

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 06-0322**

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Introduced by: The Council President  
At the request of: The Administration (Department of Public Works)  
Introduced and read first time: January 23, 2006  
Assigned to: Highways and Franchises Subcommittee

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Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: June 5, 2006

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**AN ORDINANCE CONCERNING**

**Streets and Highways – Street Cuts – Builders’ Use of Streets**

FOR the purpose of consolidating and revising the provisions governing digging in streets, pavement cuts, and other excavations in public ways; defining certain terms; requiring certain permits; imposing certain conditions; providing certain criminal and civil penalties; conforming penalties and certain other provisions applicable to builders’ use of streets; and generally relating to excavation work and related activities performed in or below the surface of a public way and to builders’ use of streets.

BY repealing

Article 26 - Surveys, Streets, and Highways  
Section(s) 15-1 through 15-5, inclusive, and the subtitle designation,  
“Subtitle 15. Cuts in Pavements”  
Baltimore City Code  
(Edition 2000)

BY repealing

Article 26 - Surveys, Streets, and Highways  
Section(s) 21-1 and the subtitle designation,  
“Subtitle 21. “Permits for Digging Up Streets – Unpaved Streets”  
Baltimore City Code  
(Edition 2000)

BY repealing

Article 26 - Surveys, Streets, and Highways  
Section(s) 22-1 through 22-5, inclusive, and the subtitle designation,  
“Subtitle 22. “Permits for Digging Up Streets – Paved Streets”  
Baltimore City Code  
(Edition 2000)

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

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1 BY adding  
2 Article 26 - Surveys, Streets, and Highways  
3 Section(s) 15-1 through 15-43, inclusive, to be under the subtitle designation,  
4 “Subtitle 15. Street Cuts”  
5 Baltimore City Code  
6 (Edition 2000)

7 BY repealing and reordaining, with amendments  
8 Article 26 - Surveys, Streets, and Highways  
9 Section(s) 20-4 and 20-7  
10 Baltimore City Code  
11 (Edition 2000)

12 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
13 following provisions of the City Code are repealed:

14 Article 26 - Surveys, Streets, and Highways  
15 Section(s) 15-1 through 15-5, inclusive, and the subtitle designation,  
16 “Subtitle 15. Cuts in Pavements”  
17 Baltimore City Code  
18 (Edition 2000)

19 Article 26 - Surveys, Streets, and Highways  
20 Section(s) 21-1 and the subtitle designation,  
21 “Subtitle 21. “Permits for Digging Up Streets – Unpaved Streets”  
22 Baltimore City Code  
23 (Edition 2000)

24 Article 26 - Surveys, Streets, and Highways  
25 Section(s) 22-1 through 22-5, inclusive, and the subtitle designation,  
26 “Subtitle 22. “Permits for Digging Up Streets – Paved Streets”  
27 Baltimore City Code  
28 (Edition 2000)

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

31 **Baltimore City Code**

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

33 **SUBTITLE 15. STREET CUTS**

34 ***PART 1. DEFINITIONS; GENERAL PROVISIONS***

35 **§ 15-1. DEFINITIONS.**

36 (A) *IN GENERAL.*

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

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1 (B) *DEPARTMENT*.

2 “DEPARTMENT” MEANS THE DEPARTMENT OF PUBLIC WORKS.

3 (C) *DIRECTOR*.

4 “DIRECTOR” MEANS THE DIRECTOR OF PUBLIC WORKS OR THE DIRECTOR’S DESIGNEE.

5 (D) *EXCAVATION*.

6 “EXCAVATION” MEANS ANY WORK FOR OR IN CONNECTION WITH THE INSTALLATION,  
7 IMPROVEMENT, MAINTENANCE, OR REPAIR OF ANY FACILITIES THAT:

8 (1) INVOLVES THE DISPLACEMENT OR REMOVAL OF MATERIALS; AND

9 (2) IS PERFORMED IN OR BELOW THE SURFACE OF A PUBLIC WAY.

10 (E) *FACILITIES*.

11 (1) “FACILITIES” MEANS ANY EQUIPMENT OR OTHER PROPERTY THAT IS LOCATED OR  
12 PROPOSED TO BE LOCATED IN A PUBLIC WAY.

