 87.

§ 88. Board of Municipal and Zoning Appeals: Judicial review.

If any person, including the City and the Planning Commission, feeling aggrieved by any decision of the Board within thirty days of a decision by the Board, appeals therefrom to the Baltimore City Circuit Court, the Board shall forthwith transmit all papers, or copies thereof, to the court, certified by its executive secretary.

An appeal shall stay all proceedings in furtherance of the action appealed from. But whenever, in the opinion of the Board, such stay would cause imminent peril to life or property, or serious public inconvenience, it may ask the Circuit Court for an order vacating such stay. From the findings of the Circuit Court in such cases, there shall be such appeal, if any, as may be permitted by law.

§ 89. Board of Municipal and Zoning Appeals: Notices; Evidence.

(a) *Notice of decisions.*

Whenever the Board shall make a decision it shall give reasonable notice thereof by mail to all parties who, from the papers or testimony before it, seem to be parties in interest. But failure to give such notice or of a party to receive notice of an order within thirty days of its entry shall not invalidate the decision nor, save by petition to and special order of the Board, extend the time to appeal from the order.

(b) *Evidence; Notices of proceedings.*

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Parties in interest who appear at a hearing before the Board shall be permitted to offer testimony pertinent to the issue or issues in which they are concerned, but the Board shall not be bound by the technical rules of evidence in force in the courts of Maryland, and may receive in evidence any paper, statement, record or other evidence, with or without prior notice to the parties, which it deems to be material and to have probative force.

Whatever record or notice of the proceedings or action of the Board is required by an act of the General Assembly to be given to any person or public officer shall be observed by the Board.

DEPARTMENT OF LEGISLATIVE REFERENCE

§ 90. Department of Legislative Reference: Established.

There is a Department of Legislative Reference, the head of which shall be **a Board of Legislative Reference THE DIRECTOR OF LEGISLATIVE REFERENCE WHO SHALL SUPERVISE AND DIRECT THE DEPARTMENT.**

The Board of Legislative Reference is outside of the City's control and influence in that it includes positions that are not subject to City oversight and control. The City Charter has no ability to compel the Deans or Presidents of universities to act in a particular manner, which thus renders the Board beyond the authority of the City Charter. Thus, as with other Departments, the Director should be listed as the head.

§ 91. BOARD OF THE DEPARTMENT OF LEGISLATIVE REFERENCE.

(A) AD HOC BOARD.

THERE IS A BOARD OF THE DEPARTMENT OF LEGISLATIVE REFERENCE, WHICH FROM TIME TO TIME SHALL BE ESTABLISHED PURSUANT TO THIS SECTION.

(B) COMPOSITION OF THE BOARD.

(1) THE BOARD SHALL BE COMPOSED OF THREE (3) MEMBERS. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT ONE MEMBER TO THE BOARD.

(2) NO MEMBER OF THE BOARD MAY BE A CITY EMPLOYEE OR AN ELECTED OFFICIAL EXCEPT FOR A MEMBER OF THE JUDICIARY.

(3) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(C) FILLING A VACANCY.

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- (1) WHENEVER THE MAYOR AND PRESIDENT OF THE CITY COUNCIL DECLARE A VACANCY IN THE OFFICE OF THE DIRECTOR OF LEGISLATIVE REFERENCE, THE BOARD SHALL BE APPOINTED WITHIN SIX (6) WEEKS OF THE DECLARATION.
- (2) THE BOARD SHALL BE RESPONSIBLE FOR ALL ACTIVITIES BY WHICH CANDIDATES TO FILL A VACANCY ARE SOLICITED, INVESTIGATED, INTERVIEWED AND RECOMMENDED FOR APPOINTMENT.
- (3) THE BOARD SHALL RECOMMEND NO LESS THAN TWO (2) CANDIDATES FOR APPOINTMENT BUT NO MORE THAN THREE (3) CANDIDATES TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.
- (4) UPON THE APPOINTMENT OF THE DIRECTOR PURSUANT TO SECTION 92 OF THIS ARTICLE, THE BOARD SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

The proposed changes would establish an ad hoc Board composed of three members. The Mayor, the City Council President, and the Comptroller would each have one appointment. This Board would conduct all the necessary activities related to filling a vacancy for the Director of Legislative Reference. The Board would solicit, interview, and investigate potential candidates and would recommend either 2 or 3 candidates to the Mayor and City Council President. The Mayor and City Council President would jointly appoint the Director from the list provided. This Board would ensure independence while balancing accountability. This structure is used for the appointment of the State Prosecutor and is being recommended for use in the appointment of the City's Inspector General as well. However; unlike the Inspector General provisions, this Board would only be convened to fill a vacancy in the position of Director of Legislative Reference.

§ 91-92. Department of Legislative Reference: Director – Appointment, qualifications, etc

(a) *Appointment; Tenure.*

The Director shall be appointed by the Board of Legislative Reference, shall be a member of the Civil Service, shall hold office during good behavior, and shall be subject to removal by a majority of the Board members for incompetence or neglect of duties.

(bA) *Head of Department; Qualifications.*

The Director of Legislative Reference shall supervise and direct the Department. The Director shall have substantial experience in law, legislative drafting or library administration.

(B) *APPOINTMENT.*

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UPON RECEIPT OF A RECOMMENDATION BY THE BOARD PURSUANT TO SECTION 91 OF THIS ARTICLE, A DIRECTOR MAY BE APPOINTED BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

(C) REMOVAL.

THE DIRECTOR MAY BE REMOVED FROM OFFICE BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

These changes would eliminate redundant language regarding appointment and supervisory responsibilities. It would also add language specifying that both the Mayor and City Council President must affirmatively vote on the appointment and/or removal of the Director of Legislative Reference for it to take effect.

(eD) Salary.

The Director's salary shall be set in the Ordinance of Estimates.

§ 92.93. Department of Legislative Reference: Director – Powers and duties.

The Director:

(a) Legislative matters.

shall investigate and report upon the laws of this and other states and cities relating to any subject requested by the Mayor, any committee of the City Council or the head of any department;

accumulate data in relation to the practical operation and effect of such laws;

investigate and collect all available information relating to any matter which is the subject of proposed legislation by the General Assembly of Maryland, or the City Council of Baltimore;

examine acts, ordinances and records of any state or city, and report the result thereof to the Mayor, any committee of the City Council or the head of any department requesting the same;

prepare or advise in the preparation of any bill, ordinance or resolution when requested so to do by any member of the City Council; and preserve and collect all information obtained, carefully indexed and arranged so as to be at all times easily accessible to city officers and open to the inspection of the general public.

(b) Records and archives.

