

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 19-0354

Introduced by: President Young, Councilmembers Middleton, Schleifer, Scott, Cohen, Burnett,
Stokes, Pinkett, Bullock, Henry, Dorsey, Reisinger, Costello, Clarke

Introduced and read first time: March 18, 2019

Assigned to: Judiciary and legislative Investigations Committee

Committee Report: Favorable

Council action: Adopted

Read second time: May 13, 2019

AN ORDINANCE CONCERNING

1 **Underground Conduit System for Cables, Wires, and Similar Facilities**

2 FOR the purpose of clarifying the location and administration of an underground conduit system
3 for cables, wires, and similar facilities; requiring the Department of Transportation to
4 administer and maintain the system and to prepare the plans and specifications for its
5 construction, maintenance, and repair; limiting use of the conduit system to persons who have
6 obtained certain permits and other legal authorizations and have paid certain annual charges;
7 requiring the removal of unauthorized installations; providing for the voluntary and
8 mandatory relocation of certain facilities; prohibiting tampering with, opening, or interfering
9 with manholes or facilities in the conduit system; providing for records of and annual
10 reporting by conduit users; authorizing the issuance, service, and enforcement of stop-work
11 orders; imposing civil and criminal penalties for offenses; providing for a special effective
12 date; and generally updating the laws governing the construction, use, maintenance, and
13 repair of an underground conduit system for electrical communication, and service cables,
14 wires, and similar facilities.

15 BY repealing
16 Article 26 - Surveys, Streets, and Highways
17 Subtitle 23 {"Underground Conduits for Wires"}, in its entirety
18 Baltimore City Code
19 (Edition 2000)

20 BY adding
21 Article 26 - Surveys, Streets, and Highways
22 New Subtitle 23 {"Underground Conduits for Cables, Wires, and Similar Facilities"}
23 Baltimore City Code
24 (Edition 2000)

<p>Explanation: CAPITALS indicate matter added to existing law. [Brackets] indicate matter deleted from existing law. <u>Underlining</u> indicates matter added to the bill by amendment. Strike out indicates matter stricken from the bill by amendment or deleted from existing law by amendment.</p>
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1 BY repealing and reordaining, with amendments
2 Article 1 - Mayor, City Council, and Municipal Agencies
3 Section 40-14(e)(4b) {"Article 26"}
4 Baltimore City Code
5 (Edition 2000)

6 BY adding
7 Article 1 - Mayor, City Council, and Municipal Agencies
8 Section 41-14(3a) {"Article 26"}
9 Baltimore City Code
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That
12 City Code Article 26, Subtitle 23 {"Underground Conduit for Wires"} is repealed, in its entirety.

13 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
14 follows:

15 **Baltimore City Code**

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

17 **SUBTITLE 23. UNDERGROUND CONDUIT SYSTEM FOR**
18 **CABLES, WIRES, AND SIMILAR FACILITIES**

19 ***Part 1. Definitions; General Provisions***

20 **§ 23-1. DEFINITIONS.**

21 (A) *IN GENERAL.*

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

23 (B) *DEPARTMENT.*

24 "DEPARTMENT" MEANS THE CITY DEPARTMENT OF TRANSPORTATION.

25 (C) *DIRECTOR.*

26 "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE
27 DIRECTOR'S DESIGNEE.

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1 (D) *FACILITY.*

2 (1) *IN GENERAL.*

3 "FACILITY" MEANS ANY TYPE OF ELECTRICAL, COMMUNICATION, OR SERVICE CABLE,
4 WIRE, OR SIMILAR FACILITY THAT MAY BE STRUNG OVER OR BURIED DIRECTLY UNDER
5 A STREET, ALLEY, OR OTHER RIGHT-OF-WAY.

6 (2) *EXCEPTIONS.*

7 "FACILITY" DOES NOT INCLUDE ANY CATENARY CABLE USED TO POWER A STREET
8 RAILWAY.

