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City of Detroit

CITY COUNCIL

LEGISLATIVE POLICY DIVISION

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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director
Legislative Policy Division Staff

DATE: April 3, 2019

RE: **Action Required on Mayor's Proposed Amendments to the Executive Organization Plan**

The Mayor submitted a proposed amendment to the Executive Organization Plan (EOP), dated March 7, 2019, to "increase the number of Deputy Directors within the Buildings, Safety Engineering and Environmental Department from one to two, serving under the Director of the Department." See attached, "Executive Organization (EOP) Plan". Section 7-102 of the Charter requires that City Council review the plan, conduct hearings on the Mayor's proposed amendment(s), and take action on it within sixty business days, or May 31, 2019. If City Council does not act to disapprove the proposed amendment, it will become effective after sixty business days.

As discussed in LPD's March 7, 2019 memo (attached), sections 5-105 and 5-107 of the 2012 Charter specifically contemplate (and authorize) the appointment of one deputy director by the department director with the consent of the Mayor. It is therefore LPD's recommendation that City Council schedule a public hearing and take action to disapprove the proposed amendment.¹ The hearing can be held in the context of a formal session, immediately preceding the vote. Disapproval of the amendment requires a vote of two-thirds of serving City Council members. A "Resolution to set and provide notice of the public hearing on the Executive Organization Plan submitted March 7, 2019" is included in the Mayor's submission.

Should the Council have further questions, LPD will respond.
Attachments

¹ Given the clear direction provided by the Charter's explicit language and discussions with representatives of the Administration, it is LPD's expectation that the Administration will withdraw the proposed EOP. But as that step has not yet been taken, Council should act to avoid the automatic adoption of the EOP, as contemplated by the Charter.



Mayor's Office

51 + 52

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Detroit, Michigan 48226

Phone 313-224-3400
Fax 313-224-4128
www.detroitmi.gov

March 7, 2019

Detroit City Council
2 Woodward Avenue, Suite 1340
Detroit, Michigan 48226

Re: Executive Organization Plan (EOP) Amendment

Honorable City Council:

I am pleased to present to you the attached amendment to the Executive Organization Plan (EOP). Pursuant to Section 7-102 of the 2012 Detroit City Charter, any amendment to the EOP is to be submitted to your Honorable Body and made public. After a public hearing, your Honorable Body is required to approve, recommend modification, or reject the plan within sixty (60) business days. Lacking such action, the Amendment becomes effective.

The proposed amendment to the Executive Organization Plan would:

1. Increase the number of Deputy Directors within the Buildings, Safety Engineering and Environmental Department from one to two, serving under the Director of the Department. Given the unprecedented level of blight enforcement needed to improve the quality of life for Detroit residents, it is imperative that the Department have a deputy director that is responsible for code.

In addition to the proposed amendment, please find attached the Resolution Distributing the EOP Amendment and Notice Thereof as well as the Resolution to Set and Provide Notice of the Public Hearing. We are available to respond to any questions or concerns and look forward to continued collaboration on this important issue.

Respectfully submitted,

Michael E. Duggan

Mayor, City of Detroit

Enclosures

**SEC. 60. BUILDINGS, SAFETY ENGINEERING AND ENVIRONMENTAL
DEPARTMENT**

THIS IS A CHARTER MANDATED DEPARTMENT.

Summary of Departmental Purposes:

The purpose of this department is to conserve and protect the natural resources of the City of Detroit in the interests of the health, safety and welfare of the people; to promote improved social and economic conditions in the City; to protect limited environmental resources for the future benefit of City inhabitants; and to provide code enforcement service within the framework of current nationally recognized codes as established by ordinance; and

To accomplish the powers and duties set forth in Article 6, Chapter 5 of the 2012 Detroit City Charter, the department shall be divided into the following Divisions:

- 1) Administration,
- 2) Business License,
- 3) Construction,
- 4) Environmental,
- 5) Licensing and Permits,
- 6) Zoning and Plan Review, and
- 7) Property Maintenance.

