

Minor Privilege Requirements For Businesses in the City of Baltimore

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Minor Privileges: Information for Businesses

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Introduction

As the owner of the public right-of-way, the City of Baltimore (City) has the right to protect itself, its citizens, and its property by requiring permits and assessing fees for any encroachment onto that right-of-way. The Baltimore City Charter, Article VIII Section 2 states that the City may grant for a limited time and subject to the limitations and conditions contained in the Charter specific rights or grants in or relating to the private use of the streets or other public property by any person for various encroachments, including but not limited to awnings, signs, outdoor seating, sidewalk displays, steps, vaults, or any other private use not otherwise prohibited by law. The granting of this right or Minor Privilege is controlled by the Board of Estimates (BOE), and the BOE has delegated these powers to the Department of Transportation (DOT) to administer the Minor Privilege Permit Program.

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Standards and Procedures

DOT has developed a framework for the private use of the City's public space. The framework provides basic procedures and standards for approving a variety of private uses of the sidewalks and other public rights-of-way. The overall goal of these standards and procedures is to promote an active, accessible, and responsive urban environment. The standards and procedures outlined in this framework apply to all areas within the City.

The following standards and procedures do not apply to the following activities that take place in the public right-of-way: special events such as festivals; events in public parks such as reserving park space for family reunions; temporary uses such as blocking sidewalks for repair; and major encroachments that would require a formal Franchise Ordinance approved by the Mayor and City Council of Baltimore City such as bridges, tunnels, etc. For information regarding these uses, please contact:

- Special Events: SpecialEvents@baltimorecity.gov, 410-361-9471
- Public Parks: parkpermits@baltimorecity.gov, 410-396-7070
- Temporary Use Permits: ROW.permits@baltimorecity.gov, 410-396-4508
- Major Encroachments/Franchise Ordinances: David Framm- 410-396-5023

Encroachments

Encroachments are defined as the use, placement, or extension of private uses into, upon, over, or under public space or a publicly-owned property, for example: awning/sign overhanging building; outdoor seating on the sidewalk; and footers/support foundations for buildings. These are three types of encroachment requests:

- Franchise Ordinance: This is a formal grant or right passed by the Mayor and City Council for items including but not limited to bridges, tunnels, large overhands, pedestrian walkways, etc.

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- Temporary Use of the Right-of-Way: This permit is issued for things that require a temporary blocking of the public right-of-way including but not limited to scaffolding, large roll-off dumpsters used at construction sites, and sidewalk repairs.
- Minor Privilege Permit: This permit grants the right to use the public right-of-way for encroachments that are minor in nature and do not require a formal Franchise or a Temporary Use Permit. Minor Privileges include but are not limited to steps, bay windows, show windows, signs, areaways, awnings, vaults, drain pipes, or other projections or structural ornaments of any character that are not prohibited by law.

Minor Privileges and Other Permits

Making application for a Minor Privilege Permit is a process by which private property owners, firms, or corporations request to use the public right-of-way for a private purpose (i.e. signs, tables, chairs, awnings, etc.)

This review process is intended to ensure the health and safety of the public as well as protect

the City against damage to the streetscape, trees, sidewalks, streets, and other publicly owned property.

The Minor Privilege Permit only grants the

Applicant permission to use the right-of-

Way. It is not a substitute for other

Required permits or pre-approvals

Including but not limited to Building

Permits, Use and Occupancy Permits,

Zoning approvals for conditional uses, etc.

Permits/Approvals that May be Needed in Addition to a Minor Privilege Permit

- Use & Occupancy Permits (U&O): To legally inhabit and utilize any property, a U&O Permit must be obtained. Every U&O Permit is issued to a specific person or corporate entity for a specific allowable use at a specified location. Outdoor Seating and Outdoor Displays of Merchandise in the public right-of-way require bot a U&O Permit and a Minor Privilege Permit.

