

**CITY OF BALTIMORE
COUNCIL BILL 21-0083
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Recreation and Parks)
Introduced and read first time: May 17, 2021
Assigned to: Economic and Community Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Department, Department of Housing and Community Development, Department of Transportation, Fire Department, Parking Authority, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Gas Regulator Station Utility at Lower Gwynns Falls Park**

3 FOR the purpose of granting a franchise to Baltimore Gas and Electric Company to construct,
4 use, and maintain a gas regulator station utility, subject to certain terms, conditions, and
5 reservations; and providing for a special effective date.

6 BY authority of
7 Article VIII - Franchises
8 Baltimore City Charter
9 (1996 Edition)

10 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
11 franchise or right is granted to Baltimore Gas and Electric Company, its tenants, successors, and
12 assigns (collectively, the “Grantee”) to construct, use, and maintain, at Grantee’s own cost and
13 expense, and subject to the terms and conditions of this Ordinance, a gas regulator station utility
14 at Lower Gwynn’s Falls Park, the location being described as follows:

15 Beginning for the same at a point on the northeasterly side of Hurley Avenue, 33
16 feet wide, as shown on Baltimore City Plat File Nos. 100-B-40, 248-A-7A & 132-
17 A-1D the point being distant North 28° 51’ 24” West 184.21 feet from the
18 intersection formed by the northerly side of Wilkens Avenue 100 feet wide, and
19 the northeasterly side of Hurley Avenue; thence departing the point so fixed and
20 binding on and running with the northerly side of Hurley Avenue by the following
21 2 courses and distances, with all bearings herein being referred to the Baltimore
22 City Coordinate System as now surveyed:

23 (1) North 28° 51’ 24” West for a distance of 11.47 feet to a point; and thence:

24 (2) North 33° 06’ 50” West for a distance of 3.54 feet to a point; thence departing Hurley
25 Avenue and running through Lot 2 of “Lower Gwynn’s Falls Park” by the following 8
26 courses and distances

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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- 1 (3) North 61° 08' 36" East for a distance of 16.05 feet to a point; thence
- 2 (4) South 89° 19' 59" East for a distance of 57.76 feet to a point to a point; thence
- 3 (5) North 00° 40' 01" East for a distance of 20.45 feet to a point; thence
- 4 (6) North 89° 19' 59" West for a distance of 10.00 feet to a point to a point; thence
- 5 (7) North 00° 40' 01" East for a distance of 20.00 feet to a point; thence
- 6 (8) South 89° 19' 59" East for a distance of 10.00 feet to a point to a point; thence
- 7 (9) North 00° 40' 01" East for a distance of 14.55 feet to a point; thence
- 8 (10) South 89° 19' 59" East for a distance of 36.88 feet to a point to a point intersecting in
- 9 transit, the line of division between Lot 1 and Lot 2, as shown on Baltimore City
- 10 Block Plat 2135A, at 30.50 feet the intersection point being located North 00° 40' 01"
- 11 East 234.45 feet from the northerly side of Wilkens Avenue; thence continuing
- 12 through Lot 1 by the following three (3) courses
- 13 (11) South 82° 12' 53" East for a distance of 174.10 feet to the westerly side of a 40' gas
- 14 easement as described in Baltimore City Ordinance 1007, dated May 17, 1979, as
- 15 Easement #2; thence binding on the easement,
- 16 (12) South 23° 45' 38" West for a distance of 15.00 feet to a point; thence departing the
- 17 gas easement and continuing through Lot 1,
- 18 (13) South 82° 12' 53" East for a distance of 168.87 feet to a point; thence through Lot 1
- 19 and Lot 2,
- 20 (14) North 89° 19' 59" West for a distance of 15.94 feet to a point to a point intersecting
- 21 in transit, the line of division between Lot 1 and Lot 2, as shown on Baltimore City
- 22 Block Plat 2135A, at 5.44 feet, said point being located North 00° 40' 01" East
- 23 219.49 feet from the northerly side of Wilkens Avenue; thence
- 24 (15) South 00° 40' 01" West for a distance of 55.00 feet to a point; thence
- 25 (16) North 89° 19' 59" West for a distance of 73.80 feet to a point and thence
- 26 (17) South 61° 08' 36" West for a distance of 11.84 feet to a point to the place of
- 27 beginning.