13 (2) “FACILITIES” INCLUDES ACCESS HOLES, CABLES, CABINETS, DUCTS, CONDUITS,  
14 CONVERTERS, DRAINS, HANDHOLDS, PIPES, PIPELINES, SPLICE BOXES, SURFACE  
15 LOCATION MARKERS, TRACKS, TUNNELS, VALVES, VAULTS, WIRES, OR OTHER  
16 APPURTENANCES OR PROPERTY.

17 (F) *INCLUDES; INCLUDING*.

18 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF  
19 LIMITATION.

20 (G) *PERSON*.

21 (1) “PERSON” MEANS:

22 (I) AN INDIVIDUAL;

23 (II) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR  
24 REPRESENTATIVE OF ANY KIND; AND

25 (III) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY  
26 KIND.

27 (2) “PERSON” INCLUDES, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED, A  
28 GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL  
29 ENTITY.

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1 (H) *PUBLIC WAY.*

2 “PUBLIC WAY” MEANS THE ENTIRE AREA WITHIN THE BOUNDARY LINES OF ANY PUBLIC  
3 STREET, ALLEY, SIDEWALK, FOOTWAY, OR OTHER RIGHT-OF-WAY, WHETHER ACQUIRED BY  
4 PURCHASE, GRANT, DEDICATION, OR OTHERWISE.

5 (I) *STREET-CUT PERMIT.*

6 “STREET-CUT PERMIT” MEANS ANY PERMIT REQUIRED BY OR ISSUED UNDER THIS  
7 SUBTITLE.

8 (I) *UTILITY.*

9 “UTILITY” MEANS ANY PERSON THAT OWNS OR OPERATES FACILITIES USED TO PROVIDE  
10 ELECTRICAL, GAS, STEAM, WATER, SEWER, TELECOMMUNICATIONS, INFORMATION, VIDEO,  
11 OR OTHER SERVICES TO CUSTOMERS.

12 **§ 15-2. SCOPE OF SUBTITLE.**

13 (A) *IN GENERAL.*

14 THIS SUBTITLE APPLIES TO ANY EXCAVATION ON OR IN A PUBLIC WAY BY OR ON BEHALF  
15 OF ANY PUBLIC OR PRIVATE UTILITY OR ANY OTHER PERSON.

16 (B) *SUBTITLE SUPPLEMENTAL.*

17 (1) THE REQUIREMENTS OF THIS SUBTITLE ARE IN ADDITION TO ANY OTHER LAW, RULE,  
18 REGULATION, OR STANDARD APPLICABLE TO EXCAVATIONS, CONSTRUCTION,  
19 MAINTENANCE, REPAIR, OR OTHER WORK IN A PUBLIC WAY.

20 (2) OTHER APPLICABLE REQUIREMENTS INCLUDE:

21 (I) OBTAINING AND COMPLYING WITH THE TERMS OF ANY REQUIRED FRANCHISE,  
22 MINOR PRIVILEGE PERMIT, DEVELOPER’S AGREEMENT, RIGHT OF ENTRY, OR  
23 SIMILAR AUTHORITY; AND

24 (II) NOTIFYING THE CITY’S ONE-CALL SYSTEM CONTRACTOR FOR THE MARKING  
25 OF FACILITIES, AS REQUIRED BY THE STATE PUBLIC UTILITY COMPANIES  
26 ARTICLE, TITLE 12, SUBTITLE 1.

27 (C) *NO PRIVATE RIGHTS GRANTED.*

28 (1) THE ISSUANCE OF A STREET-CUT PERMIT DOES NOT GIVE ANY PERSON ANY PROPERTY  
29 RIGHT IN OR TO THE USE OF A PUBLIC WAY.

30 (2) ALL PERMITS ISSUED AND HELD UNDER THIS SUBTITLE ARE SUBJECT TO THE SUPERIOR  
31 RIGHT OF THE CITY TO CONTROL THE USE OF PUBLIC WAYS AND TO ENSURE THE SAFE  
32 AND ORDERLY MOVEMENT OF TRAFFIC.

