

Introduced by: President Young, *m. de la hoya, scneider, kott, de, brant stokes*

Prepared by: Department of Legislative Reference *Bullard, Harry Costello*

Date: March 13, 2019 *Finkelt, Dorsey, Reisinger, Clarke*

Referred to: **JUDICIARY AND LEGISLATIVE INVESTIGATIONS** Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

*Robert Stokes*

CITY COUNCIL 19-0354

A BILL ENTITLED

*Brenda Jones*

AN ORDINANCE concerning

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

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

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

By adding  
Article 26 - Surveys, Streets, and Highways  
New Subtitle 23 {"Underground Conduit System for Cables, Wires, and Similar Facilities"}  
Baltimore City Code  
(Edition 2000)

**\*\*The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

**Agencies**

Department of Public Works	Baltimore City Public School System
Department of Real Estate	Baltimore Development Corporation
Department of Recreation and Parks	City Solicitor
Department of Transportation	Comptroller's Office
Fire Department	Department of Audits
Health Department	Department of Finance
Mayor's Office of Employment Development	Department of General Services
Mayor's Office of Human Services	Department of Housing and Community Development
Mayor's Office of Information Technology	Department of Human Resources
Office of the Mayor	Department of Planning
Police Department	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____

**Boards and Commissions**

Environmental Control Board	Board of Estimates
Fire & Police Employees' Retirement System	Board of Ethics
Labor Commissioner	Board of Municipal and Zoning Appeals
Parking Authority Board	Comm. for Historical and Architectural Preservation
Planning Commission	Commission on Sustainability
Wage Commission	Employees' Retirement System
Other: _____	Other: _____
Other: _____	Other: _____
Other: _____	Other: _____

**BY repealing and reordaining, with amendments**

**Article 1 - Mayor, City Council, and Municipal Agencies  
Section 40-14(e)(4b) {"Article 26"}  
Baltimore City Code  
(Edition 2000)**

**BY adding**

**Article 1 - Mayor, City Council, and Municipal Agencies  
Section 41-14(3a) {"Article 26"}  
Baltimore City Code  
(Edition 2000)**

CITY OF BALTIMORE  
ORDINANCE **19-263**  
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)

**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.

**Council Bill 19-0354**

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.

**Council Bill 19-0354**

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.

**Council Bill 19-0354**

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.

**Council Bill 19-0354**

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



**Council Bill 19-0354**

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

**Council Bill 19-0354**

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.

**Council Bill 19-0354**

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

**Council Bill 19-0354**

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 30<sup>th</sup> day after the date it is enacted.

**Council Bill 19-0354**

Certified as duly passed this \_\_\_\_\_ day of JUN 11 2019, 20\_\_


  
\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to his Honor, the Mayor,

this \_\_\_\_\_ day of JUN 11 2019, 20\_\_

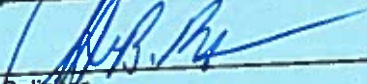
  
\_\_\_\_\_  
Chief Clerk

Approved this 17 day of June, 2019

  
\_\_\_\_\_  
Mayor, Baltimore City

Approved For Form and Legal Sufficiency

This 14<sup>th</sup> Day of June 2019.

  
\_\_\_\_\_  
Chief Solicitor

**BALTIMORE CITY COUNCIL**  
**JUDICIARY AND LEGISLATIVE INVESTIGATIONS COMMITTEE**  
**VOTING RECORD**

BILL#: CC-19-0354

DATE: 5/7/19

TITLE: Underground Conduit System for Cables, Wires, and Similar Facilities


MOTION BY: Clarke                      SECONDED BY: Pinkett

- FAVORABLE                       FAVORABLE WITH AMENDMENTS  
 UNFAVORABLE                       WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Costello, E., Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, M., Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bullock, J.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pinkett, L.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, E.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Scott, B.</del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>
Stokes, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>TOTALS</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>

CHAIRPERSON: *C. V. Costa*

COMMITTEE STAFF: Matthew L. Peters, Initials: *MLP*

<b>F R O M</b>	<b>NAME &amp; TITLE</b>	Frank Murphy, Acting Director	<b>CITY of BALTIMORE  M E M O</b>	
	<b>AGENCY NAME &amp; ADDRESS</b>	Department of Transportation (DOT) 417 E Fayette Street, Room 527		
	<b>SUBJECT</b>	City Council Bill 19-0354		