9 (E) *PERSON.*

10 (1) *IN GENERAL.*

11 "PERSON" MEANS:

12 (I) AN INDIVIDUAL;

13 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
14 KIND; OR

15 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
16 OR REPRESENTATIVE OF ANY KIND.

17 (2) *INCLUSIONS.*

18 "PERSON" INCLUDES, EXCEPT AS USED IN THIS SUBTITLE FOR THE IMPOSITION OF CIVIL
19 OR CRIMINAL PENALTIES, A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR
20 UNIT OF A GOVERNMENTAL ENTITY.

21 **§ 23-2. {RESERVED}**

22 **§ 23-3. ADMINISTRATION.**

23 THE DEPARTMENT OF TRANSPORTATION IS RESPONSIBLE FOR ADMINISTERING AND
24 ENFORCING THIS SUBTITLE.

25 **§ 23-4. RULES AND REGULATIONS.**

26 (A) *DIRECTOR TO ADOPT.*

27 THE DIRECTOR OF TRANSPORTATION SHALL ADOPT RULES AND REGULATIONS TO CARRY
28 OUT THIS SUBTITLE.

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1 (B) *STOP-WORK ORDERS.*

2 THESE RULES AND REGULATIONS MAY INCLUDE PROCEDURES FOR THE ISSUANCE, SERVICE,
3 AND ENFORCEMENT OF ADMINISTRATIVE ORDERS TO STOP WORK BEING DONE IN
4 VIOLATION OF THIS SUBTITLE, A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE, OR
5 A CONDITION IMPOSED ON A PERMIT ISSUED UNDER THIS SUBTITLE.

6 (C) *FILING WITH LEGISLATIVE REFERENCE.*

7 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF
8 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

9 **§ 23-5. FEES FOR CONDUIT USE.**

10 (A) *BOARD OF ESTIMATES TO SET.*

11 THE BOARD OF ESTIMATES MAY SET AND, FROM TIME TO TIME, MODIFY THE ANNUAL
12 CHARGES IMPOSED FOR THE USE OF THE CONDUIT SYSTEM.

13 (B) *BILLING AND PAYMENT.*

14 THESE CHARGES SHALL BE BILLED AND PAID AS THE BOARD OF ESTIMATES DIRECTS.

15 **§§ 23-6 to 23-10. {RESERVED}**

16 ***PART 2. LOCATION AND MAINTENANCE OF CONDUIT SYSTEM***

17 **§ 23-11. LOCATION OF SYSTEM.**

18 A SYSTEM OF CONDUITS FOR THE RECEPTION OF ELECTRICAL, COMMUNICATION, AND SERVICE
19 CABLES, WIRES, OR SIMILAR FACILITIES SHALL BE CONSTRUCTED WITHIN THE TERRITORY OR
20 DISTRICTS DETERMINED BY THE DIRECTOR PURSUANT TO CHAPTER 200, LAWS OF MARYLAND
21 1892.

22 **§ 23-12. DOT TO MAINTAIN SYSTEM.**

23 THE DIRECTOR IS RESPONSIBLE FOR MAINTAINING THIS CONDUIT SYSTEM.

24 **§ 23-13. PLANS AND SPECIFICATIONS; WORK SUPERINTENDENCE.**

25 THE DIRECTOR SHALL:

26 (1) CAUSE TO BE PREPARED THE PLANS AND SPECIFICATIONS FOR THE WORK REQUIRED TO
27 CONSTRUCT, MAINTAIN, AND REPAIR THE CONDUIT SYSTEM; AND

28 (2) SUPERINTEND THAT WORK.

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1 **§ 23-14. LABOR AND MATERIALS.**

2 THE DIRECTOR MAY EMPLOY THE LABOR AND PURCHASE THE MATERIALS NECESSARY TO
3 ENABLE THE DEPARTMENT TO PERFORM THE WORK, OR SO MUCH OF THE WORK THAT IT
4 CONSIDERS TO BE IN THE BEST INTEREST OF THE CITY FOR THE DEPARTMENT TO PERFORM.

