

**CITY OF BALTIMORE
COUNCIL BILL 05-0034
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Office of Neighborhoods)
Introduced and read first time: February 14, 2005
Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Planning Commission, Department of Public Works, Department of Finance, Police Department, Fire Department, Office of Neighborhoods, Environmental Control Board, Department of Housing and Community Development, Department of Transportation, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Gating Alleys**

3 FOR the purpose of establishing standards and procedures for the gating of alleys; requiring
4 certain petitions, consents, reviews, notices, and hearings; specifying certain minimum
5 requirements for a lease of a gated area; authorizing administrative and judicial reviews of
6 certain decisions; defining certain terms; and generally relating to the gating and leasing of
7 alleys under the authority of City Charter Article II, § 35(e) and (f).

8 BY adding

9 Article 26 - Surveys, Streets, and Highways
10 Section(s) 8A-1 through 8A-10, to be under the new subtitle,
11 "Subtitle 8A. Gating Alleys"
12 Baltimore City Code
13 (Edition 2000)

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
15 Laws of Baltimore City read as follows:

16 **Baltimore City Code**

17 **Article 26. Surveys, Streets, and Highways**

18 **SUBTITLE 8A. GATING ALLEYS**

19 **§ 8A-1. DEFINITIONS.**

20 (A) *IN GENERAL.*

21 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

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

1 (B) *DIRECTOR*.

2 "DIRECTOR" OR "DIRECTOR OF PUBLIC WORKS" MEANS THE DIRECTOR OF THE
3 DEPARTMENT OF PUBLIC WORKS OR THE DIRECTOR'S DESIGNEE.

4 **§ 8A-2. IN GENERAL.**

5 (A) *SCOPE*.

6 THIS SUBTITLE GOVERNS THE PROCEDURES FOR GATING AND LEASING ALLEYS UNDER THE
7 AUTHORITY OF CITY CHARTER ARTICLE II, § 35(E) AND (F).

8 (B) *STANDARD*.

9 THE DIRECTOR OF PUBLIC WORKS MAY AUTHORIZE THE GATING OF AN ALLEY IF, ON
10 PETITION, PUBLIC NOTICE, AND HEARING AS PROVIDED IN THIS SUBTITLE, THE DIRECTOR
11 DETERMINES THAT:

12 (1) THE ALLEY IS NO LONGER NEEDED FOR THROUGH PEDESTRIAN OR VEHICULAR
13 TRAFFIC; AND

14 (2) THE GATING WILL PROMOTE THE PUBLIC HEALTH, SAFETY, OR WELFARE.

15 (C) *RULES AND REGULATIONS*.

16 (1) THE DIRECTOR OF PUBLIC WORKS SHALL ADOPT RULES AND REGULATIONS TO CARRY
17 OUT THIS SUBTITLE.

18 (2) THESE RULES AND REGULATIONS MAY SET REASONABLE FEES TO COVER THE COSTS
19 INCURRED BY THE DEPARTMENT OF PUBLIC WORKS IN PROCESSING A GATING
20 PETITION UNDER THIS SUBTITLE.

21 (3) A COPY OF THESE RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT
22 OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

23 **§ 8A-3. RECORD OF ABUTTING OWNERS.**

24 AT THE REQUEST OF ANY PERSON INTERESTED IN THE GATING OF AN ALLEY, THE
25 DEPARTMENT OF PUBLIC WORKS SHALL PROVIDE THAT PERSON WITH A LIST OF THE NAMES
26 AND ADDRESSES, AS THEN SHOWN ON THE DEPARTMENT'S RECORDS, OF THE OWNERS OF ALL
27 PROPERTIES ABUTTING THAT ALLEY.

28 **§ 8A-4. PETITION BY ABUTTING OWNERS – GENERAL.**

29 (A) *IN GENERAL*.

30 TO INITIATE A PROCEEDING UNDER THIS SUBTITLE, A GATING PETITION MUST BE
31 SUBMITTED TO THE DIRECTOR OF PUBLIC WORKS.

1 (B) *FORM.*

2 THE GATING PETITION MUST BE IN THE FORM AND CONTAIN THE INFORMATION THAT THE
3 DIRECTOR REQUIRES.

4 **§ 8A-5. PETITION BY ABUTTING OWNERS – CONSENTS.**

5 (A) *IN GENERAL.*

6 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE GATING PETITION
7 MUST BE ACCOMPANIED BY THE SIGNED CONSENTS OF ALL OF THE OWNERS OF ALL
8 ABUTTING PROPERTIES, AS IDENTIFIED ON THE LIST PROVIDED UNDER § 8A-3 OF THIS
9 SUBTITLE.

