



Legislation Details (With Text)

File #: 11-0792 **Version:** 0 **Name:** Alley-Gating and -Greening Program - Eligibility to Participate

Type: Ordinance **Status:** Enacted

File created: 10/24/2011 **In control:** City Council

On agenda: **Final action:** 12/5/2011

Enactment date: **Enactment #:** 11-580

Title: 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.

Sponsors: James B. Kraft, Mary Pat Clarke, Bill Henry, Nicholas C. D'Adamo, Sharon Green Middleton, Robert Curran, Belinda Conaway, William "Pete" Welch, Rochelle Spector

Indexes: Alleys, Gating, Greening Program

Code sections:

Attachments: 1. 11-0792 - 1st Reader.pdf, 2. Fire - 11-0792.pdf, 3. Law - 11-0792.pdf, 4. Planning - 11-0792.pdf, 5. Police - 11-0792.pdf, 6. DPW - 11-0792.pdf, 7. General Services - 11-0792.pdf, 8. 11-0792 - 3rd Reader.pdf

| Date | Ver. | Action By | Action | Result |
|------------|------|--|--|--------|
| 12/5/2011 | 0 | City Council | Approved and Sent to the Mayor | |
| 12/5/2011 | 0 | Mayor | Signed by Mayor | |
| 11/21/2011 | 0 | Judiciary and Legislative Investigations | Recommended Favorably with Amendment | |
| 11/21/2011 | 0 | City Council | Advanced to 3rd Rdr., Adopted Comm. Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/27/2011 | 0 | The City Council | Referred for a Report | |
| 10/24/2011 | 0 | City Council | Assigned | |
| 10/24/2011 | 0 | Judiciary and Legislative Investigations | Scheduled for a Public Hearing | |
| 10/24/2011 | 0 | City Council | Introduced | |

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

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Kraft

A BILL ENTITLED

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

§ 8A-1. Definitions.

(B-1) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF GENERAL SERVICES.

(c) Director.

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

§ 8A-2. In general.

(b) Standard.

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

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

....

(c) Rules and regulations.

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

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

§ 8A-3. Record of abutting owners.

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

§ 8A-4. Petition by abutting owners - General.

(a) In general.

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

§ 8A-9. Public hearing.

(a) Director to conduct.

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

§ 8A-10. Decision.

(a) In general.

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

§ 8A-11. Required lease - Gating.

(b) Terms.

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

- (1) All plans for the design and construction of gates and for any sodding, removal of pavement, or other landscaping of the alley must be reviewed and approved by the Department of [Public Works] GENERAL SERVICES.
- (7) If the Department of [Public Works] GENERAL SERVICES, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:
 - (i) is responsible, on completion of its work, for restoring the alley to grade; but
 - (ii) is not responsible for any other work in the alley or for any other costs incurred in restoring the alley.
- (9) The Director [of Public Works] may terminate the lease and may order or cause, at the lessee's expense, the removal of all gates and other obstructions and the alley's restoration if:
 - (i) at any time, the lessee is in default of any term of the lease and has failed to cure that default in accordance with the terms of the lease; or
 - (ii) after a public hearing, with prior notice as provided in the lease, the director determines that:
 - A. the alley is needed for through pedestrian or vehicular traffic; or
 - B. the gating no longer promotes the public health, safety, or welfare.
- (10) The Director [of Public Works] must after a public hearing, with prior notice as provided in the lease, terminate the lease and order or cause, at the lessee's sole expense, the removal of all gates and other obstructions and the alley's restoration if, at any time, the owners of a majority of the abutting properties, not including any abandoned properties, so request in writing.

§ 8A-12. Required lease - Greening.

(b) Terms.

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

- (1) All plans for the design and construction of gates, for the greening of the alley, and for any sodding, removal of pavement, or other landscaping of the alley must be reviewed and approved by the Department of [Public Works] GENERAL SERVICES.
- (3) Access to the alley must be available to [Fire, Police, Public Works] FIRE, POLICE, PUBLIC WORKS, and other appropriate agencies of the [city] CITY and to all companies that have utilities lawfully located in the alley.
- (6) If the Department of [Public Works] GENERAL SERVICES, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:
 - (i) is responsible, on completion of its work, for restoring the alley to grade; but
 - (ii) is not responsible for any other work in the alley or for any other costs incurred in restoring the alley.

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

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

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

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

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

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

§ 8A-14. Judicial and appellate review.

(a) Judicial review.

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

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

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

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