

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 11-0792

Introduced by: Councilmembers Kraft, Clarke, Henry, D’Adamo, Middleton, Curran, Conaway,
Welch, Spector

Introduced and read first time: October 24, 2011

Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: November 21, 2011

AN ORDINANCE CONCERNING

Alley-Gating and -Greening Program –~~Eligibility to Participate~~

FOR the purpose of ~~extending the alley-gating and -greening program to include alleys that are~~
~~abutted predominantly by either or both residential and commercial structures;~~ correcting
certain administrative references to reflect the assumption of jurisdiction over the program by
the Department of General Services; and correcting, clarifying, and conforming related
provisions.

BY adding

Article 26 - Surveys, Streets, and Highways
Section(s) 8A-1(b-1)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 26 - Surveys, Streets, and Highways
Section(s) 8A-1(c), 8A-2(b)(1) and (c)(1) and (2), 8A-3, 8A-4(a), 8A-9(a), 8A-10(a)(1),
8A-11(b)(1), (7), (9), and (10), 8A-12(b)(1), (3), (6), (8), and (9), and 8A-14(a)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
Laws of Baltimore City read as follows:

Baltimore City Code

Article 26. Surveys, Streets, and Highways

Subtitle 8A. Gating and Greening Alleys

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 **§ 8A-1. Definitions.**

2 (B-1) *DEPARTMENT.*

3 “DEPARTMENT” MEANS THE DEPARTMENT OF GENERAL SERVICES.

4 (c) *Director.*

5 “Director” or “Director of [Public Works] GENERAL SERVICES” means the Director of the
6 Department of [Public Works] GENERAL SERVICES or the Director’s designee.

7 **§ 8A-2. In general.**

8 (b) *Standard.*

9 The Director of [Public Works] GENERAL SERVICES may authorize the gating and, if
10 applicable, the greening of an alley if, on petition, public notice, and hearing as provided
11 in this subtitle, the Director determines that:

12 (1) the structures abutting the alley are predominantly residential, ~~COMMERCIAL, OR A~~
13 ~~COMBINATION OF RESIDENTIAL AND COMMERCIAL;~~
14

15 (c) *Rules and regulations.*

16 (1) The Director of [Public Works] GENERAL SERVICES shall adopt rules and regulations
17 to carry out this subtitle.

18 (2) These rules and regulations may set reasonable fees to cover the costs incurred by the
19 Department [of Public Works] in processing a petition under this subtitle.

20 **§ 8A-3. Record of abutting owners.**

21 At the request of any person interested in the gating or greening of an alley, the Department
22 [of Public Works] shall provide that person with a list of the names and addresses, as then
23 shown on the Department’s records, of the owners of all properties abutting that alley.

24 **§ 8A-4. Petition by abutting owners – General.**

25 (a) *In general.*

26 To initiate a proceeding under this subtitle, a petition must be submitted to the Director of
27 [Public Works] GENERAL SERVICES.

28 **§ 8A-9. Public hearing.**

29 (a) *Director to conduct.*

30 The Director of [Public Works] GENERAL SERVICES shall conduct a public hearing on the
31 petition.

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1 **§ 8A-10. Decision.**

2 (a) *In general.*

3 (1) The Director of [Public Works] ~~GENERAL SERVICES~~ shall issue a written decision on
4 the [Petition] PETITION within 30 days of the hearing.

5 **§ 8A-11. Required lease – Gating.**

6 (b) *Terms.*

7 The lease shall include, at a minimum, provisions to the following effect:

8 (1) All plans for the design and construction of gates and for any sodding, removal of
9 pavement, or other landscaping of the alley must be reviewed and approved by the
10 Department of [Public Works] PUBLIC WORKS AND THE DEPARTMENT OF
11 GENERAL SERVICES.

12 (7) If the Department of [Public Works] ~~GENERAL SERVICES~~ PUBLIC WORKS, its
13 employees, agents, or contractors enter the alley for maintenance, repair, or
14 replacement of City utilities, the Department:

15 (i) is responsible, on completion of its work, for restoring the alley to grade;
16 but

17 (ii) is not responsible for any other work in the alley or for any other costs
18 incurred in restoring the alley.

19 (9) The Director [of Public Works] OF GENERAL SERVICES may terminate the lease
20 and may order or cause, at the lessee's expense, the removal of all gates and other
21 obstructions and the alley's restoration if:

22 (i) at any time, the lessee is in default of any term of the lease and has failed
23 to cure that default in accordance with the terms of the lease; or

24 (ii) after a public hearing, with prior notice as provided in the lease, the
25 director determines that:

26 A. the alley is needed for through pedestrian or vehicular traffic; or

27 B. the gating no longer promotes the public health, safety, or welfare.

28 (10) The Director [of Public Works] OF GENERAL SERVICES ~~must~~ MAY, after a public
29 hearing, with prior notice as provided in the lease, terminate the lease and order or
30 cause, at the lessee's sole expense, the removal of all gates and other obstructions
31 and the alley's restoration if, at any time, the owners of a majority of the abutting
32 properties, not including any abandoned properties, so request in writing.

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1 § 8A-12. Required lease – Greening.

2 (b) *Terms.*

3 The lease shall include, at a minimum, provisions to the following effect:

4 (1) All plans for the design and construction of gates, for the greening of the alley,
5 and for any sodding, removal of pavement, or other landscaping of the alley must
6 be reviewed and approved by the Department of [Public Works] ~~GENERAL~~
7 ~~SERVICES.~~

8 (3) Access to the alley must be available to [Fire, Police, Public Works] FIRE, POLICE,
9 PUBLIC WORKS, and other appropriate agencies of the [city] CITY and to all
10 companies that have utilities lawfully located in the alley.

11 (6) If the Department of [Public Works] ~~GENERAL SERVICES~~ PUBLIC WORKS, its
12 employees, agents, or contractors enter the alley for maintenance, repair, or
13 replacement of City utilities, the Department:

14 (i) is responsible, on completion of its work, for restoring the alley to grade;
15 but

16 (ii) is not responsible for any other work in the alley or for any other costs
17 incurred in restoring the alley.

18 (8) The Director [of Public Works] ~~OF GENERAL SERVICES~~ may terminate the lease
19 and may order or cause, at the lessee's expense, the removal of all gates and other
20 obstructions and the alley's restoration if:

21 (i) at any time, the lessee is in default of any term of the lease and has failed
22 to cure that default in accordance with the terms of the lease; or

23 (ii) after a public hearing, with prior notice as provided in the lease, the
24 director determines that:

25 A. the alley is needed for through pedestrian or vehicular traffic; or

26 B. the gating or greening no longer promotes the public health, safety,
27 or welfare.

28 (9) The Director [of Public Works] ~~OF GENERAL SERVICES~~ ~~must~~ MAY, after a public
29 hearing, with prior notice as provided in the lease, terminate the lease and order or
30 cause, at the lessee's sole expense, the removal of all gates and other obstructions
31 and the alley's restoration if, at any time, the owners of a majority of the abutting
32 properties, not including any abandoned properties, so request in writing.

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1 **§ 8A-14. Judicial and appellate review.**

2 (a) *Judicial review.*

3 A person aggrieved by a final decision of the Director [of Public Works] under this
4 subtitle may seek judicial review of that decision by petition to the Circuit Court for
5 Baltimore City in accordance with the Maryland Rules of Procedure.

6 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
7 are not law and may not be considered to have been enacted as a part of this or any prior
8 Ordinance.

9 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
10 after the date it is enacted.

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City