5 **§ 23-15. {RESERVED}**

6 ***PART 3. USE OF CONDUIT SYSTEM***

7 **§ 23-16. REQUIRED PERMIT AND AUTHORIZATIONS.**

8 (A) *PERMIT REQUIRED.*

9 USE OF THE CONDUIT SYSTEM FOR FACILITY INSTALLATIONS IS AVAILABLE ONLY TO
10 PERSONS TO WHOM THE DEPARTMENT HAS ISSUED ONE OR MORE PERMITS THAT
11 EXPRESSLY AUTHORIZE THOSE FACILITY INSTALLATIONS.

12 (B) *ADDITIONAL AUTHORIZATIONS.*

13 IN ADDITION TO PERMITS, THE DEPARTMENT MAY REQUIRE THE PERSON RESPONSIBLE FOR
14 THE INSTALLATION TO OBTAIN OTHER AUTHORIZATIONS, INCLUDING LEASE AGREEMENTS,
15 PRIOR TO ANY INSTALLATION.

16 (C) *UNLAWFUL TO INSTALL WITHOUT AUTHORIZATIONS.*

17 NO PERSON MAY INSTALL FACILITIES IN THE CONDUIT SYSTEM WITHOUT THE PERMIT AND
18 OTHER AUTHORIZATIONS REQUIRED UNDER THIS SECTION.

19 (D) *REMOVAL OF UNAUTHORIZED INSTALLATIONS.*

20 (1) THE PROCEDURES IN PARAGRAPH (2) OF THIS SUBSECTION FOR THE REMOVAL OF AN
21 UNAUTHORIZED INSTALLATION ARE IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL
22 ENFORCEMENT ACTION OR PENALTY AUTHORIZED BY PART 4 {"CIVIL AND CRIMINAL
23 PENALTIES"} OF THIS SUBTITLE OR OTHERWISE AUTHORIZED BY LAW.

24 (2) IF AN INSTALLATION IS DETERMINED TO HAVE BEEN INSTALLED WITHOUT THE
25 REQUIRED PERMIT OR OTHER AUTHORIZATIONS:

26 (I) THE DEPARTMENT SHALL NOTIFY THE PERSON RESPONSIBLE FOR THE
27 INSTALLATION AND ORDER ITS REMOVAL;

28 (II) THE PERSON RESPONSIBLE FOR THE INSTALLATION SHALL REMOVE THE
29 INSTALLATION WITHIN 30 DAYS OF THE NOTICE; AND

30 (III) IF THE INSTALLATION IS NOT REMOVED WITHIN THE REQUIRED PERIOD:

31 (I) THE DEPARTMENT MAY REMOVE THE INSTALLATION; AND

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1 (II) THE PERSON RESPONSIBLE FOR THE INSTALLATION IS LIABLE TO THE
2 DEPARTMENT FOR ALL EXPENSES OF THE REMOVAL AND OF ANY
3 CONSEQUENT REPAIRS NEEDED TO BE MADE IN THE CONDUIT.

4 **§ 23-17. VOLUNTARY RELOCATION OF FACILITIES.**

5 (A) *IN GENERAL.*

6 WHEN THE CONDUIT SYSTEM OR ANY OF ITS PARTS HAVE BEEN COMPLETED AND MADE
7 READY FOR OCCUPANCY AND THE RATES OF RENTAL HAVE BEEN SET PURSUANT TO THIS
8 SUBTITLE, THE DIRECTOR SHALL LEASE SPACE IN THE CONDUIT SYSTEM TO ANY PERSON
9 THAT COMPLIES WITH THE CONDITIONS PRESCRIBED BY THIS SUBTITLE AND WITH ANY
10 FURTHER CONDITIONS THAT THE DIRECTOR SPECIFIES.

