

FROM	NAME & TITLE	Steve Sharkey, Director
	AGENCY NAME & ADDRESS	Department of General Services 800 Abel Wolman Municipal Building
	SUBJECT	CITY COUNCIL BILL 14-0382

CITY of
BALTIMORE
MEMO



TO

DATE:

June 27, 2014

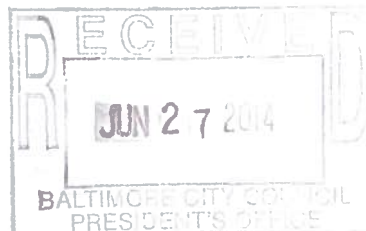
The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 – City Hall

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 declares the City's inalienable rights to the title of its public rights-of-way, parks, waterfront and waterfront-related properties and amenities, and riparian lands. These lands and property are held by the City for public purposes. Private uses may not encroach into these public areas unless authority is granted either through a minor privilege permit or a franchise ordinance. Minor privilege permits are issued for encroachments that have minimal or limited impact on the public areas (e.g. awnings, outdoor seating, newspaper boxes). A permit fee is charged for the privilege of using public areas or property and the minor privilege permit must be renewed annually to remain valid. Persons applying for a minor privilege permit must, as part of the application process, demonstrate proof of notification to adjacent property owners of the nature of their request. Franchises are established through an ordinance process to grant authority for more permanent structures to occupy public areas or property (e.g. bridgeways, underground utilities, tunnels). The ordinance describes the encroachment and its location and includes an annual franchise fee and the period of time the encroachment may occupy a public area. The Charter limits franchises to a maximum of 25 years, but franchises may be renewed for additional periods if done so through an ordinance. Expiration of franchises requires removal of the encroachment at the owner's expense.

The Board of Estimates establishes the fees for minor privilege permits and for franchises. A Schedule of Fees and Charges identifies the type of encroachment, the basis for the charge (by object, square footage, or cubic feet), and the fee to be applied. In addition to the authority to use public areas for private purposes, the permit application and ordinance process provides the opportunity to impose conditions on the encroachment for such practical purposes as safe



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vehicular and pedestrian passage and protection of existing structures and utilities. The Department of General Services is the agency tasked with administering the minor privilege permit process. In Fiscal Year 2014, the agency issued 276 minor privilege permits. In general, it takes approximately 4 weeks from receipt of an application to presentation to the Board of Estimates for consideration and approval.

City Council Bill 14-0382 would modify Article VIII of the Charter by separating the granting of minor privilege encroachments from the current permitting and Board of Estimates process. The franchise ordinance process would remain unchanged. Through the enactment of local law(s), the Mayor and City Council would establish the provisions governing the granting or denying of a minor privilege request as well as any application process, duration periods, charges and fees, and terms and conditions. These provisions could take many forms which could include removing the Department of General Services' administrative responsibilities for processing minor privilege applications.

The Department of General Services has been reviewing the minor privilege categories and fee structures. This review is to determine whether the current minor privilege program needs updating or if it conflicts or interferes with other community improvement efforts. For example, encouraging community business districts to participate in façade improvements may be hampered by the annual minor privilege fees for awnings, signs, and street furniture. Likewise, the perception of a welcoming community space may be discouraged because of the fees for exterior lighting or fixtures in public spaces.

The Department's review process considered concerns about the minor privilege process and fees expressed to the Department by applicants, members of the City Council, private businesses, Main Street organizations, Baltimore Development Corporation (BDC), and the Downtown Partnership. These concerns and questions were used as the basis for further research and the development of an action plan for minor privilege improvements. After meetings and discussions with the Mayor's Office of Economic and Neighborhood Development, BDC, Downtown Partnership, and various business owners, the Mayor's Office and General Services hosted a focus group meeting with Baltimore Main Street directors and the Downtown Partnership. The focus group was provided with information about the assessment of minor privileges in Baltimore and how Baltimore's program compares with other similar jurisdictions.

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Following up on those collaborative discussions, the Administration and the Department are ready to recommend the first set of changes to the minor privilege program, which can be implemented in the short term:

- Recommended Revisions to the Minor Privilege Schedule:
Within the next two months the Board of Estimates will be given proposed revisions to the Schedule for their approval to remove the required fees for:
 1. Security Cameras;
 2. Security Lighting;
 3. Bicycle Racks; and
 4. ADA-compliant handicap ramps.

Over the medium-term, the Department and the Administration will be continuing to study the logistics of implementing further changes to the Minor Privilege program, including:

- Guidance material on the City website
The intent is to create and develop more user friendly guidance material, including picture references as part of the Minor Privilege Schedule as well as a list of prohibited items. The Department estimates these improvements can be added to the website by the end of the calendar year.
- Additions to the Minor Privilege Schedule of Fees and Charges:
The Department intends to recommend that the Board of Estimates add an addendum to the Schedule that explains the fee zones, provides a simplified map displaying the zones, as well as an interactive GIS based minor privilege map. The Department notes that while the explanation of the fee zones and the accompanying map should also be ready to be posted on the website by the end of the calendar year, creating an interactive minor privilege map is estimated to take longer to develop.

While the Department of General Services believes that the current minor privilege permit process has definite efficiencies, further improvements will be realized through continued review process. The Department and the Administration are committed to future updates to the Minor Privilege program—including identifying and recommending additional appropriate adjustments to the Fee Schedule—and hope to work in collaboration with the City Council.

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However, it is important to remember that granting a private use of a public space or property must also serve the public interest. The requested use must be balanced with the need to protect existing infrastructure and the public's safe use of these areas.

Based on these findings, the Department of General Services must respectfully oppose passage of City Council Bill 14-0382 and looks forward to further discussions with the Council as part of its Minor Privilege review process.

Respectfully,

A handwritten signature in blue ink that reads "Steve Sharkey/gal". The signature is written in a cursive style with a large, sweeping "S" and a trailing "gal" at the end.

STEVE SHARKEY
DIRECTOR

SS/MMC:ela