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shall keep all the books, documents, archives, records, official plats, papers and proceedings of the City except those in current use or whose custody the Board of Estimates shall by resolution otherwise direct or authorize;

carefully collect, arrange and safely keep a complete series of the ordinances, resolutions and proceedings of the City;

receive and keep all other documents pertaining to the City which the Director may deem of historic value or be instructed so to do by ordinance or by resolution of the Board of Estimates;

~~retain~~ **PROVIDE FOR THE RETENTION OF** such books, documents, papers, plats or archives in the Department, ~~but~~ **AND** permit their inspection and reproduction by the public under such reasonable regulations and supervision as the Director may prescribe;

carefully prepare and keep an index of all books, papers, records and documents in the custody of the Department; and

keep a current separate index of all rules and regulations of other departments and agencies of the City.

(c) *Staff.*

may appoint such employees as may be provided in the Ordinance of Estimates.

(d) *Duties prescribed by law.*

perform such other duties as prescribed by law.

§ 93. Department of Legislative Reference: Board.

~~The Board of Legislative Reference shall be comprised of~~

~~the Mayor,~~

~~the City Solicitor,~~

~~the President of the Johns Hopkins University,~~

~~the Deans of the University of Maryland and University of Baltimore Schools of Law,~~

~~a member of the City Council selected by the Council and~~

~~the Director of the Enoch Pratt Library.~~

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See the above comment re the Board of Legislative Reference being outside of the authority of the Charter.

CIVIL SERVICE COMMISSION

§ 94. Civil Service Commission: Established.

(a) *Appointment, term, qualifications.*

(1) There is a Civil Service Commission of three members who shall be appointed, must be confirmed and shall serve pursuant to Article IV, Section 6. **ONE OF THE THREE MEMBERS APPOINTED SHALL BE RECOMMENDED BY THE PRESIDENT OF THE CITY COUNCIL.**

This change would allow the President of the City Council to recommend one of the three Civil Service Commissioners.

(2) The terms of two members shall expire on the last day of the year in which the term of the Mayor begins pursuant to Article IV, Section 1, and the four year term of the third member shall expire two years thereafter.

~~Each member of the Commission shall be a registered voter and resident of the City at the time, and during the term, of appointment. All appointments to the Commission shall be made from persons friendly to the merit system of appointment to office. No one holding any public office of profit shall be appointed a member of the Commission.~~

(3) EACH MEMBER OF THE COMMISSION SHALL:

(I) BE A REGISTERED VOTER AND RESIDENT OF THE CITY AT THE TIME, AND DURING THE TERM, OF APPOINTMENT;

(II) HOLD A RELEVANT POST-GRADUATE DEGREE; AND

(III) POSSESS SUBSTANTIAL EXPERIENCE AND KNOWLEDGE OF LABOR AND EMPLOYMENT ISSUES AND LAW.

(4) NO ONE HOLDING ANY PUBLIC OFFICE OF PROFIT MAY BE APPOINTED A MEMBER OF THE COMMISSION.

These changes ensure that the members of the Civil Service Commission have critical skills necessary to address labor, employment, and personnel issues.

(b) *President.*

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The Mayor shall designate one member of the Commission as its President, and may withdraw that designation and so designate another member.

(c) *Staff.*

The Commission may appoint such employees as may be provided in the Ordinance of Estimates.

§ 95. Civil Service Commission: Powers and duties.

The Commission:

- (a) shall advise the Mayor and Director on personnel matters.
- (b) shall provide to the Mayor and City Council at least annually a report on the operations of the Commission.
- (c) ~~shall review and approve the different groupings of positions having similar duties, responsibilities and qualifications ("classifications") that are used by the Department.~~

Subsection (c) was removed and included in Section 96 as these duties are performed by the Department of Human Resources, not the Civil Service Commission.

- (d) shall promulgate and make available to the public rules governing the operation of the Commission.
- (e) shall review and approve, before they become final, and make available to the public, the rules of the Department.
- (f) shall provide a hearing, on written request, to any non-probationary member of the Civil Service who has been discharged from the Civil Service, reduced in pay or position, or suspended for longer than 30 days. If the Commission finds that the intent and spirit of a provision of this Charter has been violated, it shall report its findings to the Mayor; and the appointing officer shall take whatever action the Commission directs to rectify the violation.
- (g) may, if it determines after appropriate investigation, that any administrative head of the City, including any commission or board, or any officer having the power of appointment and removal in the Civil Service, has abused such power by making appointments or removals for any reason other than the good of the public service, so report to the Mayor.
- (h) may appoint such hearing officers and other employees as provided in the Ordinance of Estimates.

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- (i) may, in the course of hearings, administer oaths, subpoena documents, summon witnesses, and examine witnesses; and may delegate these powers to a commissioner or hearing officer.
- (j) shall render decisions within sixty days of the close of hearings unless the City employee and City both agree to an extension. If the Commission fails to decide within the sixty day time period, the decision of the hearing officer, if there is one, shall be deemed to be the decision of the Commission.

§ 96. Civil Service Commission: Department of Human Resources – Established.

(a) *In general.*

There is a Department of Human Resources.

(b) *PurposePowers.*

The Department shall:

- (1) ~~promote merit and fitness in City employment BE RESPONSIBLE FOR PROPOSING TO THE COMMISSION PERSONNEL AND CIVIL SERVICE RULES AND REGULATIONS FOR ITS APPROVAL;~~
- (2) ~~ensure that appointments and promotions in the City's Civil Service are made, and that salaries are established, without regard to political affiliation; and IMPLEMENT, MANAGE AND ADMINISTER APPROVED REGULATIONS;~~
- (3) ~~promote the efficient delivery of services to the public. REVIEW AND APPROVE DIFFERENT GROUPINGS OF POSITIONS HAVING SIMILAR DUTIES, RESPONSIBILITIES AND QUALIFICATIONS ("CLASSIFICATIONS") THAT ARE USED BY THE DEPARTMENT; AND~~
- (4) ~~PERFORM ALL FUNCTIONS NECESSARY AND RELATED TO HUMAN RESOURCE ADMINISTRATION AND MANAGEMENT REQUIRED BY THIS CHARTER, LAW AND REGULATION.~~

This language is intended to provide as much administrative flexibility for the Department of Human Resources to perform its assigned scope of work.

§ 97. Civil Service Commission: Department of Human Resources — Powers and duties.

The Department:

- (a) ~~shall propose and submit to the Commission for final approval rules and regulations, including rules and regulations governing probationary status, temporary and emergency~~

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appointments, classifications, reclassifications, examinations, promotions, demotions, transfers, reinstatements, discharges, and other discipline of employees.

(b) shall propose and submit to the Commission for final approval the different classifications that are used by the Department. Such classifications shall assure that City employees are hired and promoted based on ability, efficiency, character, and industry ("merit"); and shall encourage the recruitment, training and supervision of qualified employees. Classifications may be grouped into categories, which may include a general category for employees who are hired or promoted based, in part, on the results of competitive or non-competitive examinations; a labor category for unskilled or skilled laborers; and other categories that the Commission may deem to be appropriate.