11 (B) *WORK TO BE PERFORMED WITHIN 6 MONTHS.*

12 A PERSON AUTHORIZED TO INSTALL FACILITIES UNDER THIS SUBTITLE MUST INSTALL THE
13 FACILITIES WITHIN 6 MONTHS FROM THE DATE THE INSTALLATION IS AUTHORIZED.

14 **§ 23-18. MANDATORY RELOCATION OF FACILITIES.**

15 (A) *DIRECTOR MAY ORDER RELOCATION.*

16 THE DIRECTOR MAY:

- 17 (1) ORDER FACILITIES TO BE REMOVED FROM ABOVE THE STREETS AND PLACED
18 UNDERGROUND IN THE CONDUIT SYSTEM IN ACCORDANCE WITH CHAPTER 200,
19 LAWS OF MARYLAND 1892;
- 20 (2) ORDER FACILITIES TO BE MOVED FROM ONE UNDERGROUND CONDUIT LOCATION TO
21 ANOTHER; AND
- 22 (3) USE METHODS THAT, IN THE JUDGMENT OF THE DIRECTOR, ARE NECESSARY TO
23 PROTECT AND PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE
24 CITY.

25 (B) *COMPLIANCE REQUIRED.*

26 THE PERSON RESPONSIBLE FOR THE FACILITIES SHALL COMPLY WITH A RELOCATION ORDER
27 ISSUED UNDER THIS SECTION WITHIN 150 DAYS OF THE ORDER.

28 (C) *RELOCATION BY DEPARTMENT.*

29 IF THE FACILITIES ARE NOT RELOCATED WITHIN 6 MONTHS OF THE ORDER:

- 30 (1) THE DEPARTMENT MAY RELOCATE THE FACILITIES AND REMOVE ANY POLES
31 REMAINING ABOVE THE STREETS; AND

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- 1 (2) THE PERSON RESPONSIBLE FOR THE FACILITIES IS LIABLE TO THE DEPARTMENT FOR
2 ALL EXPENSES OF THE RELOCATION AND OF THE REMOVAL OF POLES REMAINING
3 ABOVE THE STREETS.

4 **§ 23-19. TAMPERING WITH CONDUIT.**

5 NO PERSON MAY TAMPER WITH, OPEN, OR IN ANY WAY INTERFERE WITH ANY OF THE
6 MANHOLES OR FACILITIES IN THE CONDUIT SYSTEM WITHOUT HAVING FIRST OBTAINED:

- 7 (1) A PERMIT FROM THE DEPARTMENT; AND
8 (2) ALL OTHER AUTHORIZATIONS REQUIRED BY THE DEPARTMENT.

9 **§ 23-20. {RESERVED}**

10 **§ 23-21. SURVEY OF AND REPORTS BY CONDUIT USERS.**

11 (A) *DEPARTMENT TO SURVEY USERS.*

12 THE DEPARTMENT SHALL SURVEY OR OTHERWISE IDENTIFY AND RETAIN RECORDS OF:

- 13 (1) EACH PERSON WHOSE FACILITIES HAVE BEEN INSTALLED IN THE CONDUIT SYSTEM;
14 (2) THE NATURE OF THE FACILITIES INSTALLED BY THAT PERSON; AND
15 (3) THE TOTAL LINEAR FOOTAGE OF CONDUIT OCCUPIED BY THOSE FACILITIES.

16 (B) *USERS TO REPORT ANNUALLY.*

17 (1) NO LATER THAN JUNE 30 OF EACH YEAR, EACH PERSON WHOSE FACILITIES HAVE
18 BEEN INSTALLED IN THE CONDUIT SYSTEM SHALL REPORT ANNUALLY TO THE
19 DEPARTMENT, IN THE FORMAT THAT THE DEPARTMENT REQUIRES.