Administration:

The Mayor appoints the Director of the Buildings, Safety Engineering and Environmental Department who is the Chief Executive Officer of the department. The Director appoints ~~the two~~ Deputy Directors with the Mayor's consent.

Administrative Offices:

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 401
Detroit, MI 48226

Major Functional Areas:

1. Administrative Services
 2. Environmental Affairs
 3. Development and Resource Center
 4. Zoning Ordinance and Laws
 5. Business Licensing Ordinance
 6. Licenses and Permits
 7. Plan Review Activities
-
-

8. Construction Inspections
 - a. Building inspections
 - b. Electrical Inspections
 - c. Plumbing Inspections
 - d. Mechanical Inspections
 - e. Safety inspections;
 - i. Elevators and Boilers
 9. Property Maintenance
 - a. Rental Inspections
 - b. Code Enforcement
 - c. Housing Inspections
 10. Identification and Process of Dangerous Buildings
 11. City-Wide Energy Conservation Efforts
-

**RESOLUTION DISTRIBUTING THE
EXECUTIVE ORGANIZATION PLAN AND NOTICE THEREOF**

BY COUNCIL MEMBER _____

WHEREAS In accordance with Section 7-102 of the 2012 Detroit City Charter, the Mayor submitted an amendment to the Executive Organization Plan (EOP) on March 7, 2019, which was filed with the City Clerk and distributed to City Council; and

WHEREAS Section 7-102 of the Charter requires that amendments to the EOP be made public and permits City Council to study and conduct hearings. City Council may also request that the Mayor make modifications; and

WHEREAS Pursuant to Section 7-102 of the Charter, sixty (60) business days after the filing of an EOP amendment, which is Friday, May 31, 2019, the EOP amendment shall become effective unless it is disapproved by a resolution adopted by a two-thirds majority of City Council members serving.

NOW, THEREFORE BE IT RESOLVED, THAT:

- (1) The EOP amendment submitted to City Council on March 7, 2019, shall be made available by the City Clerk for reference by all interested persons and posted on the City's website; and
- (2) The City Clerk is hereby authorized and directed to publish notice of the filing of the EOP amendment along with the summary of the EOP in a daily newspaper of general circulation in the City of Detroit and by posted on the City's website; and
- (3) The notice of the filing of the EOP amendment shall be substantially in the following form:

CITY OF DETROIT, MICHIGAN

**NOTICE OF FILING OF PROPOSED
EXECUTIVE ORGANIZATION PLAN**

TO ALL INTERESTED PERSONS:

PLEASE TAKE NOTICE that pursuant to Section 7-102 of the 2012 Detroit City Charter, Mayor Mike Duggan has proposed an Executive Organization Plan amendment, which was filed with the City Clerk and submitted to City Council on March 7, 2019, that:

- (1) Reorganizes the administration of the General Services Department by increasing the number of Deputy Directors within the Buildings, Safety Engineering and Environmental Department.

Section 7-102 of the Charter requires that any amendment to the EOP be made public and permits the City Council to study, conduct hearings, and request modifications. The proposed EOP amendment is published herewith.

The City Council may request that the Mayor make modifications to the proposed EOP amendment within sixty (60) business days after the filing of the EOP amendment, which is May 31, 2019. The EOP amendment shall become effective with such modifications as are accepted by the Mayor, unless it is disapproved by a resolution adopted by a two-thirds majority of City Council members serving.

Copies of the proposed EOP amendment are on file in the Office of the Detroit City Clerk, Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 200 Detroit, MI 48226, and available on the City's website.

THIS NOTICE is given by Order of the Detroit City Council. Further information concerning the proposed EOP amendment may be obtained through the Office of the City Clerk.