33 **§ 15-3. {RESERVED}**

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1 **§ 15-4. ADMINISTRATION.**

2 THE DEPARTMENT OF PUBLIC WORKS IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING  
3 THIS SUBTITLE.

4 **§ 15-5. RULES AND REGULATIONS.**

5 (A) *AUTHORIZED.*

6 THE DEPARTMENT SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

7 (B) *TRANSPORTATION INCLUSIONS.*

8 THESE RULES AND REGULATIONS SHALL INCORPORATE STANDARDS SET BY THE  
9 DEPARTMENT OF TRANSPORTATION TO GOVERN:

10 (1) BACKFILLING, REPAVING, AND REPAIR SPECIFICATIONS;

11 (2) TRAFFIC CONTROL;

12 (3) WORK HOURS;

13 (4) LIGHTING, FENCING, AND COVERING OF WORK AREAS; AND

14 (5) INCIDENTAL RELATED MATTERS.

15 (C) *STOP-WORK ORDERS.*

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

20 (D) ~~(E)~~ *FILING.*

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

24 **§§ 15-6 TO 15-10. {RESERVED}**

25 ***PART 2. PERMIT REQUIREMENTS***

26 **§ 15-11. IN GENERAL.**

27 NO PERSON MAY EXCAVATE ON OR IN A PUBLIC WAY UNLESS:

28 (1) THE PERSON FIRST OBTAINS FROM THE DEPARTMENT A STREET-CUT PERMIT FOR THAT  
29 EXCAVATION; OR

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1 (2) THE WORK IS EMERGENCY EXCAVATION PERFORMED IN ACCORDANCE WITH § 15-13  
2 {"EMERGENCY EXCAVATION"} OF THIS SUBTITLE.

3 **§ 15-12. STREET-CUT PERMIT.**

4 (A) *APPLICATION.*

5 EACH APPLICATION FOR A STREET-CUT PERMIT MUST BE IN THE FORM AND CONTAIN THE  
6 INFORMATION THAT THE DIRECTOR REQUIRES.

7 (B) *APPROVAL OF PERMIT; CONDITIONS.*

8 IF AN APPLICATION IS APPROVED, THE DIRECTOR MAY:

9 (1) IMPOSE CONDITIONS ON THE PERMIT AS NECESSARY OR APPROPRIATE TO PRESERVE  
10 AND MAINTAIN THE HEALTH, SAFETY, WELFARE, AND CONVENIENCE OF THE  
11 PUBLIC; AND

12 (2) ISSUE THE PERMIT ON RECEIPT OF:

13 (I) THE PERMIT FEES IMPOSED UNDER § 15-14 {"FEES"} OF THIS SUBTITLE;  
14 AND

15 (II) THE PERFORMANCE SECURITY REQUIRED UNDER § 15-31 {"PERFORMANCE  
16 SECURITY"} OF THIS SUBTITLE.

17 (C) *DENIAL OF PERMIT.*

18 (1) THE DIRECTOR MAY DENY AN APPLICATION IF THE APPLICANT:

19 (I) WITHIN THE PRECEDING 2 YEARS, HAS DONE EXCAVATION WORK WITHOUT A  
20 STREET-CUT PERMIT OR OTHERWISE IN VIOLATION OF ANY APPLICABLE LAWS,  
21 RULES, OR REGULATIONS;

22 (II) HAS NOT SATISFACTORILY COMPLETED ALL REPAIRS REQUIRED UNDER A  
23 PREVIOUSLY ISSUED STREET-CUT PERMIT; OR

24 (III) REMAINS INDEBTED TO THE CITY FOR:

25 (A) EXPENSES PREVIOUSLY INCURRED UNDER THIS SUBTITLE BY THE CITY;  
26 OR

27 (B) FINES PREVIOUSLY IMPOSED UNDER THIS SUBTITLE BY THE CITY.

28 (2) IF AN APPLICATION IS DENIED, THE DIRECTOR MUST NOTIFY THE APPLICANT, BY  
29 WRITTEN, ELECTRONIC, OR FACSIMILE COMMUNICATION, OF:

30 (I) THE REASONS FOR THE DENIAL; AND

31 (II) HOW TO OBTAIN ADMINISTRATIVE REVIEW OF THE DENIAL.