(c) subject to the exceptions in Section 99, shall assign to a classification each position in the City to which appointments are made. The Department shall not assign a position outside of the Civil Service without the approval of the Civil Service Commission. All the classified positions shall constitute the Civil Service, and appointments to positions in the Civil Service shall be made according to the rules of the Commission.

(d) shall provide for competitive examinations, non-competitive examinations, and other evaluative measures to assure that City employees are hired based on merit.

(e) shall provide for competitive examinations, non-competitive examinations, and other evaluative measures, including conduct in office, demonstrated capacity, and seniority, to assure that City employees are promoted based on merit.

(f) shall promptly certify to appointing officers lists of candidates eligible for employment within each classification. The Commission, by rule:

1. shall determine when certifications shall include, in rank order, those persons who have performed best on competitive examinations and when certifications should include persons whose fitness has been otherwise established;

2. shall determine when and how the appointing officer shall fill a vacancy or new position from the certifications; and

3. may provide that honorably discharged veterans of war, including disabled veterans, may receive special credits for their service to the United States in determining the qualifications and relative standing of applicants for City positions.

(g) shall establish a period of probation not exceeding one year during which the appointing officer may remove the employee at pleasure.

(h) shall propose to the Board of Estimates appropriate salaries and wages for each classification.

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- (i) shall, in conjunction with the employing department, recruit, train and counsel Civil Service members.
- (j) may appoint such employees as provided in the Ordinance of Estimates.
- (k) shall administer employee benefits and pre-employment screening programs as directed by the Board of Estimates.

This section is quite detailed and the proposed new language in the previous section would allow all of these functions to be performed without having to specify each of them here.

§ 98. Civil Service Commission: Department of Human Resources – Director.

(a) *Head of Department; Qualifications.*

- (1) The Director of Human Resources shall supervise and direct the Department.
- (2) The Director shall have substantial experience in personnel administration HUMAN RESOURCE MANAGEMENT.

This change updates the qualifications required for the Director of the Department of Human Resources.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director shall be paid a salary as provided in the Ordinance of Estimates.

§ 99. Civil Service Commission: Civil Service positions.

(a) *Positions included.*

1. All employees of the City of Baltimore, except as otherwise provided by the Charter or State law, shall be members of the Civil Service, with the exception of:
 - a. elected officials and those employees whom the elected officials have designated as members of their personal staffs.
 - b. Assistant City Solicitors.

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- e. with the exception of the Director of the Department of Legislative Reference, directors, or by whatever other name the chief administrative officer may be known, and the deputy directors, of all departments of the City.
 - d. all members of boards and commissions.
 - e. all professional employees of the Department of Education.
 - f. persons in positions of temporary or seasonal employment.
 - g. persons who, in the judgment of the Civil Service Commission, exercise policy making discretion or occupy a position of special trust and confidence that is inconsistent with membership in the Civil Service.
2. Any dispute about whether a position is within the Civil Service shall be finally resolved by the Commission.

(b) Reemployment of director or deputy.

Upon leaving a position of director or deputy director, one who relinquished Civil Service status to assume that position shall, on application and with approval of the Commission, be placed on the re-employment list for his or her former classification.

EMPLOYEES OF THE CITY OF BALTIMORE SHALL BE MEMBERS OF THE CIVIL SERVICE, EXCEPT AS MAY BE PROVIDED BY CIVIL SERVICE RULES AND REGULATIONS.

There is no reason why these positions need to be listed in the Charter. DHR should have as much flexibility as possible to move positions in and out of these categories as it deems prudent and necessary.

§ 100. Civil Service Commission: Discharges, etc.; Reductions in force.

(a) Discharges, suspensions, reductions in pay or position.

(+) No person may be discharged from the Civil Service, reduced in pay or position, or suspended because of political opinions or affiliations, or for refusing to contribute to any political fund or refusing to render any political service. But nothing in this Charter relating to the Civil Service forbids the discharge, reduction in pay or position, or suspension of an officer or employee for any just cause.

(B) REDUCTION IN FORCE.

THE DISPOSITION OF EMPLOYEES DISCHARGED AS A RESULT OF A REDUCTION OF FORCE SHALL BE DETERMINED BY CIVIL SERVICE RULES AND REGULATIONS.

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(2) Whenever a non probationary employee is discharged, reduced in pay or position, or suspended for more than 30 days, the appointing officer shall furnish a copy of the order of discharge, reduction, or suspension, together with a statement of the reasons for the action, to the employee and to the Commission.

(3) The employee may contest the action by:

- (i) requesting a hearing before the Commission; or
- (ii) initiating a grievance pursuant to an applicable grievance and arbitration procedure, if any, contained in an applicable collective bargaining agreement.

(4) Once an employee has chosen to contest an action by electing one of the procedures specified in paragraph (3) of this subsection, the employee is bound by that election and may not subsequently choose to follow a different procedure.

(5) In all cases, except one in which an employee elects to contest an action through a grievance and arbitration procedure under paragraph (3)(ii) of this subsection, the Commission may, and on the written request of the employee, the Commission shall investigate the disciplinary action. If the Commission finds that the intent and spirit of the provisions of this Charter have been violated in the discharge, reduction, or suspension, it shall report its findings to the Mayor; and the appointing officer shall take whatever action the Commission directs to rectify the violation.

(b) Reductions in force—Reemployment preference.

Each person discharged for the purpose of reducing the force and without fault shall receive a certificate so stating and all persons so discharged shall be placed on the eligible list in the order of the length of their service in their classifications at the time of being laid off and in other classifications the civil service in which they may have served previously. The weight to be given to length of service in their last classification and in prior classifications shall be determined in accordance with the rules of the Commission. Persons so discharged shall have preference in the order of their seniority over others on the eligible list, subject, however, to the terms of the next subsection and to any priority to which any person may be entitled by virtue of any preference to veterans or their dependents.

(c) Reductions in force—Seasonal and part-time employees.

In the case of classes of seasonal or part-time employees the Commission, after notice and a public hearing, may adopt rules excluding them from, or limiting the application to them of, the preference contained in the preceding subsection.

This section pertains to personnel administration. It is better suited for regulation or legislation. The new language includes the necessary information that should be in the charter.

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§ 101. Civil Service Commission: Roster of Service employees.

(a) *Commission to keep; Contents.*

The Commission shall keep in its office an official roster of the Civil Service, and shall enter thereon the name of every person who has been appointed, employed, promoted, reduced, transferred or reinstated in any Civil Service position.