**JANICE M. WINFREY
DETROIT CITY CLERK**

**RESOLUTION TO SET AND PROVIDE NOTICE OF THE PUBLIC HEARING ON
THE EXECUTIVE ORGANIZATION PLAN SUBMITTED MARCH 7, 2019**

BY COUNCIL MEMBER _____:

WHEREAS In accordance with Section 7-102 of the 2012 Detroit City Charter, the Mayor submitted an amendment to the Executive Organization Plan (EOP) on March 7, 2019 which was filed with the City Clerk and distributed to City Council; and

WHEREAS Section 7-102 of the Charter provides that amendments to the EOP be made public, that the City Council shall study and conduct hearings on the proposed amendments, and that the City Council may request the Mayor to make modifications to the proposed amendments; and

WHEREAS Pursuant to Section 7-102 of the Charter, sixty (60) business days after the filing of an EOP amendment, which is Friday, May 31, 2019, the amendments to the EOP shall become effective, with such modifications as are accepted by the Mayor, unless it is disapproved by a resolution adopted by a two-thirds majority of City Council members serving.

NOW, THEREFORE BE IT RESOLVED, THAT:

- (1) The amendments to the EOP submitted to City Council on March 7, 2019, shall be made available by the City Clerk for reference by all interested persons and posted on the City's website; and
- (2) The City Clerk is hereby authorized and directed to publish notice of the filing of the amendments to the EOP in a daily newspaper of general circulation in the City of Detroit and by posting notice of the filing on the City's website; and

(3) A public hearing on the proposed amendments to the EOP shall be held on

_____, 2019, at _____, in the _____

on the 13th Floor, Coleman A. Young Municipal Center, Detroit, Michigan; and

(4) The notice of the filing of the EOP amendment shall be substantially in the following form:

**NOTICE OF FILING OF PROPOSED AMENDMENTS TO THE
EXECUTIVE ORGANIZATION PLAN SUBMITTED MARCH 7, 2019, AND NOTICE
OF CITY COUNCIL PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO
THE EXECUTIVE ORGANIZATION PLAN**

TO ALL INTERESTED PERSONS:

PLEASE TAKE NOTICE that pursuant to Section 7-102 of the 2012 Detroit City Charter, Mayor Mike Duggan has proposed amendments to the Executive Organization Plan, which was filed with the City Clerk and submitted to City Council on March 7, 2019, summarized as follows:

- (1) Reorganizes the administration of the Buildings, Safety Engineering and Environmental Department by increasing the number of Deputy Directors in the Buildings, Safety Engineering and Environmental Department.

Section 7-102 of the Charter requires that any amendments to the EOP be made public and that the City Council study and conduct hearings on the proposed amendments to the EOP.

Section 7-102 of the Charter provides that the City Council may request the Mayor make modifications to the proposed amendments to the EOP and sixty (60) business days after the filing of the amendments to the EOP, which is Friday, May 31, 2019, the amendments to the

EOP shall become effective with such modifications as are accepted by the Mayor, unless it is disapproved by a resolution adopted by a two-thirds majority of City Council members serving

Copies of the proposed amendments to the EOP are on file in the Office of the Detroit City Clerk, Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 200 Detroit, MI 48226, and available on the City's website www.detroitmi.gov.

A public hearing on the proposed amendments to the EOP shall be held on _____, 2019, at _____, in the _____ on the 13th Floor, Coleman A. Young Municipal Center, Detroit, Michigan.

THIS NOTICE is given by Order of the Detroit City Council. Further information concerning the proposed amendments to the EOP may be obtained through the Office of the City Clerk.

**JANICE M. WINFREY
DETROIT CITY CLERK**

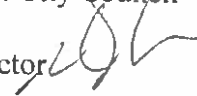
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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 

DATE: March 22, 2019

RE: **Proposed Amendments to the Executive Organization Plan**

The Mayor has submitted a proposed amendment to the Executive Organization Plan (EOP) to “increase the number of Deputy Directors within the Buildings, Safety Engineering and Environmental Department from one to two, serving under the Director of the Department.” The Mayor explains, “[g]iven the unprecedented level of blight enforcement needed to improve the quality of life for Detroit residents, it is imperative that the Department have a deputy director that is responsible for code.”