TO: Ex Officio Mayor Bernard C. "Jack" Young  
TO: Judiciary & Legislative Investigations Committee  
FROM: Department of Transportation  
POSITION: Support  
RE: City Council Bill – 19-0354

DATE: 4/29/19

**INTRODUCTION** – Underground Conduit System for Cables, Wires, and Similar Facilities

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

**COMMENTS** – This legislation is primarily designed to:

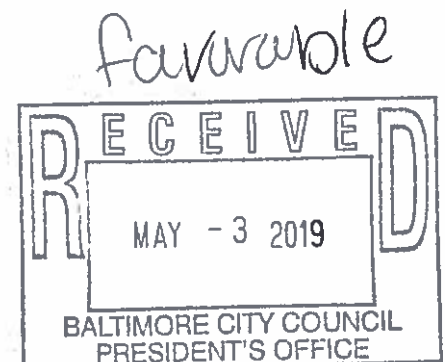
- Update the existing code by replacing out of date 20th century terminology with more appropriate 21st century language.
- Strengthen penalties for unauthorized use – targeting entities responsible for running cable, fiber, etc. within Baltimore’s municipal conduit system without a permit. Unauthorized use of our conduit potentially results in less revenue to maintain the system and a reduction of available space that could be utilized for a variety of services that could be of benefit to Baltimore’s residents and business community.
- Require entities with lease agreements to provide the Department of Transportation annual reports by June 30th of each year that will include detailed maps of their facilities in our conduit, the total linear footage of facilities in our conduit system, and any other information deemed necessary by the Director of the Department of Transportation.
- Although this bill does significantly increase the fine for unauthorized use, this bill should not be seen as means to significantly increase revenue. The increased fine is primarily designed as a deterrent mechanism.

**AGENCY/DEPARTMENT POSITION** – The Department of Transportation Supports City Council Bill – 19-0354.

If you have any questions, please do not hesitate to contact Liam Davis at [Liam.Davis@baltimorecity.gov](mailto:Liam.Davis@baltimorecity.gov) or at 410-545-3207.

Sincerely,

  
Frank Murphy  
Acting Director





## MEMORANDUM

DATE: May 1, 2019  
TO: Judiciary and Legislative Investigations Committee  
FROM: William H. Cole, President and CEO  
POSITION: Support  
SUBJECT: Council Bill 19-0354 –Underground Conduit System for Cables, Wires and Similar Facilities

---

### INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill 19-0354, an Ordinance introduced by City Council President Young and Councilmembers Middleton, Schleifer, Scott, Cohen, Burnett, Stokes, Pinkett, Bullock, Henry, Dorsey, Reisinger, Costello and Clarke.

### PURPOSE

For the purpose of clarifying the location and administration of an underground conduit system for cables, wires and similar facilities; requiring the Department of Transportation to administer and maintain the system; and to prepare the plans and specifications for its construction, maintenance and repair; ultimately updating regulations and the administration of the City's Conduit System, as stated in the bill.

### BRIEF HISTORY

Council Bill 19-0354 revises Article 26, Subtitle 23 of the Baltimore City Code following a comprehensive review of the City Conduit System. This review was predicated by a public hearing on the City Conduit System that was required by Council Bill 18-0076R. This bill modernizes Subtitle 23 in order to protect the City's interest in the public conduit system.

### FISCAL IMPACT

None

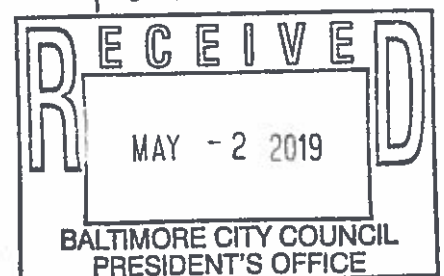
### AGENCY POSITION

The Baltimore Development Corporation Supports City Council Bill 19-0354.

If you have any questions, please do not hesitate to contact Kim Clark at [kclark@baltimoredevelopment.com](mailto:kclark@baltimoredevelopment.com) and 410-837-9305.

cc: Jeffrey Amoros

[DT]

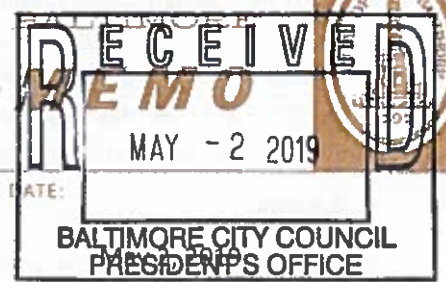




*RAC*

<b>FROM</b>	NAME & TITLE	Robert Cenname, Budget Director
	AGENCY NAME & ADDRESS	Department of Finance Room 454, City Hall (410) 396-4940
	SUBJECT	City Council Bill #19-0354: Underground Conduit System for Cables, Wires and Similar Facilities