10 (2) THESE CONSENTS MUST BE IN THE FORM AND TENOR THAT THE DIRECTOR REQUIRES.

11 (B) *UNOCCUPIED PROPERTIES.*

12 IF 1 OR MORE ABUTTING PROPERTIES ARE UNOCCUPIED AND, NOTWITHSTANDING DUE
13 DILIGENCE, THEIR OWNERS HAVE NOT BEEN FOUND, THE GATING PETITION MAY STILL BE
14 FILED AND CONSIDERED IF:

15 (1) THE PETITION IS ACCOMPANIED BY THE SIGNED CONSENTS OF ALL OF THE OWNERS
16 OF ALL OCCUPIED PROPERTIES;

17 (2) THE PROPERTIES FOR WHICH SIGNED CONSENTS HAVE BEEN OBTAINED CONSTITUTE
18 AT LEAST 80% OF ALL OF THE PROPERTIES ABUTTING THE ALLEY; AND

19 (3) THE PETITION IS ACCOMPANIED BY AN AFFIDAVIT, MADE UNDER THE PENALTIES OF
20 PERJURY, THAT:

21 (I) DESCRIBES AND SUBSTANTIATES DILIGENT ATTEMPTS MADE TO FIND AND
22 OBTAIN THE CONSENT OF ALL OWNERS OF UNOCCUPIED PROPERTIES; AND

23 (II) AFFIRMS THAT NO OWNER OF ANY ABUTTING PROPERTY HAS REFUSED TO
24 SIGN A CONSENT OR OTHERWISE IS KNOWN TO OBJECT TO THE PETITION.

25 **§ 8A-6. PETITION BY ABUTTING OWNERS – POLICE AND FIRE REVIEWS.**

26 THE GATING PETITION MUST ALSO BE ACCOMPANIED BY A LETTER FROM THE LOCAL POLICE
27 DISTRICT AND LOCAL FIRE STATION INDICATING THAT EACH HAS REVIEWED THE PROPOSED
28 GATING AND HAS NO OBJECTION TO IT.

29 **§ 8A-7. PUBLIC HEARING.**

30 (A) *DIRECTOR TO CONDUCT.*

31 THE DIRECTOR OF PUBLIC WORKS SHALL CONDUCT A PUBLIC HEARING ON THE GATING
32 PETITION.

1 (B) *POSTING NOTICE.*

2 (1) AT LEAST 10 DAYS BEFORE THE DATE FOR WHICH THE HEARING IS SCHEDULED, THE
3 PETITIONERS SHALL POST A NOTICE OF THE HEARING AT EACH END OF THE ALLEY.

4 (2) THE NOTICE MUST BE OF THE SIZE AND CONTAIN THE INFORMATION THAT THE
5 DIRECTOR REQUIRES.

6 (C) *MAILED NOTICE.*

7 AT LEAST 14 DAYS BEFORE THE HEARING, THE DIRECTOR OF PUBLIC WORKS SHALL MAIL
8 NOTICE OF THE HEARING TO THE OWNERS OF ALL PROPERTIES ABUTTING THE ALLEY, AS
9 THEN SHOWN ON THE DEPARTMENT'S RECORDS.

10 **§ 8A-8. DECISION.**

11 THE DIRECTOR OF PUBLIC WORKS SHALL ISSUE A WRITTEN DECISION ON THE PETITION
12 WITHIN 30 DAYS OF THE HEARING.

13 **§ 8A-9. REQUIRED LEASE.**

14 (A) *IN GENERAL.*

15 THE APPROVAL OF ANY GATING PETITION IS SUBJECT TO THE ENTRY INTO A LEASE, IN THE
16 FORM AND ON THE TERMS APPROVED BY THE BOARD OF ESTIMATES, BETWEEN THE CITY,
17 AS LESSOR, AND A NEIGHBORHOOD OR COMMUNITY ASSOCIATION LISTED WITH THE
18 DEPARTMENT OF PLANNING, AS LESSEE.

