

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

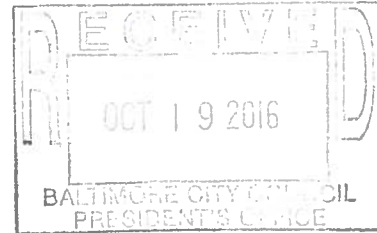


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

October 19, 2016

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 16-0728 – Discounted City Services and Equipment for Nonprofit Events – Amendment

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 16-0728 for form and legal sufficiency. It adds “Subtitle 37. Nonprofit Event Discount” to Article 1 of the Code for the purpose of requiring that the City grant a 50% discount for City services and equipment used to support a nonprofit event.

Pursuant to its police powers, the City may charge regulatory fees provided that the amount charged is reasonable and no more than necessary to carry out the provisions of the regulation. *Ocean City v. Purnell-Jarvis, Ltd.*, 86 Md. App. 390, 404-06 (1991). The fees to which this bill’s discount apply, however, are only those which the City Council has the authority to enact by ordinance. It would not apply to fees set and charged by the Police Department, an agency and instrumentality of the State of Maryland. *See* Code of Public Local Laws of Baltimore City, Section 16-2. *See also*, Baltimore City Charter (Charter), Article II, § 27 (“... no ordinance of the City or act of a municipal officer, other than an act of the Mayor pursuant to Article IV of this Charter, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner.”). It would also be inapplicable to fees set pursuant to power conferred under the City Charter, such as fees which the Department of Recreation and Parks and the Board of Estimates have the authority to set. *See* BCC, Article VII, § 68(e) (Department of Recreation and Parks has power “to charge and collect fees for admission, services and the use of facilities, and rentals for the use of property controlled by the Department”). *See also*, Charter, Art. III, §11 (Charter power cannot be modified by a provision in the City Code). To the extent that other fees for City services or equipment are set by the City Charter or by State law, they likewise, are not required to be discounted pursuant to this bill. With this caveat, the Law Department approves the bill for form and legal sufficiency.

The Law Department notes, however, that it appears from the Special Event Application prepared by the Department of General Services, that past administrative practice has been to offer a 50% discount for City equipment items for special events when the event is sponsored by

Fav w/ comments

a Baltimore City based nonprofit and proof of the nonprofit's 501(c)(3) tax-exempt status is provided at the time of the application. The discount did not apply to public safety services such as Fire and Police services delivered during an event. To provide more clarity regarding the nonprofits to which the discount applies, the bill could be amended on page 1, line 20, to delete "nonprofit, tax-exempt charitable or religious organization" and substitute "charitable or religious nonprofit organization exempt from taxation under Section under § 501(c)(3) of the Internal Revenue Code." Also, if the intent of this bill is to continue the inapplicability of the discount to Fire Department services, it should be stated in the bill. As noted above, the discount is not applicable to Police services in any event.

Sincerely,



Jennifer Landis
Assistant Solicitor

cc: David Ralph, Acting City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Hilary Ruley, Chief Solicitor