CITY of



TO

The Honorable President and  
Members of the City Council  
Room 400, City Hall

*no objection*

City Council Bill 19-0353 proposes to clarify the location and administration of an underground conduit system for cables, wires, and similar facilities. This legislation requires the Department of Transportation to administer and maintain the conduit system, and to prepare plans and specifications for its repair, maintenance and construction. Additionally, it limits the use of the conduit system to persons who have obtained certain permits and other legal authorizations and have paid certain annual charges, requiring the removal of unauthorized installations as well as relocation of certain facilities. Moreover, it prohibits tampering with, opening or interfering with manholes or conduit system facilities, and authorizes the issuance, service and enforcement of stop-work orders. Violations are punishable as a misdemeanor and violators can be subject to a fine of up to \$1,000 or imprisonment for up to one year, per violation.

**Background and History**

Baltimore City has a history of unauthorized utilization of its conduit system and infrastructure. According to key stakeholders, violators of conduit regulation have circumvented the law by not entering into a lease agreement with the City. These violators are typically businesses that have taken up space on the conduit system by going into manholes and running fiber without establishing a formal lease agreement. This problem stems from the City's policy on leaving manholes unsecured. Because the City runs electrical lines along steam pipes and other conduit infrastructure – due to the system's age and size – there's an elevated risk of fires and other emergency scenarios. The Fire Department has therefore maintained the need for an easy-to-access conduit system. Free-riders have identified and taken advantage of the system's lack of security and enforcement.

The Department of Transportation is unable to provide figures on the number of unauthorized conduit system users at this time.

**Impact and Analysis**

The City of Baltimore has 16 million linear feet of conduit system, 14 million of which is occupied by the Baltimore Gas and Electric Company (BGE). In Fiscal 2019 the City is projected to receive \$27.82 million from franchising the conduit system to BGE, while an additional two million linear feet are rented by various companies. In Fiscal 2019, the City expects to generate \$4.16 million from these lease agreements.


The Department of Transportation does not anticipate that additional capacity will be needed to secure and enforce the existing conduit infrastructure. Should the Department require additional resources for future projects and objectives, such as increased enforcement or security measures, support would come from the Conduit Enterprise Fund with no impact to the General Fund.

Currently, violators of conduit system regulation can be subject to a fine of up to \$300 for each day of violation. However, penalties are not actively enforced and the Department of Transportation does not collect or report violations and enforcement data. The proposed legislation subjects violators to a fine of up to \$1,000 per day and the Department intends for this increase to serve as a deterrent. Its primary objective is not to generate revenue but to discourage abuse and increase compliance.

**Position**

The Department of Finance does not oppose this legislation.

cc: Henry Raymond  
Jeffrey Amoros

FROM	NAME & TITLE	Frank Johnson, CIO	CITY of <b>BALTIMORE</b>	
	AGENCY NAME & ADDRESS	Baltimore City Office of Information and Technology (BCIT) 401 E Fayette Street, 3 <sup>rd</sup> floor		
	SUBJECT	City Council Ordinance 19-0354	MEMO	

TO The Honorable President and  
Members of the City Council  
c/o Natawna Austin  
Room 400 City Hall

April 30, 2019

I am herein reporting on City Council Ordinance 19-0354 Underground Conduit System for Cables, Wires, and Similar Facilities for purpose of clarifying the location and administration of an underground conduit system for cables, wires, and similar facilities; requiring the Department of Transportation to administer and maintain the system and to prepare the plans and specifications for its construction, maintenance, and repair; limiting use of the conduit system to persons who have obtained certain permits and other legal authorizations and have paid certain annual charges; requiring the removal of unauthorized installations; providing for the voluntary and mandatory relocation of certain facilities; prohibiting tampering with, opening, or interfering with manholes or facilities in the conduit system; providing for records of and annual reporting by conduit users; authorizing the issuance, service, and enforcement of stop-work orders; imposing civil and criminal penalties for offenses; providing for a special effective date; and generally updating the laws governing the construction, use, maintenance, and repair of an underground conduit system for electrical, communication, and service cables, wires, and similar facilities.