19 (B) *TERMS.*

20 THE LEASE SHALL INCLUDE, AT A MINIMUM, PROVISIONS TO THE FOLLOWING EFFECT:

21 (1) ALL PLANS FOR THE DESIGN AND CONSTRUCTION OF GATES AND FOR ANY
22 SODDING, GREENING, OR OTHER LANDSCAPING OF THE ALLEY MUST BE REVIEWED
23 AND APPROVED BY THE DEPARTMENT OF PUBLIC WORKS.

24 (2) ALL COSTS RELATED TO THE PREPARATION OF THESE PLANS, TO THE PURCHASE,
25 INSTALLATION, AND MAINTENANCE OF GATES, TO LANDSCAPING, AND TO GENERAL
26 MAINTENANCE OF THE ALLEY, INCLUDING ALL FEES FOR BUILDING, FIRE, OR
27 RELATED PERMITS, ARE AT THE LESSEE'S EXPENSE.

28 (3) ACCESS TO THE ALLEY MUST BE AVAILABLE TO FIRE, POLICE, PUBLIC WORKS, AND
29 OTHER APPROPRIATE AGENCIES OF THE CITY AND TO ALL COMPANIES THAT HAVE
30 UTILITIES LAWFULLY LOCATED IN THE ALLEY.

31 (4) A KNOX BOX MUST BE PLACED ON EACH GATE FOR ACCESS BY AUTHORIZED
32 VEHICLES AND PEDESTRIANS.

33 (5) NO UTILITIES IN THE ALLEY MAY BE DISTURBED OR BUILT UPON, AND ALL CITY
34 EASEMENTS FOR UTILITIES MUST BE PRESERVED.

1 (6) IF THE DEPARTMENT OF PUBLIC WORKS, ITS EMPLOYEES, AGENTS, OR
2 CONTRACTORS ENTER THE ALLEY FOR MAINTENANCE, REPAIR, OR REPLACEMENT
3 OF CITY UTILITIES, THE DEPARTMENT:

4 (I) IS RESPONSIBLE, ON COMPLETION OF ITS WORK, FOR RESTORING THE ALLEY
5 TO GRADE; BUT

6 (II) IS NOT RESPONSIBLE FOR ANY OTHER WORK IN THE ALLEY OR FOR ANY
7 OTHER COSTS INCURRED IN RESTORING THE ALLEY.

8 (7) NOTHING IN THE LEASE IS TO BE CONSTRUED TO AFFECT ANY PERSON’S PRIVATE
9 RIGHTS IN THE ALLEY.

10 (8) THE DIRECTOR OF PUBLIC WORKS MAY TERMINATE THE LEASE AND ORDER OR
11 CAUSE, AT THE LESSEE’S EXPENSE, THE REMOVAL OF ALL GATES AND OTHER
12 OBSTRUCTIONS AND THE ALLEY’S RESTORATION IF, AT ANY TIME:

13 (I) THE LESSEE IS IN DEFAULT OF ANY TERM OF THE LEASE; OR

14 (II) THE DIRECTOR DETERMINES, IN HER OR HIS OWN DISCRETION, THAT THE
15 GATING NO LONGER PROMOTES THE PUBLIC HEALTH, SAFETY, OR WELFARE.

16 (9) THE DIRECTOR OF PUBLIC WORKS MUST TERMINATE THE LEASE AND ORDER OR
17 CAUSE, AT THE LESSEE’S SOLE EXPENSE, THE REMOVAL OF ALL GATES AND OTHER
18 OBSTRUCTIONS AND THE ALLEY’S RESTORATION IF, AT ANY TIME, THE OWNERS OF
19 A MAJORITY OF THE ABUTTING PROPERTIES SO REQUEST IN WRITING.

20 **§ 8A-10. ADMINISTRATIVE AND JUDICIAL REVIEWS.**

21 (A) *ADMINISTRATIVE APPEAL.*

22 (1) ANY PERSON AGGRIEVED BY A DECISION OF THE DIRECTOR OF PUBLIC WORKS UNDER
23 § 8A-8 OF THIS SUBTITLE MAY APPEAL THAT DECISION TO THE BOARD OF MUNICIPAL
24 AND ZONING APPEALS.

25 (2) THE APPEAL MUST BE TAKEN WITHIN 30 DAYS OF THE DATE ON WHICH THE DECISION
26 WAS MADE.

27 (B) *JUDICIAL AND APPELLATE REVIEW.*

28 (1) A PERSON AGGRIEVED BY THE DECISION OF THE BOARD MAY SEEK JUDICIAL REVIEW
29 OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN
30 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

31 (2) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO
32 THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
33 PROCEDURE.

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

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