This roster shall be open to public inspection at all reasonable hours, and shall show in connection with each name the date of appointment, employment, promotion, reduction, transfer or reinstatement and the compensation of the position, its title, the nature of the duties thereof and the date and cause of any termination of such office or employment.

(b) *Reports to Commission.*

It shall be the duty of each appointing officer to report to the Commission forthwith, upon the appointment or employment of any person in the Civil Service, the name of the appointee or employee, the title and character of the office or employment, the date of commencement of service, and to report the separation of a person from the service, or other change in status and other information that the Civil Service Commission may require in order to keep the roster.

(c) *Salary contingent on roster listing.*

It shall be unlawful, after notice from the Commission for the Department of Finance to pay any salary or compensation to any officer, clerk, employee or other person in the Civil Service whose name does not appear upon the roster as being in the employ of the City.

This section pertains to activities involving human resource management and their absence in the charter would not eliminate the need to perform these activities. Such detailed information should not be included in the Charter.

§ 102. Civil Service Commission: Political contributions.

No person in the Civil Service shall for any reason be under any obligation to contribute to any political fund, and no person shall knowingly, directly or indirectly, in person or by letter, request or solicit the payment of any political assessment, subscription or contribution from any person in the Civil Service.

§ 103. Civil Service Commission: Abolished positions.

Any person holding any position in the Civil Service which may be abolished by the adoption of any amendment to the Charter or in any other lawful manner, shall be placed upon the reemployment list for the classification to which the abolished position belonged in accordance with Sections 100 and 101; or if no position of the same classification as that of the position abolished shall remain in the

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Civil Service after the abolition of the position, the person shall be placed on the reemployment list for a position that, in the judgment of the Civil Service Commission, shall most nearly approximate the position abolished.

No position shall be deemed to be abolished by reason of being transferred or placed in or under a different municipal agency without substantial change in the nature of the actual duties of the position. THE DISPOSITION OF EMPLOYEES HOLDING CIVIL SERVICE POSITIONS THAT MAY BE ABOLISHED SHALL BE DETERMINED BY CIVIL SERVICE RULES AND REGULATIONS.

The activity described in this section is purely an internal personnel function that does not affect the wider community of Baltimore. As a purely administrative function with no broader effects than on internal affairs, it should be deleted from the Charter.

§ 104. Civil Service Commission: Penalties.

Any violation of any of the provisions of the Charter relating to the Civil Service, or any willful use of any corrupt means in connection with any examination, appointment, promotion, reduction, transfer or reinstatement shall be deemed a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be punished by a fine or by imprisonment as provided by law.

Penalties are legislative in nature and should not be included in the Charter.

DEPARTMENT OF TRANSPORTATION

§ 114. Department established.

There is a Department of Transportation, the head of which is the Director of Transportation.

§ 115. Director of Transportation.

(a) Duties; Qualifications.

- (1) The Director shall supervise and direct the Department.
- (2) The Director must have substantial administrative experience in transportation or in the delivery of related public service.

(b) Appointment; Term.

The Director shall be appointed, must be confirmed, and serves pursuant to Article IV, § 6 of this Charter.

(c) Salary.

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The Director's salary shall be set in the Ordinance of Estimates.

(d) *Employees.*

The Director may appoint the employees provided for in the Ordinance of Estimates.

§ 116. Powers and duties of Department.

(a) *In general.*

Notwithstanding anything to the contrary in this Charter, the Department has the following powers and duties.

(b) *Street construction and maintenance.*

(1) The Department has charge of constructing and maintaining the streets of the City.

(2) The Department shall:

(i) prepare the plans and perform the work required by Ordinances for opening, extending, widening, straightening, grading, and closing any street in the City; and

(ii) prepare all Ordinances for the opening and closing of streets, attend the hearings on those Ordinances, and perform all administrative functions related to those Ordinances.

(3) Before paving or repaving a street, the Director of Transportation shall give notice in one or more daily City newspapers that ENSURE ADEQUATE PUBLIC NOTICE, not less than 90 days from the first publication date, the Department will proceed with the paving or repaving and warning all persons to obtain permits for and to complete before that day all work that might involve the digging up of the street.

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces cost.

(4) The Director shall send a copy of this notice to all persons who the Director has reason to believe would be interested in receiving it, but failure to send the notice does not affect the validity of any action taken by the Mayor and the Director to pave or repave a street.

(5) No pavement laid after the publication of the notice may be dug up by any person without a permit issued by the Director. The Director has discretion to issue or withhold this permit, and may attach appropriate conditions and charges to the permit.

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- (6) Whenever an assessment or charge is to be made against a property for paving a street, alley, or sidewalk, the Department after giving the owner of the property involved due notice and an opportunity to be heard, shall fix the amount of the assessment or charge.

(c) *Lighting.*

The Department has charge of the lighting of the City.

(d) *Conduit system.*

The Department may exercise all the powers and shall perform all the duties relating to the conduit system, and has charge of all property and equipment pertaining to that system.

(e) *Approval of new streets.*

(1) Any person who, in connection with any real estate development, wants to lay out, locate, or construct a street, public or private, within Baltimore City shall, before beginning construction and before selling any land abutting on the street, present to the Department a copy of the plat for the proposed development, as approved by the Planning Commission, showing in detail the proposed streets.

(2) If the plat is approved by the Department, the person shall:

- (i) record a copy of the plat, with the endorsements of the Planning Commission and the Department on it, with the Clerk of the Circuit Court of Baltimore City; and
- (ii) a certified copy of the recorded plat with the Department.

(f) *Street names.*

(1) New public streets may not be designated by names until the names have been approved by the Department and entered on the appropriate plats and records of the Department.

(2) If a private street is dedicated for public purposes and the dedication is accepted, or if the title to a private street is conveyed to the City, the Department shall give the street a name, by which it shall be known on all official records of the City.

(3) The name of a public street may not be changed except by ordinance or resolution of the Mayor and City Council

(g) *Building numbers.*

(1) The Department:

- (i) shall determine and fix the number of every new building; and

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- (ii) may change existing numbers.
 - (2) The Department shall report each new number or change of number to the owner or occupant of the building.
- (h) *Street plats and plans.*
- The Department shall:
- (1) adopt rules and regulations regarding plats and plans relating to the location of streets; and
 - (2) shall prepare these plats and plans as required by the Board of Estimates or by ordinance.
- (i) *Plats and records – Underground structures.*
- The Department shall maintain plats and records of tunnels, pipes, mains, sewers, conduits, and other underground structures, both public and private.
- (j) *Plats and records – Properties.*
- (1) The Department shall maintain adequate plats and other records of all parcels of real property within Baltimore City.
 - (2) These plats and records shall include:
 - (i) the ownership of each parcel; and
 - (ii) the symbol by which each parcel is identified.
 - (3) These plats and records shall be the official plats and records to be used by all municipal agencies to identify and determine the location of every parcel of real property within Baltimore City.
- (k) *System of uniform property identification.*
- (1) The Department shall maintain a system for the uniform identification of all real property within Baltimore City.
 - (2) The system shall identify each parcel of real property by a symbol. That symbol shall be used by every municipal agency to identify that parcel, until it is subdivided or the symbol is changed by the Department.
 - (3) The failure of the Department or of any other municipal agency to identify a parcel of property by its symbol does not affect the validity of any assessment or charge otherwise properly made.