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- Conditional Use Approvals: For uses that are not permitted outright in a given location and require conditional use approval, the user must seek approval from the Board of Municipal and Zoning Appeals (BMZA) to establish this use. Certain Outdoor seating or Outdoor Displays of Merchandise will require BMZA approval. If applicable, applicants must include a copy of the BMZA decision in their application for a Minor Privilege.
- Building Permits (also known as Work Permits): A Building Permit is required for most construction work and alterations to a property. Some examples of Minor Privilege encroachments that require a Building Permit are installation/hanging of signs, awnings, fire escapes, or any other structure attached to the building and projecting into the public right-of-way.

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Process

In order to apply for a Minor Privilege Permit, applicants must first apply for any necessary Use & Occupancy or Building Permits, and, if applicable, obtain approval from the BMZA. Applicants begin the process of applying for Use & Occupancy and Building Permits in the One-Stop Shop, located at 417 E. Fayette Street, Room 100, Baltimore, MD 21202.

Once the application for a Use & Occupancy or Building Permit has been accepted for filing. The applicant may begin the process of applying for a Minor Privilege Permit.

Step 1:

Apply for Use & Occupancy or Building Permit at the One-Stop Shop at 417 E. Fayette Street, Room 100. The staff in this office should tell you whether or not you need a Minor Privilege. You can also call the Minor Privilege Section at 410-396-3346 to verify whether or not a Minor Privilege Permit is required.

Note: Staff at the One-Stop Shop will also tell you if you need additional approvals from the Commission for Historical and Architectural preservation, the Planning Department or the Baltimore Development Corporation. These approvals are separate from the Minor Privilege process.

Step 2:

Pay filing fee for Use & Occupancy or Building Permit at the One-Stop Shop. Once you have paid this fee, your Use & Occupancy or Building Permit has been “accepted for filing” and you can apply for your Minor Privilege Permit. Keep a copy of your filing fee receipt for presentation at the Minor Privilege Section.

Step 3:

Go to the Minor Privilege Section at 401 E. Fayette Street, Suite 101 to get the application and the names of adjacent property owners who must be notified. Minor Privilege staff will tell you if they need additional information or drawings, or if there are any other regulations related to the use of the public right-of-way which you should be aware of. You can also download the application from the City’s website, www.baltimorecity.gov, keyword “permits.”

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Step 4: Bring one copy of this site plan (if required) and your completed application to the Minor Privilege Section for review. Minor Privilege staff will let you know whether you need to make any changes to the site plan before you make additional copies (the minor Privilege Section needs these additional copies to circulate to other city agencies for comment); they will also tell you if you need to make any changes to the application. Once the Minor Privilege Section confirms that the application (and site plan, if applicable) is correct, proceed to Step 5.

Step 5:

Send a copy of the application via certified mail to adjacent property owners to inform them of your plans.

Step 6, Alternative A:

Bring your application and additional copies of the site plan (if required) to the Minor Privilege Section, so that the Minor Privilege staff can begin their internal process immediately. You will still need to bring the certified mail receipts to the Minor Privilege Section at a later date, because the Minor Privilege Section requires proof of notification before the Board of Estimate hearing.

Step 6, Alternative B:

Wait until you receive the returned mail receipts to submit the receipts, the application, and additional copies of the site plan (if required) to the Minor Privilege Section at the same time. If the certified letter is refused or returned as undeliverable, the envelope can be submitted as proof of the attempt to notify adjacent property owners. Proof of notification must be submitted to the Minor Privilege Section at least two weeks before the Board of Estimates hearing.

Step 7:

Minor Privilege staff will circulate the application to other City Agencies as necessary.

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Step 8:

Once other City Agencies have signed off on the Minor Privilege application, Minor Privilege staff will bring the Minor Privilege request before the Board of Estimates, typically within two weeks of receiving the completed agency reviews. The Board of Estimates meets every Wednesday, though there are some recess dates in the summer and for holidays. It is not necessary for applicants to attend this meeting.

Step 9:

Minor Privilege staff will call the applicant when the Minor Privilege Permit has been approved.

Note: Approval of a Minor Privilege does not necessarily mean approval of the Use & Occupancy or Building Permit. Staff from Minor Privilege may be able to give you this information, or you can call the One-Stop Shop at 410-396-3660.