28 Containing 5,463 square feet or 0.1254 acres of land as per survey calculations.

29 Being the same lands as shown on a plat attached hereto and intended to
30 be recorded herewith entitled, "City of Baltimore Department of Public
31 Works, Office of Engineering and Construction, Perpetual Easement for
32 Municipal Utilities and Services through the Property of Mayor and City
33 Council," prepared for Baltimore Gas & Electric Company, prepared by
34 EN Engineering and dated August 19, 2020.

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1 This metes and bounds land description and the related survey work were
2 prepared in accordance with the requirements of COMAR Title 9
3 Department of Labor, Licensing and Regulations Subtitle 13, Chapter 06,
4 Minimum Standards of Practice as amended in May of 2017.

5 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
6 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
7 6 months after the effective date of this Ordinance.

8 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
9 Grantee shall pay to the Mayor and City Council of Baltimore a one-time franchise charge of \$____
10 _____. The franchise charge must be paid within 30 days following the effective date of this
11 Ordinance.

12 **SECTION 4. AND BE IT FURTHER ORDAINED**, That:

13 (a) The term of the Franchise shall commence on the effective date of this Ordinance and
14 terminate 25 years thereafter.

15 (b) Upon the request of the Grantee, at any time within one year prior to expiration of the
16 rights granted herein, the City may, by ordinance, renew the grants by additional periods of 25
17 years each subject to all the terms and conditions of the renewing Ordinance.

18 **SECTION 5. AND BE IT FURTHER ORDAINED**, That the Mayor and City Council of Baltimore
19 expressly reserves the right at all times to exercise, in the interest of the public, full municipal
20 superintendence, regulation, and control over and in respect to all matters connected with the
21 Franchise and not inconsistent with the terms of this Ordinance.

22 **SECTION 6. AND BE IT FURTHER ORDAINED**, That the Grantee, at its own cost and expense,
23 shall maintain in good condition and in compliance with all applicable laws and regulations of
24 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
25 structures shall be at all times subject to the regulation and control of the Director of the
26 Department of Recreation and Parks. If any structure for which the Franchise is granted must be
27 readjusted, relocated, protected, or supported to accommodate a public improvement, the Grantee
28 shall pay all costs and expenses in connection with the readjustment, relocation, protection, or
29 support.

30 **SECTION 7. AND BE IT FURTHER ORDAINED**, That at the option of the Mayor and City
31 Council of Baltimore, acting by and through the Director of the Department of Recreation and
32 Parks, the Grantee’s failure to comply with any term or condition of this Ordinance constitutes a
33 forfeiture of the Franchise. Immediately on written notice to the Grantee of the exercise of this
34 option, the Franchise terminates.

35 **SECTION 8. AND BE IT FURTHER ORDAINED**, That at any time and without prior notice, the
36 Mayor of Baltimore City may revoke the Franchise if, in the Mayor’s judgment, the public
37 interest, welfare, safety, or convenience so requires. Immediately on written notice to the
38 Grantee of the exercise of this right, the Franchise terminates.

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1 **SECTION 9. AND BE IT FURTHER ORDAINED**, That on cancellation, expiration, forfeiture,
2 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all
3 structures for which the Franchise is granted. The removal of these structures shall be
4 (I) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor
5 and City Council of Baltimore, (ii) made in a manner satisfactory to the Director of the
6 Department of Recreation and Parks, and (iii) completed within the time specified in writing by
7 the Director of the Department of Recreation and Parks.

8 **SECTION 10. AND BE IT FURTHER ORDAINED**, That the Grantee is liable for and shall
9 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
10 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
11 time subjected on account of, or in any way resulting from, (I) the construction, use, operation,
12 maintenance, alteration, repair, location, relocation, or removal of any of the structures for which
13 the Franchise is granted, or (ii) any failure of the Grantee, its officers, employees, or agents, to
14 perform promptly and properly any duty or obligation imposed on the Grantee by this Ordinance,
15 except for activities caused by the sole negligent act or omission of the City, its elected/appointed
16 officials, employees, agents, and volunteers arising from the activities permitted by this
17 Franchise.

18 **SECTION 11. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on the date it
19 is enacted.