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1 (D) *TERM.*

2 EACH STREET-CUT PERMIT SHALL SPECIFY:

3 (1) A START DATE ON WHICH WORK IS FIRST AUTHORIZED TO BEGIN; AND

4 (2) AN END DATE BY WHICH ALL WORK, INSPECTIONS, AND APPROVALS MUST BE  
5 COMPLETED.

6 (E) *EXPIRATION.*

7 UNLESS EXTENDED BY THE DEPARTMENT, A STREET-CUT PERMIT EXPIRES IF THE WORK TO  
8 BE DONE UNDER THE PERMIT:

9 (1) HAS NOT BEGUN WITHIN 30 CALENDAR DAYS OF THE START DATE;

10 (2) IS NOT PURSUED DILIGENTLY; OR

11 (3) IS NOT COMPLETED BY THE END DATE.

12 (F) *NONTRANSFERABILITY.*

13 A STREET-CUT PERMIT IS NOT TRANSFERABLE.

14 **§ 15-13. EMERGENCY EXCAVATION.**

15 (A) *WHEN AUTHORIZED.*

16 A PERSON MAY CONDUCT AN EMERGENCY EXCAVATION WITHOUT FIRST OBTAINING A  
17 STREET-CUT PERMIT ONLY IF:

18 (1) THE EXCAVATION IS NEEDED, AS A RESULT OF AN UNFORESEEN EVENT, TO PREVENT  
19 OR ABATE A POTENTIAL DANGER TO LIFE, HEALTH, OR PROPERTY;

20 (2) BEFORE UNDERTAKING THE EXCAVATION:

21 (I) THE PERSON NOTIFIES THE DIRECTOR OF THE EMERGENCY; AND

22 (II) THE DIRECTOR AUTHORIZES THE PERSON TO PROCEED WITH THE  
23 EXCAVATION; AND

24 (3) THE PERSON OBTAINS A STREET-CUT PERMIT FOR THE EXCAVATION:

25 (I) WITHIN 18 HOURS AFTER BEGINNING THE EXCAVATION; OR

26 (II) IF THE DEPARTMENT'S OFFICES ARE CLOSED, ON THE NEXT DAY THAT ITS  
27 OFFICES ARE OPEN.

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1 (B) *LIMITATIONS.*

2 UNDER NO CIRCUMSTANCES MAY AN EMERGENCY EXCAVATION BE CLOSED BEFORE:

3 (1) A STREET-CUT PERMIT IS ISSUED; AND

4 (2) THE WORK IS INSPECTED AND APPROVED BY THE DEPARTMENT.

5 **§ 15-14. FEES.**

6 (A) *IN GENERAL.*

7 FEES FOR STREET-CUT PERMITS SHALL BE ASSESSED IN ACCORDANCE WITH A FEE  
8 SCHEDULE ESTABLISHED BY THE DIRECTOR, WITH THE APPROVAL OF THE BOARD OF  
9 ESTIMATES.

10 (B) *DIFFERENTIALS.*

11 THE FEE SCHEDULE MAY SET DIFFERENTIAL RATES BASED ON:

12 (1) SIZE OF EXCAVATION;

13 (2) PORTION OF PUBLIC WAY AFFECTED;

14 (3) EXTENT OF DAMAGE TO THE PUBLIC WAY;

15 (4) RECENCY AND NATURE OF ANY PREVIOUS REPAVING OR REPAIR; AND

16 (5) ANY OTHER RELEVANT FACTOR.

17 **§§ 15-15 TO 15-20. {RESERVED}**

18 ***PART 3. PERFORMANCE SCHEDULES AND STANDARDS***

19 **§ 15-21. SCOPE.**

20 THE REQUIREMENTS OF THIS PART 3 ARE IN ADDITION TO ANY REQUIREMENTS OR STANDARDS  
21 IMPOSED BY THE DEPARTMENT IN ITS RULES AND REGULATIONS OR AS A CONDITION OF A  
22 STREET-CUT PERMIT.

23 **§ 15-22. DISPLAY OF PERMIT.**

24 ANY PERSON DOING EXCAVATION WORK MUST:

25 (1) MAINTAIN THE APPROPRIATE STREET-CUT PERMIT ON SITE AT ALL TIMES; AND

26 (2) EXHIBIT THE PERMIT WHEN REQUESTED BY THE DEPARTMENT.