Pursuant to section 7-102 of the 2012 City Charter, “the Mayor shall prepare an executive organization plan which, consistent with law and this Charter, sets forth all agencies of the executive branch and assigns authorized programs, services and activities to each agency.” Once the plan is proposed and made public, it is City Council’s role to review the plan, conduct hearings¹ on the Mayor’s proposed amendments, and where appropriate, request that the Mayor make modifications to the amendments. According to the Charter, “all amendments to the plan must originate with the Mayor.” (Charter section 7-102) The City Council can only approve or disapprove the Mayor’s amendments; Council has no independent ability to modify what the Mayor proffers.

The proposed amendment, dated March 7, 2019, was filed with the City Clerk on March 7, 2019. Sixty *business* days after the Mayor files the plan with City Council, “it shall become effective, with such modifications as are accepted by the Mayor, unless disapproved² by a resolution adopted by a two-thirds (2/3) majority of City Council members serving.” The Mayor’s filing calculates May 31, 2019 as sixty (60) business days from when the Plan was filed with the City

¹ A hearing can be held within the context of a formal session immediately preceding a vote on the amended EOP.

² City Council disapproval requires a vote of two-thirds (2/3) of serving City Council members.

Clerk.³ Thus, a vote to accept or reject the proposed EOP should be taken by that date.

Applicable City Charter Limitations

The Mayor's proposed EOP, which "assigns authorized programs, services and activities to each agency", is intended to increase transparency in governmental operations and provide a road map for the public to navigate through City government. Although the Mayor has great latitude in organizing City government, the plan must comport with the requirements of the Charter and other potentially applicable law. In that regard, section 5-105 states:

Sec. 5-105. Appointment of Deputies. Except as otherwise provided by law or this Charter, the Director of each department of the executive branch may, with the consent of the Mayor, appoint a Deputy. The appointment shall be made and may be revoked without cause by a writing filed with the City Clerk.

Section 5-105's specificity with respect to the appointment of a **single** deputy, is confirmed by the dictates of Section 5-107:

Sec. 5-107. Powers of a Departmental Deputy.

The Deputy in each department of the executive branch shall, under the Director's supervision, during the director's absence or disability, or while the director's position is vacant, exercise all the powers and perform all the duties of the director to the full extent permitted by law.

Section 5-107 clearly contemplates a single departmental deputy to stand in for an absent director.

While the Mayor's explanation of the need for an additional deputy is entirely reasonable, particularly given the resumption of demolition responsibilities within our city departments – an outcome this Honorable Body has strongly urged; however, the plain language of the Charter prohibits the appointment of more than one deputy per department. Appointment of an individual responsible for blight enforcement to serve in an appropriately titled position below the level of deputy director may be an alternative.

LPD recognizes that other departments have increased the number of deputy directors over the past few years, most recently the Department of Public Works (DPW).⁴ Careful review of the Charter in anticipation of the work of the Charter Revision Commission highlighted the discrepancy between the language of the Charter and the reality of the administrative structure of City government. The Charter Commission may reconsider the

³ This computation of time apparently assumes that Good Friday (April 19, 2019) is a business day, although Memorial Day (May 27, 2019), a federal holiday, is not a business day; the sixty day count customarily begins on March 8, 2019, the first business day following the March 7, 2019 filing of the proposed amendment with the City Clerk.

~~⁴ A survey of other departments may reveal that there are multiple deputies appointed under the authority of the Emergency Manager. However, absent the authority of an EM, the Charter currently limits appointment to one deputy per department.~~

limitations of Section 5-105 during the course of its work. However, in the interim and pending a revision of this section, the Charter controls. An EOP amendment cannot operate to amend the Charter.

As the primary goal of the proposed EOP currently under consideration is to create a second position for a deputy director for BSEED, City Council might request that the Mayor withdraw or amend the document to comport with the Charter.

Should the Council have further questions, LPD will respond.