20 (2) THE REPORT REQUIRED BY THIS SUBSECTION SHALL CONSIST OF:

- 21 (i) ONE OR MORE MAPS SHOWING THE LOCATION OF ALL FACILITIES INSTALLED
22 IN THE CONDUIT SYSTEM BY OR ON BEHALF OF THE PERSON;
23 (ii) THE TOTAL LINEAR FEET OF CONDUIT OCCUPIED BY THOSE FACILITIES; AND
24 (iii) ANY OTHER INFORMATION THAT THE DEPARTMENT DEEMS NECESSARY TO
25 INCLUDE IN THE REPORT.

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1 (C) *UNDER OR MIS-REPORTING.*

2 NO PERSON THAT FILES A REPORT UNDER THIS SECTION MAY INTENTIONALLY
3 MISREPRESENT:

4 (1) THE NATURE OR LOCATION OF THE PERSON’S FACILITIES THAT HAVE BEEN
5 INSTALLED IN THE CONDUIT SYSTEM;

6 (2) THE TOTAL LINEAR FEET OF CONDUIT OCCUPIED BY THOSE FACILITIES; OR

7 (3) ANY OTHER INFORMATION PROVIDED IN THE REPORT.

8 **§§ 23-22 to 23-25. {RESERVED}**

9 ***PART 4. CIVIL AND CRIMINAL PENALTIES***

10 **§ 23-26. ENFORCEMENT BY CITATION.**

11 (A) *IN GENERAL.*

12 IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
13 THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF:

14 (1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40
15 {"ENVIRONMENTAL CONTROL BOARD"}; OR

16 (2) A CIVIL CITATION UNDER CITY CODE ARTICLE I, SUBTITLE 41 {"CIVIL
17 CITATIONS"}.

18 (B) *PROCESS NOT EXCLUSIVE.*

19 THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING
20 ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

21 (C) *EACH DAY A SEPARATE OFFENSE.*

22 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

23 **§ 23-27. CRIMINAL PENALTIES.**

24 (A) *IN GENERAL.*

25 ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE, A RULE OR REGULATION
26 ADOPTED UNDER THIS SUBTITLE, A CONDITION IMPOSED ON A PERMIT ISSUED UNDER THIS
27 SUBTITLE, OR A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE IS GUILTY OF A

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1 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
2 IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR BOTH FINE AND IMPRISONMENT FOR
3 EACH OFFENSE.

4 (B) *EACH DAY A SEPARATE OFFENSE.*

5 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

6 **Article 1. Mayor, City Council, and Municipal Agencies**

7 ***Subtitle 40. Environmental Control Board***

8 **§ 40-14. Violations to which subtitle applies.**

9 (e) *Provisions and penalties enumerated.*

10 (4b) ***Article 26. Surveys, Streets, and Highways***

11 Subtitle 6. Building Address Numbers \$25

12 SUBTITLE 23. UNDERGROUND CONDUITS \$1,000

13 ***Subtitle 41. Civil Citations***

14 **§ 41-14. Offenses to which subtitle applies – Listing.**

15 (3a) ***ARTICLE 26. SURVEYS, STREETS, AND HIGHWAYS***

16 SUBTITLE 23. UNDERGROUND CONDUITS \$1,000

17 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
18 are not law and may not be considered to have been enacted as a part of this or any prior
19 Ordinance.

20 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the civil and criminal penalties imposed
21 by Article 26, § 23-26 and § 23-27, and by Article 1, § 40-14(e)(4b)(Subtitle 23) and § 40-
22 14(3a)(Subtitle 23), as added by this Ordinance, shall be effective for facility installations only if,
23 on or after January 1, 2020, the Department of Transportation has found or determined the
24 installations to be unlawful.

25 **SECTION 5. AND BE IT FURTHER ORDAINED,** That, except as provided in Section 4 of this
26 Ordinance, this Ordinance takes effect on the 30th day after the date it is enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to his Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City