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**§ 15-23. WORK SCHEDULE.**

(A) *START.*

NO PERSON MAY BEGIN WORK UNDER A STREET-CUT PERMIT UNTIL:

(1) IN THE CASE OF AN EMERGENCY EXCAVATION PERFORMED IN ACCORDANCE WITH § 15-13 {"EMERGENCY EXCAVATION"} OF THIS SUBTITLE, THE PERSON NOTIFIES THE DEPARTMENT AND OBTAINS PERMISSION TO BEGIN WORK; AND

(2) IN ALL OTHER CASES, THE START DATE SPECIFIED IN THE PERMIT.

(B) *DILIGENT PURSUIT.*

THE PERMITTEE MUST DILIGENTLY PURSUE THE WORK UNTIL ITS COMPLETION.

(C) *COMPLETION.*

ALL WORK TO BE DONE UNDER A STREET-CUT PERMIT MUST BE COMPLETED, INSPECTED, AND APPROVED BEFORE THE END DATE SPECIFIED IN THE PERMIT.

**§ 15-24. SECURING PUBLIC WAY.**

AT THE END OF EACH WORKDAY, THE PERMITTEE MUST SECURE THE PUBLIC WAY:

(1) WITH TEMPORARY FILL OR PAVING;

(2) BY TRENCH PLATING; OR

(3) BY OTHER PROTECTIVE MEASURES APPROVED BY THE DEPARTMENT.

**§ 15-25. DECORATIVE OR LANDSCAPED AREAS.**

(A) *ALTERNATIVE CONSIDERATIONS.*

BEFORE DISTURBING DECORATIVE SURFACES, STREETSCAPES, AND LANDSCAPED AREAS, THE APPLICANT FOR A STREET-CUT PERMIT MUST PROVIDE PROOF THAT ALTERNATIVES, SUCH AS REROUTING, BORING, JACKING, OR SCOOPING, CANNOT BE USED.

(B) *RESTORATION.*

RESTORATION OF THESE AREAS MUST:

(1) COMPLY WITH ALL CONDITIONS AND OTHER REQUIREMENTS OF THE PERMIT;

(2) CONFORM WITH ALL CURRENT RULES, REGULATIONS, AND STANDARDS; AND

(3) WHEN COMPLETED, MATCH PREEXISTING CONDITIONS.

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**§ 15-26. LOCATING OR RELOCATING POLES.**

(A) *IN GENERAL.*

BEFORE ERECTING OR RELOCATING ANY POLE, THE APPLICANT FOR A STREET-CUT PERMIT MUST AGREE, FOR ITSELF AND ITS SUCCESSORS IN INTEREST, TO THE CONDITIONS SPECIFIED IN THIS SECTION.

(B) *LOCATING POLE.*

THE POLE MAY BE PLACED ONLY IN THE POSITION THAT THE DIRECTOR SPECIFIES.

(C) *REQUIRED REMOVAL OR RELATION.*

(1) IF, AT ANY TIME, THE DIRECTOR ORDERS THE POLE TO BE REMOVED OR RELOCATED, THE POLE WILL BE REMOVED OR RELOCATED WITHIN 3 DAYS OF THE ORDER OR, IF LONGER, WITHIN THE TIME SPECIFIED IN THE ORDER.

(2) ALL COSTS OF REMOVING OR RELOCATING THE POLE, INCLUDING THE COST OF ALL NEEDED REPAIRS TO THE PUBLIC WAY, WILL BE BORNE BY THE APPLICANT OR ITS SUCCESSORS IN INTEREST.

**§§ 15-27 TO 15-28. {RESERVED}**

***PART 4. WARRANTY; PERFORMANCE SECURITY; INDEMNIFICATION***

**§ 15-29. SCOPE.**

THIS PART 4 DOES NOT APPLY TO EXCAVATION WORK PERFORMED BY A GOVERNMENTAL ENTITY.

**§ 15-30. WARRANTY; CORRECTION OF DEFECTS.**

(A) *1-YEAR WARRANTY.*

BY ACCEPTING A STREET-CUT PERMIT, THE PERMITEE WARRANTS ALL WORK DONE UNDER THE PERMIT AGAINST ALL DEFECTS IN WORKMANSHIP AND MATERIALS FOR A PERIOD OF 1 YEAR AFTER THE WORK HAS BEEN COMPLETED, INSPECTED, AND APPROVED.