The Baltimore City Office of Information and Technology (BCIT) works with the Department of Transportation during installation of fiber for CCTV cameras and other projects to determine availability of duct banks within the conduit system. Vendors installing fiber on behalf of BCIT within the City's conduit system are contractually required to follow all City codes and regulations.

BCIT concurs with the recommended modernizations of Subtitle 24 and recommends approval of Ordinance 19-0354.

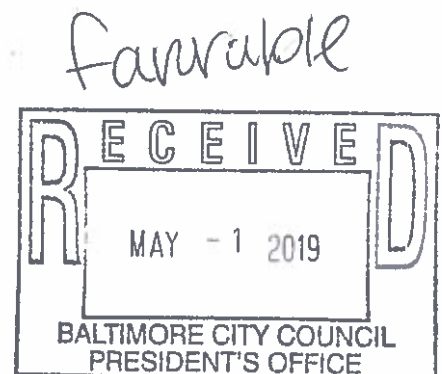
Respectfully,



Frank A. Johnson  
Chief Information Officer

FJ/lw

Cc: Jeff Amoros, Mayor's Office



CITY OF BALTIMORE

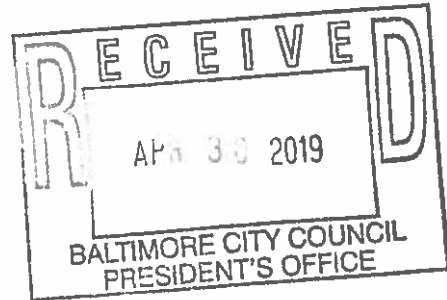
CATHERINE E. PUGH,  
Mayor



DEPARTMENT OF LAW  
ANDRE M. DAVIS, CITY SOLICITOR  
100 N. HOLLIDAY STREET  
SUITE 101, CITY HALL  
BALTIMORE, MD 21202

April 30, 2019

The Honorable President and Members  
of the Baltimore City Council  
Attn: Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202



Re: City Council Bill 19-0354 – Underground Conduit System for Cables, Wires and Similar Facilities

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0354 for form and legal sufficiency. The bill clarifies the location and administration of an underground conduit system for cables, wires, and similar facilities. It requires the Department of Transportation to administer and maintain the system and to prepare the plans and specifications for its construction, maintenance, and repair. The bill limits the use of the conduit system to persons who have obtained certain permits and other legal authorizations and have paid certain annual charges. It requires the removal of unauthorized installations, provides for the voluntary and mandatory relocation of certain facilities, and prohibits the tampering with, opening, or interfering with manholes or facilities in the conduit system. The bill provides for records of and annual reporting by conduit users, authorizes the issuance, service, and enforcement of stop-work orders, and imposes civil and criminal penalties for offenses. The bill contains special effective dates.

In 1892, twenty-six years before Baltimore became a home rule jurisdiction, the Maryland General Assembly granted Baltimore the power to construct a system of underground conduit and order overhead utility lines to be placed in the constructed conduit. *See* 1892 Laws of Maryland, Chapter. 200. The advent of home rule in 1918 provided the City independent legislative power to construct and regulate conduit use by the City and others, including the power to establish fees for conduit usage. *See* City Charter, Art. II, § 34(f). The Mayor and City Council implemented the delegated powers by adopting what is now City Code Article 26, Subtitle 23.

Council Bill 19-0354 revises Article 26, Subtitle 23. In its present incarnation, Subtitle 23 is largely antiquated. It no longer adequately protects the City's interests or recognizes some of the City's current practices involving the conduit system. The revision proposed by Council Bill 19-0354 comes in the aftermath of a public hearing held in May of 2018 on the state of the conduit system, a hearing which was required by Council Bill 18-0076R. The public hearing extensively

*D*

explored the disposition of the conduit system and provided guidance as to possible revisions. Thereafter Subtitle 23 was comprehensively reviewed by City staff and decisions were made to modernize its provisions that are now exhibited in the current bill. The Law Department was intimately involved in the review and in the drafting of the legislation.

There are no legal impediments to the adoption of this bill. Therefore the Law Department is prepared to approve the bill for form and legal sufficiency.

Sincerely,



Victor K. Tervala  
Chief Solicitor

cc: Andre M. Davis, City Solicitor  
Jeffrey Amoros, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Hilary Ruley, Chief Solicitor  
Ashlea Brown, Assistant Solicitor

# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Minutes - Final

### Judiciary and Legislative Investigations

---

Tuesday, May 7, 2019

10:10 AM

Du Burns Council Chamber, 4th floor, City Hall

---

19-0354

#### CALL TO ORDER

#### INTRODUCTIONS

#### ATTENDANCE

**Present** 6 - Member Eric T. Costello, Member Mary Pat Clarke, Member Leon F. Pinkett III, Member John T. Bullock, Member Edward Reisinger, and Member Robert Stokes Sr.