Step 10:

Go to 401 E. Fayette Street, Ste. 101 to pick up the Minor Privilege Permit.

Step 11:

Pay for the Minor Privilege Permit in the lobby of the Abel Wolman Municipal Building at 200 Holiday Street or at the One-Stop Shop at 417 E. Fayette Street, Rm. 100.

Step 12:

Return with your receipt to 401 E, Fayette Street, Ste. 101. At this time, Minor Privilege staff will sign off on the applicable Use & Occupancy or Building Permit.

After you pick up your Minor Privilege Permit, you may be able to pay for and pick up your Use & Occupancy and /or Building Permit at the One-Stop Shop. However, approval of the Minor Privilege Permit does not necessarily mean that the Use & Occupancy and/or Building Permit has also been approved.

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Fees & Payment

There is no application fee for Minor Privileges, but there is a fee for the permit.

The costs vary based on the type and size of the item. The City charges annually for most Minor Privileges, but some are charged a one-time fee. The Schedule of Charges and Regulations list all items which require Minor Privilege Permits, their associated costs, and whether or not the fee is assessed annually. The Schedule of Charges and Regulations is available online at www.baltimorecity.gov. Enter “permits” in the search engine and select “Minor Privilege Permits.”

The City of Baltimore accepts cash, check, or money order, made payable to the Director of Finance. When using a debit or credit card, applicants should check to make sure that the City accepts the card before traveling to make a payment in person. It is strongly recommended that applicants be prepared with cash, check, or money order, as the types of debit cards and credit cards accepted by the City may change. Applicants planning to pay by check or money order will need multiple checks/money order, because applicants pay for the Minor Privilege Permit and the Use & Occupancy or Building Permit at separate locations and at different steps in the process.

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Frequently Asked Questions

General

1. If the City requires me to maintain the sidewalk in front of my business, how can the City charge me to put something on it?

The City has authority to regulate the activity within the public right-of-way, but regulatory authority does not necessarily mean maintenance responsibility. Property owners are responsible for the maintenance of sidewalks and alleys that are adjacent to their property (Article 26, Subtitle 10 of the Baltimore City Code).

2. Where did the term “Minor Privilege” come from?

The term “Minor Privilege” is used to define an encroachment that is minor in nature, compared to more formal franchises or rights granted by an ordinance. Other cities may call it Minor Encroachments, Minor Street Privileges, Public Space Privileges, etc.

Items Subject to Minor Privileges

3. What items require a Minor Privilege Permit?

Any projection into the public right-of-way requires a Minor Privilege Permit or Franchise Ordinance, and this includes items that do not physically touch the ground, because the City also owns the air and subterranean (underground) rights. The complete list of items subject to Minor Privilege Permits is located online in the “Schedule of Fees” at www.baltimorecity.gov. Enter “permits” in the search engine and select “Minor Privilege Permits.”

4. Do I need a Minor Privilege Permit for something that only protrudes one inch into the public right-of-way? Is there a maximum distance that an item can protrude before it is assessed a Minor Privilege?

Any projection into the public right-of-way, however slight, requires a Minor Privilege Permit.

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5. Do all ramps, signs and awnings need a Minor Privilege Permit (even if they do not extend past my property line)?

You do not need a Minor Privilege Permit if the encroachment does not extend into the public right-of-way, though you maybe required to obtain other permits such as a Building Permit, Use & Occupancy Permit, or Zoning approval.

6. Do I need a Minor Privilege Permit for my planters and flowers in the public right-of-way?

- Large, permanent planters (planters that are heavy, large, and difficult to move without equipment or assistance) require a Minor Privilege Permit. Smaller, movable planters do not require a Minor Privilege Permit. All planters must be placed against the wall of the property at all times. To determine whether or not a particular planter requires a Minor Privilege Permit, use a two feet rule of thumb. Planters greater than two feet in any dimension will typically require a Minor Privilege Permit.

- See #7 for rules regarding outdoor display of merchandise, including flowers.

7. Do I need to get a Minor Privilege Permit to display merchandise outside or to have a sidewalk sale? Dos Minor Privilege regulate this or should I also check to make sure Zoning allows it in my area?