(B) *CORRECTION OF DEFECT.*

ON WRITTEN NOTICE FROM THE DEPARTMENT OF ANY DEFECT IN WORKMANSHIP OR MATERIALS DURING THE WARRANTY PERIOD, THE PERMITEE MUST MAKE THE NECESSARY REPAIRS WITHIN THE PERIOD SPECIFIED IN THE NOTICE.

(C) *ABATEMENT BY CITY.*

(1) IF THE PERMITEE FAILS TO CORRECT THE DEFECTS WITHIN THE TIME SPECIFIED IN THE NOTICE, THE CITY MAY MAKE THE REPAIRS AT THE PERMITEE'S EXPENSE.

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1 (2) THE PERMITTEE:

2 (I) IS RESPONSIBLE FOR ALL EXPENSES INCURRED BY THE CITY, INCLUDING ANY  
3 RELATED ADMINISTRATIVE EXPENSES; AND

4 (II) SHALL PAY THOSE EXPENSES TO THE CITY WITHIN 30 DAYS FOLLOWING NOTICE  
5 OF THE AMOUNT OWED.

6 (D) *EXTENSION OF WARRANTY.*

7 ANY REPAIR DURING THE WARRANTY PERIOD AUTOMATICALLY EXTENDS THE WARRANTY  
8 PERIOD TO RUN FOR 1 ADDITIONAL YEAR BEYOND THE ORIGINAL WARRANTY PERIOD.

9 **§ 15-31. PERFORMANCE SECURITY.**

10 (A) *“PERFORMANCE SECURITY” DEFINED.*

11 IN THIS SECTION, “PERFORMANCE SECURITY” MEANS ANY ONE OR A COMBINATION OF:

12 (1) A PERFORMANCE BOND;

13 (2) AN IRREVOCABLE LETTER OF CREDIT; OR

14 (3) A CASH DEPOSIT.

15 (B) *REQUIRED.*

16 NO STREET-CUT PERMIT MAY BE ISSUED TO ANY PERSON UNLESS THAT PERSON SUBMITS  
17 PERFORMANCE SECURITY AS REQUIRED BY THIS SECTION.

18 (C) *FORM AND TENOR.*

19 (1) THE PERFORMANCE SECURITY MUST BE APPROVED:

20 (I) AS TO FORM AND LEGAL SUFFICIENCY BY THE CITY SOLICITOR; AND

21 (II) AS TO AMOUNT BY THE DIRECTOR.

22 (2) THE PERFORMANCE SECURITY MUST SERVE TO SAVE THE CITY HARMLESS FROM:

23 (I) ANY COST, LIABILITY, EXPENSE, CLAIM, OR SUIT FOR DAMAGES IN ANY  
24 MANNER ARISING OUT OF OR RESULTING FROM THE WORK DONE UNDER THE  
25 PERMIT; AND

26 (II) ANY LOSS OR COST BY REASON OF THE RESTORING OR FAILURE TO RESTORE  
27 THE PUBLIC WAY TO REQUIRED CONDITIONS AND STANDARDS.

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1 (D) *MULTI-PERMIT SECURITY.*

2 (1) THE PERFORMANCE SECURITY MAY BE MADE TO COVER ALL STREET-CUT PERMITS  
3 ISSUED FROM TIME TO TIME TO ANY ONE PERSON.

4 (2) IN THAT CASE, THE DIRECTOR MAY REQUIRE FROM TIME TO TIME THAT THE AMOUNT  
5 OF THE SECURITY BE INCREASED TO AN AMOUNT SUFFICIENT IN THE DIRECTOR'S  
6 JUDGMENT TO PROTECT THE CITY, BASED ON THE VOLUME OF WORK UNDERTAKEN BY  
7 THE PERSON OR THE NUMBER OF PERMITS ISSUED TO THE PERSON.

8 (E) *RELEASE OF SECURITY.*

9 THE DEPARTMENT SHALL RELEASE THE PERFORMANCE SECURITY, IN WHOLE OR IN PART,  
10 AFTER COMPLETION OF THE WARRANTY PERIOD AND THE CORRECTION OF ANY DEFECTS  
11 OR VIOLATIONS IDENTIFIED DURING THAT PERIOD.

