

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 9.
TRANSPORTATION SYSTEMS.

CHAPTER 11A.
BUS SHELTERS.

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CHAPTER 11A. BUS SHELTERS.

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CHAPTER 11A. BUS SHELTERS.

§ 9-1151. FINDING AND PURPOSE.

- (a) The Council of the District of Columbia finds that:
- (1) There is a shortage of bus shelters in the District of Columbia;
 - (2) There are over 3,500 bus stops in the District of Columbia;
 - (3) The District of Columbia Department of Transportation estimates that it would be appropriate to place bus shelters at at least 1,500 of the 3,500 bus stops with advertisements on 750 of the bus shelters;
 - (4) The Washington Metropolitan Area Transit Authority currently proposes to install only 366 bus shelters in the District of Columbia;
 - (5) Additional bus shelters will enhance the safety and convenience of bus transportation throughout the District of Columbia;
 - (6) It currently costs approximately \$2,800 to purchase and install a bus shelter in the District of Columbia (the United States Department of Transportation has been paying 80% of this amount, while the Washington Metropolitan Area Transit Authority is responsible for 20%);
 - (7) The District of Columbia government does not have the funds to purchase and install the number of bus shelters which are necessary to meet the needs of the bus-riding public in the District of Columbia; and
 - (8) The awarding of a franchise agreement, granting the right to erect and maintain bus shelters containing advertisement display panels along public streets, can provide the needed bus shelters at no cost to the District of Columbia and will further afford the District of Columbia additional revenues.
- (b) The purposes of this chapter are to:
- (1) Provide the District of Columbia with bus shelters along its bus transportation routes:
 - (2) Install and maintain bus shelters in the District of Columbia through the awarding of a franchise agreement;
 - (3) Permit advertisement to be displayed on some of the bus shelters: and
 - (4) Generate revenues for the District of Columbia.
- (c) Nothing in this chapter shall be construed as comprising the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 2, 27 DCR 1266.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 3-67 was introduced in the Council and assigned Bill No. 3-145. The Bill was adopted on first and second readings on February 5, 1980, and February 19, 1980, respectively. Signed by the Mayor on March 17, 1980, it was assigned Act No. 3-166 and transmitted to both Houses of Congress for its review.

§ 9-1152. THE FRANCHISE AGREEMENT.

- (a) The Mayor is directed, within 1 year of May 10, 1980, and based upon an evaluation of the proposals received following an open request for proposals, to enter into a franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia.
- (b) The Mayor shall permit the franchisee to place advertisements on no more than 90% of the bus shelters installed pursuant to the franchise agreement.
- (c) The franchise agreement shall, for its term, be the exclusive agreement in the District of Columbia for private installation and maintenance of bus shelters in public spaces which display commercial advertisements.

(d) The franchise agreement shall be for a period of 20 years, to expire on December 31, 2025. After December 31, 2025, the term shall be 10 years. One year prior to the termination of the franchise agreement each party shall notify the other, in writing, as to whether or not it wants to renegotiate the franchise agreement for an additional period of time. Absent satisfactory renegotiation for a renewal period, the Mayor is directed, based upon an evaluation of the proposals received following an open request for proposals, to enter into a new franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia. The terms of the new franchise agreement shall not be inconsistent with the provisions of this chapter.

(e) Under the terms of the franchise agreement the franchisee shall be responsible for:

- (1) All of the costs and expenses for the bus shelter design approved by the Mayor;
- (2) The construction, maintenance, and lighting of the bus shelters and repair of all structures including sidewalks, curbs, streets or utilities which shall in any way be disturbed by the installation of the bus shelters;
- (3) The costs associated with moving bus shelters maintained by the Washington Metropolitan Area Transit Authority, which are located on sites which have been approved for bus shelters with advertisement displayed on them; and
- (4) The costs associated with changing, within 3 months, the location of any bus shelters which are no longer needed where originally placed due to changes in bus routes or other factors.

(f) The franchise agreement shall establish:

- (1) The minimum number of bus shelters, both with and without advertisement, which are to be installed in the District of Columbia pursuant to the franchise agreement;
- (2) The specific location of the first 100 of the bus shelters referred to in paragraph (1) of this subsection and approximate locations for the second 100 bus shelters;
- (3) The order for installing the first 200 bus shelters;
- (4) That subsequent to signing the franchise agreement, the Mayor and the franchisee shall enter into an agreement specifying the locations and the order for installing the remaining bus shelters to be installed or moved pursuant to the franchise agreement. This agreement may be amended as necessary to include additional bus shelter locations;
- (5) The design of the bus shelters; and
- (6) Standards which the franchisee is to follow for the minimum maintenance and replacement of the bus shelters installed pursuant to the franchise agreement.

(g) The Mayor shall include in the franchise agreement those provisions which are so specified in this chapter and any other provisions which the Mayor deems appropriate to carry out the purposes of this chapter.

