
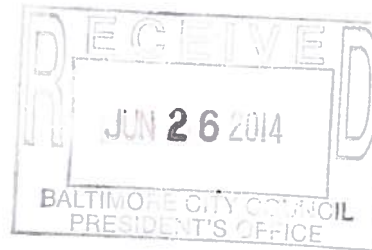


FROM	NAME & TITLE	Rudolph S. Chow, P.E., Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	CITY COUNCIL BILL 14-0382		

TO

DATE: June 24, 2014

The Honorable President and Members
 of the Baltimore City Council
 c/o Karen Randle
 Room 400 – City Hall



I am herein reporting on City Council Bill 14-0382 introduced by Council Members Kraft, Stokes, Henry, Clarke, Welch and Branch.

The purpose of the Bill is to amend the provisions regulating franchises to authorize the Mayor and City Council to regulate, by local law, minor privileges and the issuance of minor privilege permits; define certain terms; conform, correct and clarify regulated language governing franchises; and to submit this amendment to the qualified voters of the City for adoption or rejection.

Article VIII of the Baltimore City Charter describes the circumstances under which a private person or private entity may encroach upon the public rights-of-way or certain City-owned property. Encroachments that are substantial in nature and which cannot be removed without material alteration to the right-of-way or property are considered franchises and require authorization by ordinance. Encroachments that are temporary or have limited impact on the right-of-way or property are considered minor privileges and may be granted authority through a Board of Estimates permit approval process. An annual fee is charged for both franchises and minor privileges as determined by the Board of Estimates. Minor privilege permits and franchise ordinances include the period of time that the authorizations are for and the conditions that must be met to retain authority to occupy the specific public areas. Minor privilege permits require annual renewals to remain in good standing. Authority for franchises may be granted for no more than 25 years, but renewals may be granted by ordinance for additional 25 year terms. In approving these encroachments the Charter is very clear that the City retains the power to “reasonably regulate in the public interest the exercise of the franchise or right” granted. The City does not have the power to divest itself of its inalienable rights to these lands. City Council Bill 14-0382 would amend Article VIII to remove the minor privilege permit process from the purview of the Board of Estimates and allow for the enactment of law(s) to regulate the administration, duration, terms, conditions and fees for authorizing minor privilege permits.

The Department of Public Works did have the administrative responsibility to prepare minor privilege permits for submittal to the Board of Estimates and did prepare franchise ordinances for consideration by the Council. These duties and responsibilities were transferred to the Department of General Services in 2009 when it became a separate department. However, Public Works has considerable infrastructure, most of which in in the rights-of-way, that must be maintained and protected. One of the critical parts of any process which grants a private encroachment to occupy rights-of-way or City property is ensuring the proposed encroachment

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and its location does not interfere with existing infrastructure or access to and maintenance of the utility. Sidewalks, roadways, underground utilities, parks, and other City property are owned and managed by City government to provide basic public services for our citizens. Private interest in the use of these public areas can be accommodated if appropriate protections of the public interest are maintained.

The Department of Public Works defers to the Department of General Services on this legislation as the agency responsible to administer and manage the minor privilege permits process. This deferral is made with the understanding that use of the rights-of-way by private entities is a privilege and not a right, and that the public interest must play a strong role in when and how such accommodations can be met.

Sincerely,



Rudolph S. Chow, P.E.
Director

RSC/MMC:ela