12 **§ 15-32. INDEMNIFICATION.**

13 (A) *IN GENERAL.*

14 BY ACCEPTING A STREET-CUT PERMIT, THE PERMITTEE AGREES, FOR AND ON BEHALF OF  
15 ITSELF AND, IF DIFFERENT, THE OWNER AND OPERATOR OF THE FACILITIES, AND THEIR  
16 RESPECTIVE SUCCESSORS AND ASSIGNS, TO INDEMNIFY, DEFEND, PROTECT, AND HOLD  
17 HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL  
18 CLAIMS, ACTIONS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, INJURIES, JUDGMENTS,  
19 LIABILITIES, LOSSES, PENALTIES, SUITS, FEES, AND ATTORNEYS' FEES ALLEGEDLY ARISING  
20 DIRECTLY OR INDIRECTLY FROM ANY ACT, OMISSION, OR NEGLIGENCE OF THE PERMITTEE,  
21 OWNER, OR OPERATOR, THEIR SUBCONTRACTORS, OR THE OFFICERS, AGENTS, OR  
22 EMPLOYEES OF ANY OF THEM RELATING TO THE PERMIT OR THE ACTIVITIES AUTHORIZED  
23 BY THE PERMIT.

24 (B) *OBLIGATION TO DEFEND.*

25 EACH PERMITTEE, OWNER, AND OPERATOR HAS AN IMMEDIATE AND INDEPENDENT  
26 OBLIGATION TO DEFEND THE CITY FROM ANY CLAIMS THAT ACTUALLY OR POTENTIALLY  
27 FALL WITHIN THIS INDEMNITY OBLIGATION, EVEN IF THE ALLEGATIONS ARE GROUNDLESS,  
28 FALSE, OR FRAUDULENT.

29 (C) *ACTION BY CITY.*

30 THE CITY HAS A CAUSE OF ACTION FOR INDEMNITY AGAINST EACH PERMITTEE, OWNER,  
31 AND OPERATOR FOR ANY COSTS THE CITY MAY INCUR WITH RESPECT TO THE PERMIT,  
32 EXCEPT FOR CLAIMS RESULTING DIRECTLY FROM THE NEGLIGENCE OR WILLFUL  
33 MISCONDUCT OF THE CITY.

34 (D) *INDEMNITY SURVIVES PERMIT, ETC.*

35 THIS INDEMNITY OBLIGATION SURVIVES EXPIRATION OF THE PERMIT AND COMPLETION OF  
36 THE WORK AUTHORIZED BY IT.

37 **§§ 15-33 TO 15-35. {RESERVED}**

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***PART 5. ADMINISTRATIVE AND JUDICIAL REVIEW***

**§ 15-36. ADMINISTRATIVE REVIEW.**

(A) *IN GENERAL.*

(1) ANY PERSON AGGRIEVED BY A DECISION OR ACTION OF THE DEPARTMENT UNDER THIS SUBTITLE, WHETHER AS THE RESULT OF THE DISAPPROVAL OF AN APPLICATION, THE ISSUANCE OF A VIOLATION NOTICE, AN ALLEGED FAILURE TO PROPERLY ENFORCE THIS SUBTITLE, OR OTHERWISE, MAY APPEAL THAT DECISION OR ACTION TO THE DIRECTOR.

(2) THE APPEAL MUST:

(I) BE IN WRITING;

(II) BE FILED WITHIN 10 DAYS OF THE DECISION OR ACTION IN DISPUTE; AND

(III) CLEARLY STATE THE GROUNDS ON WHICH THE APPEAL IS BASED.

(B) *PROCEDURES.*

(1) THE DIRECTOR SHALL ADOPT PROCEDURES FOR APPEALS AND ADMINISTRATIVE HEARINGS.

(2) A COPY OF THESE PROCEDURES MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

**§ 15-37. JUDICIAL REVIEW.**

A PARTY AGGRIEVED BY A FINAL DECISION OF THE DIRECTOR UNDER § 15-36 {"ADMINISTRATIVE REVIEW"} OF THIS SUBTITLE MAY APPEAL THAT DECISION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF CIVIL PROCEDURE.