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(l) *Additional powers and duties.*

The Department has the additional powers and duties relating to the construction, reconstruction, and maintenance of streets, to transportation, and to traffic, including powers and duties transferred from other municipal agencies, as are prescribed by law.

§ 116A. Assessment of benefits and damages.

(a) *Elements of enabling ordinance.*

An ordinance to open, extend, widen, straighten, close, or grade any street, alley, or footway in Baltimore City may provide that the benefits assessed may be paid in not more than 5 annual installments, with interest at a rate determined just and proper by the Director of Transportation, with the concurrence of the Board of Estimates, on all deferred installments, accounting from the date that, under subsection (e) of this section, the first annual installment would become in arrears if unpaid.

(b) *Notice to Finance, owner.*

When the physical work required by the ordinance is completed:

(1) the Department of Transportation shall notify the Director of Finance that the work has been completed; and

(2) the Department of Finance shall give written notice to the property owner:

(i) that the work has been completed;

(ii) that the benefits assessed for the work are due; and

(iii) how the owner may obtain a hearing on the assessment.

(c) *Payment for benefits.*

If the ordinance does not provide otherwise, all benefits assessed shall be payable, at the option of the property owner, either at once or in 5 equal annual installments.

(d) *Damages.*

(1) If, in any proceedings, the same person is assessed for benefits and also awarded damages, the damages shall be deducted from the benefits, and the provisions of this section as to payment of benefits apply only to the excess of the benefits over the damages.

(2) The damages awarded to any person in connection with the project shall be payable at the time or times provided in the ordinance.

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(3) No part of any street, alley, or footway may be physically opened, extended, widened, or straightened on or over the ground of any person determined by the Department of Transportation to be entitled to damages for the alteration without the written consent of that person, unless the damages have been paid to that person or paid into a special account to the credit of that person.

(e) *Lien for benefits; Arrearage.*

- (1) An assessment by the Department of Transportation on benefitted property is a lien on that property, in the full amount of the assessment, from the date the Department of Transportation notifies the Director of Finance that the physical work required has been completed until the assessment is paid to the Director of Finance.
- (2) Benefits assessed or, if payable in installments, the first installment, are due and payable on the date when the Director of Finance notifies the property owner of the assessment, and are in arrears 6 months from that date.

(f) *Sale on default.*

If the assessment on a property is in arrears, the Director of Finance shall proceed to sell that property in accordance with and subject to the same conditions imposed by the laws governing the sale of real estate charged with the payment of City taxes.

(g) *Resale on purchaser's default.*

If the tax-sale purchaser fails to comply with the terms of the sale, the Director of Finance shall resell the property at the risk of the former purchaser.

(h) *Refunds of assessment.*

If an ordinance providing for the opening, extending, widening, grading, or closing of a street, alley, or footway is invalidated by a court of competent jurisdiction or is repealed, the Director of Finance shall promptly:

- (1) refund all assessments paid under the invalidated ordinance; and
- (2) pay all expenses incurred, including reasonable attorney's fees, and for which the City is liable in carrying out the ordinance.

§ 116B. Correcting physical obstruction.

(a) *Correction required.*

~~Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the~~

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~~work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.~~

(b) *Condemnation.*

~~The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.~~

This section is legislative in nature and should not be included in the Charter.

COMPENSATION COMMISSION FOR ELECTED OFFICIALS

§ 117. Definitions.

(a) *In general.*

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

(b) *Commission.*

“Commission” means the Compensation Commission for Elected Officials.

(c) *Compensation.*

“Compensation” means all salary and allowances paid to an elected official.

(d) *Elected official.*

“Elected official” means:

(1) the Mayor;

(2) the City Comptroller;

(3) the President of the City Council; **and**

(4) the Members of the City Council; **AND**

(5) THE STATE'S ATTORNEY.

Pursuant to the proposed deletion in Article VI, §16, this change includes the State's Attorney as part of the Compensation Commission for Elected Officials.

§ 118. Commission established.

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There is a Compensation Commission for Elected Officials.

§ 119. Composition; Qualifications; Term.

(a) *Composition.*

The Commission comprises the following 7 members:

- (1) 3 members appointed by the Mayor in accordance with Article IV, § 6 of this Charter;
- (2) 1 member appointed by the City Comptroller, subject to confirmation by the City Council in the same manner as provided in Article IV, § 6 of this Charter for appointments by the Mayor; and
- (3) 3 members appointed by the President of the City Council, subject to confirmation by the City Council in the same manner as provided in Article IV, § 6 of this Charter for appointments by the Mayor.

(b) *City officials, employees ineligible.*

No official or employee of the City may be appointed to or serve on the Commission.

(c) *Term.*

- (1) A member of the Commission serves for a term of 4 years, beginning October 1 of the second year preceding the mayoral general election, and until a successor is appointed and qualifies.
- (2) Members of the Commission are eligible for reappointment.

§ 120. Compensation; Expenses.

Members of the Commission:

- (1) serve without compensation; but
- (2) are entitled to reimbursement of reasonable expenses incurred, as provided in the Ordinance of Estimates.

§ 121. Officers.

(a) *Chair.*

The Commission shall elect a chair from among its members.

(b) *Others.*

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The Commission may elect a Vice-Chair and other officers from among its members.

§ 122. Meetings.

(a) *Quorum.*

5 members of the Commission constitute a quorum.

(b) *Votes for action.*

- (1) An affirmative vote of at least 4 members is needed for any action by the Commission.
- (2) The Commission's records must show how each member voted on each question.

(c) *Open Meetings.*

All meetings of the Commission must be conducted in accordance with the Open Meetings Act, State Government Article Title 10, Subtitle 5 {now Title 3 of the State General Provisions Article}.

§ 123. Commission recommendations.

The Commission shall:

- (1) evaluate the compensation of all elected officials; and
- (2) recommend that, for the next term of office, the compensation be increased, decreased, or remain unchanged.

§ 124. Submission to Council.

(a) *When required.*

The Commission shall submit to the President of the City Council its recommendations on or before October 1 of the year preceding the mayoral general election.