- Outdoor Display of Merchandise:

A Minor Privilege Permit is required for any sales in the public right-of-way. Businesses should note that merchandise to be displayed must be representative of the merchandise that is sold within the business.

NOTE: You cannot receive a Minor Privilege Permit for outdoor display of merchandise unless your Use & Occupancy Permit includes “outdoor display of merchandise.’ Outdoor display of merchandise may be permitted, prohibited, or permitted as a conditional use, depending on the zoning of your property, and the merchandise displayed outside of the business must be related to the permitted business. If a conditional use approval is required, you will have to have a hearing before the Board of Municipal and Zoning Appeals. Questions concerning this procedure should be directed to the Zoning Office at 417 E. Fayette Street, Room 147 (410-396-4126) or the One-Stop Shop at 417 E. Fayette Street, Room 100.

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- Sidewalk Sales:

Business associations may apply for a Minor Privilege Permit to conduct sidewalk sales in commercial districts by submitting a letter on the organization's letterhead. The Minor Privilege Section will forward this initial request to the Board of Estimates for approval. The organization must request permission from the Minor Privilege Section each time they wish to hold a sidewalk sale, but the Board of Estimates only has to approve the initial request. All retail business must participate in order for the sidewalk sale permit to be approved. If desired, the organization can specify a specific geographic area within the larger business district, within which the sidewalk sale will take place. The organization will be asked to provide a list of participants to the Minor Privilege Section. The Minor Privilege Section will provide documentation of the approval to the business association. The fee is \$14 per business per day.

- Temporary Sale of Flowers

A temporary Minor Privilege Permit can be issued for selling flowers on specific street corners during holidays such as Mother's Day and Easter. The applicant applies for a Minor Privilege for certain locations and when approved is issued a permit number to use when needed for future sales.

8. Does the Minor Privilege Section handle permits for snowball stands?

The Minor Privilege Section does not issue permits for snowball stands in the right-of-way.

The Zoning Office reviews requests for snowball stands on private property (410-396-4126).

9. How do I get a Minor Privilege Permit for a stationary pushcart to sell food or merchandise?

The Minor Privilege Section does not issue permits for pushcarts. The Special Events/Street Vendors sections reviews these requests. They can be reached at 410-396-1916.

10. Are A-frame signs allowed? I hear from one City Agency that they are not permitted at all, while another Agency tells me they are permitted, but just not in the public right-of-way. Moreover, a lot of businesses have them, which makes me think they MUST be permitted.

A-frame or standard movable signs which are located in the public right-of-way are permitted to be in front of the applicant's property only. Please contact the Minor Privilege office for more information.

Fees & Payment

11. When do I pay for the Minor Privilege Permit? Where do I make the payment? What types of payments will the City accept?

- The fee for the first year is collected in person when the permit is issued, and the fee is prorated quarterly.
- The annual charge will be billed at the end of the year for the next calendar year, i.e., Permit Year 2021 will be billed the first week of December 2020.
- Payments for subsequent years can be mailed, paid on-line www.baltimorecity.gov, keyword "Payments", or made in person in the lobby of the Abel Wolman Municipal Building, 200 Holiday St, 21202
- The City of Baltimore accepts cash, check, or money order, made payable to the Director of Finance. When using a debit or credit card, applicants should check to make sure that the City accepts the card before traveling to make a payment in person. It is strongly recommended that applicants be prepared to pay with cash, check or money order, as the types of debit cards and credit cards accepted by the City may change. Applicants planning to pay by check or money order will need multiple checks/money orders, because applicants pay for the Minor Privilege Permit and the Use & Occupancy or Building Permit at separate locations and at different steps in the process.

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12. If I want to repair or replace an item that require a Minor Privilege Permit, but for which there in no Minor Privilege Permit on record, will the City charge me?

If you want to repair or replace a “Permanent Minor Privilege” – meaning a part of a building, such as steps or a bow window – that was originally installed before April 4, 1900, and the item will remain in the same location and stay the same size, the City will only charge you a nominal recording fee. For all other items, you will be charged according to the Schedule of Fees.