**§§ 15-38 TO 15-40. {RESERVED}**

***PART 6. PENALTIES***

**§ 15-41. CIVIL FINES.**

(A) *IN GENERAL.*

THE DIRECTOR MAY IMPOSE CIVIL FINES FOR VIOLATIONS OF:

(1) THIS SUBTITLE.;

(2) A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE; ~~OR~~

(3) A CONDITION IMPOSED ON A PERMIT ISSUED UNDER THIS SUBTITLE; OR

(4) A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE.

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1 (B) *SCHEDULE OF FINES.*

2 A SCHEDULE OF FINES, NOT TO EXCEED \$500 FOR ANY ONE OFFENSE, SHALL BE  
3 ESTABLISHED AND MAY BE AMENDED FROM TIME TO TIME BY THE DIRECTOR WITH THE  
4 APPROVAL OF THE BOARD OF ESTIMATES.

5 **§ 15-42. CRIMINAL PENALTIES.**

6 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE, OF ~~ANY~~ A RULE OR  
7 REGULATION ADOPTED UNDER THIS SUBTITLE, ~~OR~~ OF A CONDITION IMPOSED ON A PERMIT  
8 ISSUED UNDER THIS SUBTITLE, OR OF A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE IS  
9 GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN  
10 \$1,000, IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR BOTH FINE AND IMPRISONMENT, FOR  
11 EACH OFFENSE.

12 **§ 15-43. EACH DAY A SEPARATE OFFENSE.**

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

14 **Subtitle 20. Permit for Builders' Use of Streets**

15 **§ 20-4. Rules, regulations, terms, conditions.**

16 (A) *IN GENERAL.*

17 The Director of Public Works is also authorized to include any other regulations, terms,  
18 and conditions [which he deems] THE DIRECTOR CONSIDERS necessary for the protection  
19 of the public interest.

20 (B) *STOP-WORK ORDERS.*

21 THESE REGULATIONS MAY INCLUDE PROCEDURES FOR THE ISSUANCE, SERVICE, AND  
22 ENFORCEMENT OF ADMINISTRATIVE ORDERS TO STOP WORK BEING DONE IN VIOLATION OF  
23 THIS SUBTITLE OR OF A REGULATION, TERM, OR CONDITION, ADOPTED UNDER THIS  
24 SUBTITLE.

25 **§ 20-7. [Penalties] FINES AND PENALTIES.**

26 (A) *CIVIL FINES.*

27 (1) THE DIRECTOR MAY IMPOSE CIVIL FINES FOR VIOLATIONS OF:

28 (I) THIS SUBTITLE; ~~OR~~

29 (II) A REGULATION, TERM, OR CONDITION IMPOSED UNDER THIS SUBTITLE; OR

30 (III) A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE.

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1 (2) A SCHEDULE OF FINES, NOT TO EXCEED \$500 FOR ANY ONE OFFENSE, SHALL BE  
2 ESTABLISHED AND MAY BE AMENDED FROM TIME TO TIME BY THE DIRECTOR WITH THE  
3 APPROVAL OF THE BOARD OF ESTIMATES.

4 (B) *CRIMINAL PENALTIES.*

5 Any [builder] PERSON who [leaves material upon the street or sidewalk without a permit  
6 as herein provided,] VIOLATES ANY PROVISION OF THIS SUBTITLE ~~OR OF ANY, OF A~~  
7 REGULATION, TERM, OR CONDITION IMPOSED UNDER THIS SUBTITLE, OR OF A STOP-WORK  
8 ORDER ISSUED UNDER THIS SUBTITLE [shall be] IS GUILTY OF A MISDEMEANOR AND, ON  
9 CONVICTION, IS SUBJECT TO A FINE OF [\$10] NOT MORE THAN \$1,000, IMPRISONMENT FOR  
10 NOT MORE THAN 1 YEAR, OR BOTH FINE AND IMPRISONMENT, for EACH OFFENSE.

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

12 [every] EACH day [he] THAT A VIOLATION continues IS A SEPARATE OFFENSE [to do  
13 so, such fine to be collected as other fines imposed by ordinance are collected].

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

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

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