(b) *If change proposed.*

If the Commission recommends one or more changes in compensation, the President of the City Council shall cause all of the recommendations to be introduced at the next meeting of the City Council as a proposed Resolution of the Mayor and City Council

(c) *If no change proposed.*

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If the Commission recommends no change in any elected official's compensation, or fails to submit a timely recommendation, no Resolution is to be introduced and the compensation to be paid elected officials remains unchanged.

§ 125. Council action.

(a) *Amendment not authorized.*

The Council may not amend the Resolution to change or affect any recommended compensation.

(b) *Rejection by Council.*

If, by a majority vote of all members, the City Council affirmatively rejects the Resolution on or before December 15 of the year preceding the mayoral general election, the compensation to be paid elected officials remains unchanged.

(c) *Adoption by Council.*

If the Resolution is adopted on or before December 15 of the year preceding the mayoral general election, or if the City Council fails to adopt or reject the Resolution on or before that date, the compensation recommended by the Commission will apply, effective at the beginning of the next term of office.

DEPARTMENT OF GENERAL SERVICES

§ 130. Department established.

There is a Department of General Services, the head of which is the Director of General Services.

§ 131. Director of General Services.

(a) *Duties; Qualifications.*

(1) The Director shall supervise and direct the Department.

(2) The Director must have:

(i) substantial experience in the construction and maintenance of public works and improvements and in the delivery of related public services; or

(ii) 10 years experience as an engineer.

(b) *Appointment; Term.*

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The Director shall be appointed, must be confirmed, and serves pursuant to Article IV, § 6 of this Charter.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates. (d) Employees.
The Director may appoint the employees provided for in the Ordinance of Estimates.

§ 132. Powers and duties of Department.

(a) *In general.*

The Department has the powers and duties specified in this section.

(b) *Supervision of municipal buildings, related improvements.*

- (1) Unless otherwise provided by this Charter, the Director shall supervise all municipal buildings and related improvements made in Baltimore City or elsewhere by or for the City or any municipal agency.
- (2) All plans and specifications for these municipal buildings and related improvements, including those involving engineering questions, shall be submitted to the Director for approval.

(c) *Construction, maintenance, etc., of buildings, related improvements.*

- (1) Unless otherwise provided by this Charter, the Department has charge of the construction, demolition, alteration, operation and maintenance of all municipal buildings and related improvements.
- (2) To carry out these activities, the Director may enter and occupy any municipal property after giving due notice to the agency having control of the property. The Director shall restore any property so entered to the condition in which it was before the entry.

(d) – (f) {Repealed by Res. 14-016, ratified Nov. 4, 2014.}

(g) *Fleet management.*

- (1) The Department is responsible for:

- (i) the maintenance, repair, and operation of all motor vehicles and related equipment owned by the City, whether held for general service or assigned for the use of a particular office or agency,
 - (ii) the maintenance and operation of related garages, depots, and shops;

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- (iii) the inspection of all City vehicles and related equipment and the keeping of proper records about how these vehicles and equipment are handled and operated;
 - (iv) the assignment of these vehicles and related equipment for the use of officers and other agencies of the City; and
 - (v) the maintenance or the hiring of any hauling or passenger service needed by any municipal agency.
- (2) This subsection does not apply to motor vehicles and related equipment of the Baltimore City Public School System, except to the extent requested by that department and agreed to by the Department of General Services.

(h) *Assistance to other agencies.*

On the request of the head of a municipal agency, the Director shall:

- (1) supply estimates of the cost of work for building improvements and vehicles to be done for that agency during the next fiscal year; and
- (2) perform services for the municipal agency of the same general character as those carried on by the Department, the cost of which shall be charged to the agency requesting the services and shall be paid out of the funds appropriated to it.

(i) *Additional powers and duties.*

The Department has the additional powers and duties as are prescribed by law.

§ 133. {Repealed by Res. 14-016, ratified Nov. 4, 2014.}

§ 134. Correcting physical obstruction.

(a) Correction required.

~~Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.~~

(b) Condemnation.

~~The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.~~

This section is legislative in nature and should not be in the Charter.

ARTICLE VIII FRANCHISES

§ 4. Street railways.

The Board of Estimates, subject to ratification and approval by ordinance, is empowered to agree with any street railway company for the surrender of any of its franchises, easements or rights of way, and in substitution for the franchise, easement or right of way so surrendered to grant a new franchise, easement or right of way on any street, and which may be for the same duration as the franchise, easement or right of way surrendered; and to provide, in appropriate cases, for a graduated park tax, as prescribed by Chapter 566 of the Acts of the General Assembly of 1906.

§ 5. Trackless trolleys.

The City may, by ordinance, permit any street railway company to operate under its existing franchises vehicles propelled by electricity furnished by overhead wires but not operated upon rails, and any such grant heretofore made is hereby ratified and confirmed.

§ 6. Advertising.

Before any grant of the franchises or right to use any street, or other public property, either on, above or below the surface of the same shall be made, the proposed specific grant, except as provided in the second paragraph of Section 2 of this Article VIII, embodied in the form of a brief advertisement, prepared by the Board of Estimates, at the expense of the applicant, shall be published by the Comptroller for at least three days in one daily newspaper published in Baltimore City to be designated by the Board of Estimates, and all the provisions of the first paragraph of Section 2 of this Article VIII shall be complied with.

These provisions are obsolete and outdated. They should be removed from the Charter.

ARTICLE IX TRANSITION PROVISIONS

§ 1. Terminology.

The Charter in effect immediately prior to the general election of November 3, 1994, shall for the purposes of this Article IX be known as the old Charter. The Charter as amended at said general election shall be known as the new Charter.

§ 2. Final effective date.

The new Charter shall, except as hereinafter provided, become fully effective as to all its provisions on July 1, 1996. All municipal officials shall do such acts as may be necessary or convenient in preparation for the new Charter's becoming effective.

§ 3. Advanced effective dates.

By resolution, the Board of Estimates may make effective any provision or provisions of the new Charter as of any date from and after the thirtieth day after the election at which the new Charter is approved by the voters and prior to July 1, 1996, in which case, to the extent of any inconsistency or conflict between such provision or provisions of the new Charter and the old Charter, the provision or provisions of the new Charter shall prevail.

§ 4. Existing employees.

(a) Positions and salaries unaffected. Notwithstanding that the entry into effect of the new Charter will cause the transfer of certain powers and duties among municipal agencies, no position occupied by any employee in the Civil Service as of July 1, 1996, shall be abolished nor shall the salary of any such employee be affected by virtue of the entry into effect of the new Charter.

(b) Civil Service status. The officers and employees of the City who, on July 1, 1996, are in positions that the new Charter removes from the Civil Service shall retain their Civil Service status until they retire or until and unless their positions are abolished or they are removed from them pursuant to law.

§ 5. Records and funds.