13. Is there a provision for waiving or abating fees in hardship cases?

There is no provision for waiving or abating fees, but property owners should contact the Minor Privilege Section to discuss their individual situation.

14. Can I work out a payment plan with the City?

Minor Privilege fees are due January 1 and are considered delinquent April 1, when penalty and interest begins to accrue. The City accepts partial payments that will be credited to your bill, but penalties and interest will begin to accrue on the unpaid portion of the bill beginning on April 1. The bill must be paid in full before December 31 of the year for which it was issued to avoid the Tax Sale. Properties with unpaid municipal liens are included on the City’s annual Tax Sale, and property owners are at risk of losing such properties.

Process

15. What items require drawings or site plans? Do any of them need to be completed by a licensed contractor?

Drawings are required for Outdoor Seating and anything that would disturb any ground surface, such as Steps, Handicap Ramps, Canopies or Awnings with pol supports, egress stairways, etc. Drawings do not have to stamped by a licensed contractor, but they should be drawn to scale and include anything that would be considered an obstruction, such as trees, parking meters, bus stops, etc. If drawings are required, the applicant should have the Minor Privilege staff review for completeness before submitting the complete application.

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16. How do I initiate the Minor Privilege process if the item I am proposing to place in the public right-of-way does not require a Building Permit?

Almost everything that requires a Minor Privilege Permit also requires either a Use & Occupancy or Building Permit. For items that require a Minor Privilege but not a Use & Occupancy or Building Permit, the permit process can be initiated through the Minor Privilege Office.

17. With respect to property owner notification, is certified mail notification of adjacent neighbors required for all Minor Privilege requests? What happens if the neighboring property owner is deceased or missing?

All Minor Privilege Permits require notification except non-illuminated flat signs. The purpose of sending a copy of the application to the adjoining property owner is notification of the intent, not permission for the Minor Privilege. If the certified letter is refused or returned as undeliverable, the envelope should be submitted along with the application for the file as evidence that notification was attempted.

18. Is it possible to apply for a Minor Privilege Permit at the same time as other required permits?

Yes, in most cases this is possible and advisable. As soon as the application for a Building or Use & Occupancy Permit is accepted for filing, the Minor Privilege process can begin. The exception is when a property owner must seek approval from the Board of Municipal and Zoning Appeals for a conditional use or zoning variance. In this case, the applicant must undergo a hearing and a favorable ruling must be issued before the Minor Privilege process can start.

19. How frequently does the Board of Estimate review Minor Privilege applications?

The Board of Estimates meets and reviews Minor Privilege applications every Wednesday.

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Renewals

20. What is the process for renewing a Minor Privilege Permit?

Invoices for annual Minor Privilege Permits are generated automatically and sent out in December for the following year. Minor Privilege items with one-time permit fees will not receive an annual invoice.

Problem Solving

21. Who do I notify if I am getting billed for something that is no long in existence?

Notify the Minor Privilege Section in writing that the encroachment has been removed. An inspector will verify the statement, and the Minor Privilege Section will send you a letter detailing the findings and nay adjustments. Adjustments or cancellations will be made based on the date of notification. The Minor Privilege Section can take this information over the phone, but you risk not having written proof of your request for an adjustment or cancellation.

22. If I thin I owe a Minor Privilege fee for something that was placed on my building in the public right-of-way before I moved in, but I am not getting charged the fee, who do I notify? Will I be fined or charged fees for prior years?

Notify the Minor Privilege Section any time you think you may have an encroachment that is not property permitted. For an encroachment installed without a Minor Privilege Permit, there may be an additional 50 percent penalty on the first year's charge. However, if the current property owner did not install the item in question, the Minor Privilege Section may consider waiving the penalty, but this is reviewed on a case by case basis.

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NOTE: For items that were built or installed prior to April 4, 1990, but never recorded with the Minor Privilege Section the Minor Privilege Section will only charge a nominal flat fee for recording.