(h) Upon the expiration of the franchise agreement, or upon the expiration of the renewal term provided for herein, or if the franchise is terminated according to the provisions of § 9-1157, whichever shall occur first, the bus shelters installed pursuant to the franchise agreement shall become the property of the District of Columbia without cost to the District of Columbia.

(May 10, 1980, D.C. Law 3-67, § 3, 27 DCR 1266; June 8, 2006, D.C. Law 16-110, § 2, 53 DCR 2531.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-110, in subsec. (d), substituted "for a period of 20 years, to expire on December 31, 2025. After December 31, 2025, the term shall be 10 years." for "for a period of 10 years."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of District of Columbia Bus Shelter Temporary Amendment Act of 2005 (D.C. Law 16-39, December 10, 2005, law notification 52 DCR 11035).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of District of Columbia Bus Shelter Emergency Amendment Act of 2005 (D.C. Act 16-141, July 26, 2005, 52 DCR).

For temporary (90 day) amendment of section, see § 2 of District of Columbia Bus Shelter Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16- 187, October 28, 2005, 52 DCR 10015).

Legislative History of Laws

Law 16-110, the "District of Columbia Bus Shelter Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-402 which was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on February 7, 2006, and March 7, 2006, respectively. Signed by

the Mayor on March 23, 2006, it was assigned Act No. 16-312 and transmitted to both Houses of Congress for its review. D.C. Law 16-110 became effective on June 8, 2006.

§ 9-1153. LOCATION OF BUS SHELTERS.

(a)(1) Prior to the issuance of a Request for Proposals for the franchise agreement, and bases on consultation with the Council of the District of Columbia, the Mayor shall establish:

(A) Locations for the installation of 90 bus shelters with advertisements, 10 bus shelters without advertisements, and for the bus shelters owned by the Washington Metropolitan Area Transit Authority which must be moved to permit the franchisee to install the 90 new bus shelters with advertisements; and

(B) The sequence in which the bus shelters are to be installed.

(2) The selection of locations and the sequence for installation of bus shelters shall take into account, first, the various needs of the different areas of the District of Columbia for bus shelters, and second, the advertising market potential in these areas.

(b) In establishing the locations for the bus shelters the Mayor shall consult with the District of Columbia Department of Transportation, the Public Space Committee, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and the affected advisory Neighborhood Commissions, and any other groups which the Mayor believes appropriate.

(c) The Mayor shall consult with the Commission of Fine Arts on the design and location of all bus shelters located within the monuments area as defined in § 6-611.01.

(May 10, 1980, D.C. Law 3-67, § 4, 27 DCR 1266.)

§ 9-1154. ADVERTISING.

(a) The franchisee is authorized to sell commercial advertisement space on no more than 2 sides of a single end of the bus shelters which have been designated by the Mayor to contain advertisement. The end of the bus shelter with advertisement shall be opposite the end nearest the approaching buses. Ten percent of the total available advertisement space shall be made available for public service announcements and advertisements regarding community, art, cultural, educational and similar events. This shall include public service notices which the District of Columbia government may want to post. The amount of such public service announcements and advertisements shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(b) The Mayor shall establish procedures for the review of proposed advertisements.

(c) The Mayor shall approve or disapprove any proposed advertisement submitted within 10 working days of its receipt, setting forth in writing the reason or reasons for any disapproval. Any proposed advertisement not disapproved by the Mayor within 10 working days of its receipt shall be deemed to have been approved.

(d) The franchisee shall remove any advertisement which the Mayor determines to be deceptive, misleading, untruthful, obscene, or in violation of Chapter 39 of Title 28 within 15 days from receipt of a request from the Mayor.

(e) No more than 50% of the advertisements posted shall relate to tobacco or alcoholic products. This amount shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(f) At least 10 of the bus shelters to be installed by the franchisee shall not have advertisements on them.

(g) No bus shelters with advertisements shall be permitted in public spaces which are immediately adjacent to residential districts of the City zoned R-1, R-2, R-3, or R-4 by the Zoning Commission.

(May 10, 1980, D.C. Law 3-67, § 5, 27 DCR 1266.)

§ 9-1155. COMPENSATION.

(a)(1) The franchise agreement shall establish the compensation which the District of Columbia government shall receive under the franchise agreement. The franchisee shall pay to the District of Columbia, on a quarterly basis:

(A) A fee of 10% of its gross advertisement receipts for the first 5 year period; and

(B) A fee of 15% of its gross advertisement receipts for the second 5 year period.

(2) Gross advertisement receipts shall be defined as payments received by the franchisee, its agents or designees, less commission paid to the advertisement brokerage agencies involved, in connection with the display of advertising material on the bus shelters. The Mayor may require the franchisee to

maintain specific records and accounts which the Mayor shall have the right to inspect to ascertain the correctness of amounts paid to the District of Columbia.