The books, records, property and funds of any municipal agency abolished or superseded by the new Charter are hereby transferred to and vested in the municipal agency to which the powers, duties and functions of the agency so abolished or superseded are transferred; and whenever part of the powers, duties and functions of any municipal agency are transferred by the new Charter to another municipal agency, then the books, records, property and funds relating to the powers, duties, and functions so transferred shall be transferred to and vested in the agency to which such transfer is made.

§ 6. Ordinances, orders, regulations.

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All ordinances and all orders, rules and regulations heretofore made in accordance with law by any municipal agency, insofar as the same are not in conflict with the provisions of the new Charter, shall remain in full force and effect until revoked or modified by agencies of the City empowered by the new Charter or otherwise by law, to repeal or amend the same. References in such ordinances, orders, rules and regulations to any municipal agency existing prior to the applicable effective date of the new Charter, shall be deemed to refer to the municipal agency to whom its powers and duties shall have been assigned by the new Charter.

§ 7. Contracts and obligations.

All contracts, leases and obligations to which the City is a party at the applicable effective date of the new Charter shall remain in full force and effect according to their terms, and shall be performed by or for that municipal agency which, by the new Charter or applicable ordinances, shall have jurisdiction over the subject matter of such contracts, leases or obligations.

§ 8. New terms for boards and commissions.

The first terms of office provided by the new Charter for members of boards and commissions that are coterminous with the Mayor's term of office shall begin on the last day of December, 1995, and the first four year terms of office provided by the new Charter for board and commission members that are staggered with the Mayor's term of office shall begin two years thereafter.

ARTICLE IX **OFFICE OF THE INSPECTOR GENERAL**

§ 1. OFFICE OF THE INSPECTOR GENERAL: OFFICE ESTABLISHED.

THERE IS AN OFFICE OF THE INSPECTOR GENERAL, THE HEAD OF WHICH IS THE INSPECTOR GENERAL.

§ 2. BOARD OF THE OFFICE OF THE INSPECTOR GENERAL ESTABLISHED.

(A) *AD HOC BOARD.*

THERE IS A BOARD OF THE OFFICE OF THE INSPECTOR GENERAL, WHICH FROM TIME TO TIME SHALL BE ESTABLISHED PURSUANT TO THIS SECTION.

(B) *COMPOSITION OF BOARD.*

(1) THE BOARD SHALL BE COMPOSED OF THREE (3) MEMBERS. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT ONE MEMBER TO THE BOARD.

(2) NO MEMBER OF THE BOARD MAY BE A CITY EMPLOYEE OR AN ELECTED OFFICIAL EXCEPT FOR A MEMBER OF THE JUDICIARY.

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(3) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(C) BOARD ASSISTANCE.

THE CITY SOLICITOR AND THE DEPARTMENT OF LAW SHALL PROVIDE ADMINISTRATIVE AND SUPPORT SERVICES TO THE BOARD.

§ 3. DUTIES OF BOARD

(A) FILLING A VACANCY.

- (1) WHENEVER THE MAYOR AND PRESIDENT OF THE CITY COUNCIL DECLARE A VACANCY IN THE OFFICE OF THE INSPECTOR GENERAL, THE BOARD SHALL BE APPOINTED WITHIN SIX (6) WEEKS OF THE DECLARATION.
- (2) THE BOARD SHALL BE RESPONSIBLE FOR ALL ACTIVITIES BY WHICH CANDIDATES TO FILL A VACANCY ARE SOLICITED, INVESTIGATED, INTERVIEWED AND RECOMMENDED FOR APPOINTMENT.
- (3) THE BOARD SHALL RECOMMEND NO LESS THAN TWO (2) CANDIDATES FOR APPOINTMENT BUT NO MORE THAN THREE (3) CANDIDATES TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.
- (4) UPON THE APPOINTMENT OF THE INSPECTOR GENERAL, THE BOARD SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

(B) REMOVAL OF INSPECTOR GENERAL.

- (1) THE BOARD SHALL BE APPOINTED IN ACCORDANCE WITH SECTION 2(B) OF THIS ARTICLE WHEN THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL OR THE COMPTROLLER OF THE CITY ALLEGE THE EXISTENCE OF GROUNDS FOR REMOVAL AS PROVIDED IN SECTION 4 OF THIS ARTICLE AND CALL FOR THE REMOVAL OF THE INSPECTOR GENERAL.
- (2) THE BOARD SHALL BE RESPONSIBLE FOR REVIEWING AND INVESTIGATING THE GROUNDS FOR REMOVAL AND FORMING AN OPINION, BASED ON THE RECORD BEFORE THE BOARD, AS TO WHETHER THE GROUNDS FOR REMOVAL ARE SUFFICIENT TO WARRANT A RECOMMENDATION TO REMOVE THE INSPECTOR GENERAL.
- (3) THE BOARD SHALL RECOMMEND TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL EITHER THE REMOVAL OR RETENTION OF THE INSPECTOR GENERAL.
- (4) IF THE INSPECTOR GENERAL IS RETAINED IN OFFICE, THE BOARD THAT IS APPOINTED PURSUANT TO THIS SUBSECTION (B) SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

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(5) IF THE INSPECTOR GENERAL IS REMOVED FROM OFFICE PURSUANT TO SECTION 4(D) OF THIS ARTICLE, THE BOARD APPOINTED UNDER THIS SUBSECTION (B) SHALL PERFORM THE TASKS TO FILL A VACANCY PROVIDED IN SUBSECTION A OF THIS SECTION AND DISSOLVE AND TERMINATE ITS WORK PURSUANT TO THOSE PROVISIONS.

§ 4. OFFICE OF THE INSPECTOR GENERAL: INSPECTOR GENERAL.

(A) *QUALIFICATIONS*

THE INSPECTOR GENERAL SHALL HAVE:

- (1) SUBSTANTIAL EXPERIENCE AND DEMONSTRATED ABILITY IN AUDITING, FINANCIAL ANALYSIS, CRIMINAL JUSTICE, LAW, MANAGEMENT ANALYSIS, PUBLIC ADMINISTRATION, INVESTIGATIONS OR OTHER APPROPRIATE FIELD; AND
- (2) ACQUIRED SPECIAL TRAINING AND CERTIFICATION AS AN INSPECTOR GENERAL OR WILL ACQUIRE THE SPECIAL TRAINING AND CERTIFICATION WITHIN SIX (6) MONTHS OF APPOINTMENT.

(B) *TERM.*

THE INSPECTOR GENERAL SHALL SERVE A SIX-YEAR TERM, EXCEPT IN THE CASE OF REMOVAL FROM OFFICE AS PROVIDED IN THIS ARTICLE.

(C) *SALARY*

THE INSPECTOR GENERAL SHALL BE PAID A SALARY AS PROVIDED IN THE ORDINANCE OF ESTIMATES.