23. How can I find out where my property ends and public property begins?

Your deed or property survey should provide you with that information. If this information is not readily available, you may visit the Department of Transportation, Property Location Section in the Councilman Harry S. Cummings Building, 401 East Fayette Street, Ste 101, for further research.

Enforcement

24. How does enforcement occur?

Inspectors periodically canvass business districts or corridors. When it is found that a property has items on it requiring Minor Privilege Permits and there are no Minor Privilege Permits on record, the following means are used to obtain permits:

- a. If the items have the applicable Use & Occupancy and/or Building Permits, but lack a Minor Privilege Permit, and can get a Minor Privilege Permit:
 - The Minor Privilege Section fills out a Minor Privilege application on behalf of the property owner and sends the application and a violation notice to the property owner.
 - The property owner has ten days to return the signed application and the first year's payment, plus a 50 percent fine.
 - If the property owner does not respond, the Minor Privilege Section sends formal notification, via certified mail, to the property owner that the City is assigning a Minor Privilege Permit to the items in question and the property owner will be billed accordingly.
 - If no payment is received by years' end, the property will be subject to tax sale.

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- b. If the items are prohibited by Zoning or any applicable urban Renewal Plan, and cannot be permitted:
 - Property owners are instructed to remove the items as soon as possible.
 - The Minor Privilege Section follows up with a violation letter, sent via certified mail.
 - Once the Minor Privilege Section gets a receipt for this letter, a copy is sent to Code or Sanitation enforcement for further action if necessary. Code and Sanitation Enforcement may issue citations and fines for the item if it is not removed.
- c. If the items do not have the applicable Use & Occupancy and/or Building Permits, or a Minor Privilege Permit, but can get all of the required permits:
 - The Minor Privilege Section fills out a Minor Privilege application on behalf of the property owner and sends the application and a violation notice to the property owner via certified mail.
 - The property owner has ten days to return the signed application and the first year's payment, plus a 50% fine.
 - If the property owner does not respond, the Minor Privilege Section sends formal notification, via certified mail, to the property owner that the City is assigning a Minor Privilege Permit to the items in question and the property owner will be billed accordingly.
 - If no payment is received by year's end, the property will be subject to tax sale.
 - It will be the responsibility of the property owner to ensure that other applicable permits are obtained. Remember that a Minor Privilege Permit is not a substitute for a Building Permit or Use & Occupancy Permit, and that the items may still be subject to Code Enforcement and associated fines if all proper permits are not obtained.

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25. What are the fines?

For items that can be made legal simply by getting a Minor Privilege Permit, the Minor Privilege Section will bill for these items according to the Schedule of Charges, including a 50 percent penalty on the first year's charge for not having the proper permits.

For items that are illegally placed in the public right-of-way that are prohibited or placed in the public right-of-way without appropriate permits, Code and Zoning Enforcement may issue citations with fees of up to \$1,000 per violation.

Note: The Minor Privilege Section does not issue citations. Citations are only issued by Code and Zoning Enforcement. The Minor Privilege Section may set this process in motion by notifying Enforcement, but the Minor Privilege Sections sends a violation letter to provide advance warning. Before getting Enforcement involved. However, Code Enforcement can also act independently, in which case the property owner may not receive advance warning.

26. I am a property owner, and have received an invoice for an item that my tenant erected without obtaining the proper Minor Privilege Permits. Since my tenant is responsible, will Minor Privilege bill them instead?

Property owners are legally responsible for any encroachments into the public right-of-way that are attached to, or abut their building. While property owners are free to privately negotiate payment or reimbursement with their tenant or tenants, the property owner is ultimately responsible to the Minor Privilege Section.

27. If I applied for a permit for something that requires a Minor Privilege, but I was never directed to get a Minor Privilege for some reason, can I still be fined?

This would be reviewed on a case by case basis.

28. The permit office told me that I do not need a Minor Privilege Permit but I keep getting citations from the Code Enforcement Officer. What can I do?

You are most likely getting cited for a violation of the Building Code. Remember that even if you do not need a Minor Privilege Permit, you may still need a Building or Use & Occupancy Permit. Failure to get these necessary permits can result in a citation.