(b) Notwithstanding the above provisions, the franchisee will guarantee to the District of Columbia government a minimum payment of \$300 per year per bus shelter for the first 5 years of the franchise agreement and \$450 per year per bus shelter for the second 5 years of the franchise agreement. The Mayor may establish the appropriate minimum payment levels to be included in any franchise effective after the 10 year period.

(c) As further security for performance by the franchisee of its obligations, the franchisee shall deposit into an escrow account, every 3 months, beginning 6 months after the effective date of the franchise, a sum equal to 1/10% of its gross revenues until said fund reaches a total of \$100,000. This fund shall be maintained at such depositories designated by the Mayor and shall bear interest to the franchisee. The fund shall be used to reimburse the District of Columbia for any financial loss incurred by reason of a default by the franchisee, or for the cost of moving bus shelters if the franchisee does not move them when required to do so. Upon the expiration of the term or the renewed term, the unobligated sum on deposit shall be returned to the franchisee.

(May 10, 1980, D.C. Law 3-67, § 6, 27 DCR 1266.)

§ 9-1156. INSURANCE AND BONDS.

(a) Within 30 days of the effective date of the franchise agreement, the franchisee shall file with the District of Columbia and shall maintain throughout the life of the franchise agreement, liability insurance policies and performance bonds acceptable to the Mayor in the minimum amounts as follows:

- (1) For bodily injury, including death, (A) \$250,000 for any one person, and (B) \$1,000,000 for any one accident;
- (2) For property damage, \$100,000 per accident; and
- (3) For performance of maintenance and repairs, and other provisions of the franchise agreement, \$250 per bus shelter, up to a maximum of \$100,000 for all bus shelters.

(b) The franchisee shall assure any legal responsibility for, and shall hold the District of Columbia and/or the Washington Metropolitan Area Transit Authority harmless from, any liability that arises because of injury to persons or property, including sidewalks, curbs, streets and structures by reason of the construction, operation, or maintenance of the bus shelters installed or moved pursuant to the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 7, 27 DCR 1266.)

§ 9-1157. TERMINATION OF FRANCHISE AGREEMENT.

(a) The Mayor shall notify the franchisee in writing of any violations of the franchise agreement and establish a compliance schedule for correcting the violations. In the event that the compliance schedule is not met, the Mayor may terminate the franchise agreement after 60 days written notice to the franchisee of his intent to terminate the franchise agreement, setting forth the reasons for the termination.

(b) In the event of bankruptcy of the franchisee the Mayor shall terminate the franchise agreement, providing the franchisee with written notice of his action.

(c) In addition to default on the franchise agreement or bankruptcy of the franchisee, the Mayor may include in the franchise agreement, for the best interest of the District of Columbia, any other conditions and terms which shall constitute the basis for cancellation.

(May 10, 1980, D.C. Law 3-67, § 8, 27 DCR 1266.)

§ 9-1158. SELECTION OF THE FRANCHISEE.

(a) In awarding the franchise agreement, the Mayor shall give priority to proposals submitted by entities which provide written evidence that they meet the following criteria:

- (1) That no less than 50% of the equity interest holders of the entity have resided in the District of Columbia for at least 3 years
- (2) That at least 50% of the voting shares or equity interest of the entity is held by individuals who are members of a minority group or organization operated for the purpose of aiding such persons as defined in subchapter VIII of Chapter 2 of Title 2; and
- (3) That the entity is capable of satisfying the general standards for responsible prospective contractors as set forth in the Federal Procurement Regulations (41 C.F.R. 1-1.1203-1).

(b) The proposals submitted pursuant to an open request for proposals shall be evaluated by the Mayor on a scale of 100 points. An additional 10 points shall be given proposals which meet the criteria in subsection (a)(1) of this section and an additional 10 points shall be given proposals, which meet the criteria in subsection (a)(2) of this section.

(May 10, 1980, D.C. Law 3-67, § 9, 27 DCR 1266.)

§ 9-1159. RELATION TO OTHER PROVISIONS OF LAW.

The provisions of § 1-303.22 and Title 5A-1, Article 14 of the Building Code of the District of Columbia, pertaining to outdoor signs in the District of Columbia, shall not pertain to the advertisement resulting from the franchise agreement.

(May 10, 1980, D.C. Law 3-67, § 10, 27 DCR 1266.)

HISTORICAL AND STATUTORY NOTES

Temporary Repeal of Section

Section 5 of D.C. Law 19-181 repealed this section.

Section 11(b) of D.C. Law 19-181 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) repeal of section, see § 5 of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary (90 day) repeal of section, see § 5 of Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749).

§ 9-1160. REGULATIONS.

The Mayor is authorized to promulgate regulations to carry out the purposes of this chapter.

(May 10, 1980, D.C. Law 3-67, § 11, 27 DCR 1266.)

§ 9-1161. SEVERABILITY.

If a provision of this chapter or its application to a particular person or circumstance is held invalid, such invalidity does not affect other provisions or applications.

(May 10, 1980, D.C. Law 3-67, § 12, 27 DCR 1266.)