(D) *APPOINTMENT AND REMOVAL*

UPON RECEIPT OF A RECOMMENDATION BY THE BOARD PURSUANT TO SECTION 3 OF THIS ARTICLE, AN INSPECTOR GENERAL MAY BE APPOINTED OR REMOVED FROM OFFICE BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

(E) *GROUND FOR REMOVAL.*

THE INSPECTOR GENERAL MAY BE REMOVED FROM OFFICE FOR:

- (1) MISCONDUCT IN OFFICE;
- (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF OFFICE; OR
- (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

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§ 5. OFFICE OF THE INSPECTOR GENERAL: POWERS AND DUTIES OF OFFICE.

(A) *RESPONSIBILITIES OF THE OFFICE*

THE OFFICE OF THE INSPECTOR GENERAL IS RESPONSIBLE FOR:

- (1) INVESTIGATING COMPLAINTS OF FRAUD, FINANCIAL WASTE, AND ABUSE IN CITY GOVERNMENT; AND
- (2) PROMOTING EFFICIENCY, ACCOUNTABILITY, AND INTEGRITY IN CITY GOVERNMENT.

(B) *JURISDICTION OF OFFICE*

THE OFFICE OF THE INSPECTOR GENERAL MAY INVESTIGATE ALLEGATIONS THAT INVOLVE CITY GOVERNMENT AND POTENTIAL VIOLATIONS OF LAWS OR REGULATIONS BY ANY:

- (1) CITY ELECTED OFFICIAL;
- (2) CITY EMPLOYEE;
- (3) MEMBER OF A BOARD OR COMMISSION ESTABLISHED OR GOVERNED BY THE CITY CHARTER, CITY CODE, OR AN EXECUTIVE ORDER ISSUED BY THE MAYOR;
- (4) CITY CONTRACTOR OR PERSON NEGOTIATING A CONTRACT WITH THE CITY;
- (5) PERSON OR ENTITY SEEKING CERTIFICATION TO PROVIDE GOODS OR SERVICES TO THE CITY; OR
- (6) EXTERNAL RECIPIENT OF CITY FUNDS, BENEFITS, OR SERVICES.

(C) *ISSUING SUBPOENAS.*

- (1) TO PERFORM THE DUTIES OF OFFICE, THE INSPECTOR GENERAL MAY ISSUE A SUBPOENA TO REQUIRE:
 - (I) ANY PERSON TO APPEAR UNDER OATH AS A WITNESS; OR
 - (II) THE PRODUCTION OF ANY INFORMATION, DOCUMENT, REPORT, RECORD, ACCOUNT, OR OTHER MATERIAL.
- (2) THE INSPECTOR GENERAL MAY ENFORCE ANY SUBPOENA ISSUED PURSUANT TO THIS SECTION IN ANY COURT OF COMPETENT JURISDICTION.

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§ 6. ADMINISTRATION AND OPERATION.

(A) STAFF.

THE INSPECTOR GENERAL MAY APPOINT SUCH OTHER EMPLOYEES TO ASSIST IN THE CONDUCT OF THE OFFICE AS MAY BE PROVIDED IN THE ORDINANCE OF ESTIMATES.

(B) DEPUTY INSPECTOR GENERAL.

THE INSPECTOR GENERAL SHALL APPOINT A DEPUTY INSPECTOR GENERAL WHO SHALL SERVE AS THE ACTING INSPECTOR GENERAL IF THE INSPECTOR GENERAL IS ABSENT OR UNAVAILABLE FOR DUTY.

(C) FUNDING.

THE OFFICE OF THE INSPECTOR GENERAL SHALL BE FUNDED ANNUALLY IN THE ORDINANCE OF ESTIMATES.

(D) ADMINISTRATIVE AND OPERATIONAL PROCEDURES.

THE INSPECTOR GENERAL MAY ESTABLISH BY RULE AND REGULATION THE ADMINISTRATIVE AND OPERATIONAL PROCEDURES OF THE OFFICE.

This is a new article, which adds the Inspector General to the Charter and ensures it is independent.

ARTICLE X CHARTER REVIEW COMMISSION

§ 1. COMMISSION ESTABLISHED.

A CHARTER REVIEW COMMISSION MAY BE APPOINTED FROM TIME TO TIME PURSUANT TO THE REQUIREMENTS OF THIS ARTICLE BUT AT LEAST EVERY 10 YEARS FOLLOWING THE ADOPTION OF THIS ARTICLE IN NOVEMBER 2018.

§ 2. APPOINTMENT.

A CHARTER REVIEW COMMISSION SHALL BE APPOINTED NO LATER THAN MAY 1 IN THE YEAR PRECEDING A CONGRESSIONAL ELECTION AND COMPLETE ITS WORK, AS PROVIDED IN THIS ARTICLE, NO LATER THAN MAY 1 IN THE YEAR FOLLOWING ITS APPOINTMENT.

§ 3. COMPOSITION.

THE COMMISSION SHALL BE COMPOSED OF NINE REGISTERED VOTERS OF THE CITY APPOINTED WITHOUT REGARD TO POLITICAL AFFILIATION. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL, AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT THREE (3) MEMBERS TO THE COMMISSION. EXCEPT FOR A MEMBER OF THE JUDICIARY, NO PERSON WHO HOLDS ELECTED OFFICE MAY BE APPOINTED TO THE COMMISSION. THE CHAIR OF THE COMMISSION SHALL BE ELECTED FROM AND BY THE COMMISSION MEMBERS. AT THE DISCRETION OF THE COMMISSION, AN ADVISORY BODY MAY BE APPOINTED TO ASSIST THE COMMISSION IN ITS DUTIES.

§ 4. DUTIES.

THE COMMISSION SHALL REVIEW THE PROVISIONS OF THIS CHARTER AND MAKE RECOMMENDATIONS AS TO THE NECESSITY FOR DELETING, ADDING OR REVISING ITS CONTENTS. DURING ITS DELIBERATIONS, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING TO RECEIVE PUBLIC TESTIMONY CONCERNING THE WORK OF THE COMMISSION.

§ 5. REPORT TO THE MAYOR AND CITY COUNCIL.

THE COMMISSION SHALL DELIVER A WRITTEN REPORT CONTAINING ITS RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL. THE CITY COUNCIL SHALL CONVENE A PUBLIC HEARING AT WHICH THE COMMISSION SHALL PRESENT ITS REPORT AND RECOMMENDATIONS.

§ 6. DISSOLUTION.

UPON COMPLETING THE ACTIVITIES REQUIRED IN SECTION 5 OF THIS ARTICLE, THE COMMISSION SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

These changes would require that the Charter be reviewed at least once every ten years to ensure it is modern and up-to-date.