#### ITEMS SCHEDULED FOR PUBLIC HEARING

##### 19-0354

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

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

**Sponsors:** President Young, Sharon Green Middleton, Isaac "Yitzy" Schleifer, Brandon M. Scott, Zeke Cohen, Kristerfer Burnett, Robert Stokes, Sr., Leon F. Pinkett, III, John T. Bullock, Bill Henry, Ryan Dorsey, Eric T. Costello, Edward Reisinger, Mary Pat Clarke

**A motion was made by Member Clarke, seconded by Member Pinkett, III, that this Ordinance be Recommended Favorably. The motion carried by the following vote:**

**Yes:** 6 - Member Costello, Member Clarke, Member Pinkett III, Member Bullock, Member Reisinger, and Member Stokes Sr.

**ADJOURNMENT**

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

HEARING NOTES

Bill: 19-0354

Underground Conduit System for Cables, Wires, and Similar Facilities

Committee: Judiciary and Legislative Investigations

Chaired By: Councilmember Eric Costello

Hearing Date: May 7, 2019
Time: 10:25 AM to 10:35 AM
Location: Clarence "Du" Burns Chamber
Total Attendance: ~65
Committee Members in Attendance:
Eric Costello, Mary Pat Clarke, Edward Reisinger
Leon Pinkett, Robert Stokes, John Bullock

Bill Synopsis in the file? [X] yes [ ] no [ ] n/a
Attendance sheet in the file? [X] yes [ ] no [ ] n/a
Agency reports read? [X] yes [ ] no [ ] n/a
Hearing televised or audio-digitally recorded? [ ] yes [X] no [ ] n/a
Certification of advertising/posting notices in the file? [ ] yes [ ] no [X] n/a
Evidence of notification to property owners? [ ] yes [ ] no [X] n/a
Final vote taken at this hearing? [X] yes [ ] no [ ] n/a
Motioned by: Councilmember Clarke
Seconded by: Councilmember Pinkett
Final Vote: Favorable

Major Speakers

(This is not an attendance record.)

Frank Murphy, Department of Transportation
Tavon Braxton, Department of Transportation



---

**Major Issues Discussed**

1. Chairman Costello opened the proceedings.
2. Agency representatives confirmed their written reports and recommendations.
3. Frank Murphy, Acting Director of the Department of Transportation (DOT), discussed the background for the bill and the Department's report.
4. Councilmembers asked the following questions:
  - What is the significance of the bill? The bill will give DOT authority to manage the conduit system more effectively.
  - Is unauthorized entry or use of the conduit a problem, and are unlocked manholes a contributing factor? Those are potential issues, but they are not confirmed or shown by any data that DOT has at this point. The changes in this bill will allow DOT to better assess the issues.
  - What is the harm of unauthorized access? Unauthorized work in the conduit could damage other user facilities, and it deprives the City of necessary revenue to maintain the conduit.
  - Does DOT expect to find a large number of unauthorized installations? Any number would be speculation at this point, but the process in the bill will provide an opportunity to identify unauthorized installations and users, and deter any future unauthorized installations.
  - What is the source of revenue for the Conduit Enterprise Fund and it's allowed uses? The fund comes from fees paid by conduit users (\$27-30 million per year), and must be used to maintain and upgrade the system.

---

**Further Study**

Was further study requested?

Yes  No

If yes, describe.

---

**Committee Vote**

E. Costello: ..... Yea  
M. Clarke: ..... Yea  
J. Bullock: ..... Yea  
L. Pinkett: ..... Yea  
E. Reisinger: ..... Yea  
R. Stokes: ..... Yea

---

*Matthew Peters*

Matthew L. Peters, Committee Staff

Date: May 7, 2019

cc: Bill File  
OCS Chrono File

# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Agenda - Final

### Judiciary and Legislative Investigations

---

Tuesday, May 7, 2019

10:10 AM

Du Burns Council Chamber, 4th floor, City Hall

---

19-0354

#### CALL TO ORDER

#### INTRODUCTIONS

#### ATTENDANCE

#### ITEMS SCHEDULED FOR PUBLIC HEARING

19-0354

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

Sponsors:

President Young, Sharon Green Middleton, Isaac "Yitzy" Schleifer, Brandon M. Scott, Zeke Cohen, Kristerfer Burnett, Robert Stokes, Sr., Leon F. Pinkett, III, John T. Bullock, Bill Henry, Ryan Dorsey, Eric T. Costello, Edward Reisinger, Mary Pat Clarke

#### ADJOURNMENT

**THIS MEETING IS OPEN TO THE PUBLIC**

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director  
415 City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202  
410-396-7215 / Fax: 410-545-7596  
email: larry.greene@baltimorecity.gov

## BILL SYNOPSIS

**Committee:** Judiciary and Legislative Investigations

**Bill 19-0354**

---

### **Underground Conduit System For Cables, Wires, And Similar Facilities**

---

**Sponsor:** *President Young, et al*

**Introduced:** *March 18, 2019*

**Purpose:**

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

**Effective:** 30th day after the date it is enacted in part, and January 1, 2020 in part.

**Hearing Date/Time/Location:** May 7, 2019/10:10 a.m./Clarence "Du" Burns Chamber.

---

**AGENCY REPORTS**

City Solicitor	Favorable
Office of Information and Technology	Favorable
Baltimore Development Corporation	Favorable
Department of Finance	No Objection
Dept. of Transportation	

---

**ANALYSIS**

**Current Law**

Baltimore City Code Article 26, Subtitle 23 authorizes and directs the Department of Transportation ("DOT") to maintain the general system of conduits under the streets, lanes, and alleys of the City for the reception of wires otherwise strung over those streets, lanes, and alleys.

Subtitle 23 requires DOT to lease space in the conduits to any applicant who complies with the conditions set in the ordinance and any rules or regulations established by DOT. Additionally, DOT may require owners of overhead wires to relocate those wires into underground conduits. Tampering or opening the conduit without a permit is prohibited.

Subtitle 23 also authorizes the Board of Estimates to set the rates charged to users of the conduit system. The lease rates are based on the City's actual cost of owning, operating, and maintaining the conduit, and are charged to each user in proportion to the amount of conduit space used.

Other current laws relevant to the City's management and leasing of the conduit system include:

- Federal Telecommunications Act of 1996 (47 U.S.C. § 253) (generally barring local government actions that prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service).
- Maryland Code, Public Utilities § 12-301 et seq. (governing the conversion of existing overhead electric or communication facilities to underground locations).
- Chapter 200, Laws of Maryland 1892.

## **Bill Summary**

The bill repeals the existing Article 26, Subtitle 23 of the Baltimore City Code and enacts a new Article 26, Subtitle 23.

The new Subtitle 23 includes provisions similar to the current law regarding DOT's authorities and responsibilities, the setting and collection of fees for conduit users, the voluntary and mandatory relocation of above ground wires into the conduit system, and the prohibition on tampering with the conduit.

The new Subtitle 23 includes the following significant changes from the current law:

- Section 23-4 authorizes the Director of DOT to adopt procedures for issuing and enforcing administrative stop work orders for violations, in addition to other rules and regulations to implement the subtitle.
- Section 23-16 requires anyone who wishes to use the conduit system to first obtain a permit and any other required authorizations from DOT, empowers DOT to remove unauthorized installations from the conduit system, provides procedures for removal, and makes the owners of removed installations liable to DOT for the costs of removal.
- Section 23-21 requires DOT to identify each person whose facilities have been installed in the conduit system, the nature of the facilities, and the total linear footage of conduit occupied by those facilities. Section 23-21 further requires each user of the conduit system to report to DOT annually the location and linear footage of conduit occupied by their facilities, as well as any other information deemed necessary by DOT, and prohibits intentionally under- or mis-reporting.
- Section 23-26 provides for environmental and civil citations to enforce the subtitle, in addition to any other civil or criminal remedies authorized by law. Each day that a violation continues is a separate offense.
- Section 23-27 provides for criminal penalties of a fine of not more than \$1,000 or imprisonment for not more than 12 months or both fine and imprisonment for each violation of the subtitle. Each day that a violation continues is a separate offense.

The bill also amends Article 1, Subtitles 40 and 41 to include violations of Article 26, Subtitle 23 in the lists of violations within the jurisdiction of the Environmental Control Board and subject to civil citations. The enumerated penalty for a violation of Article 26, Subtitle 23 is a \$1000 fine.

Finally, the bill provides that the civil and criminal penalties will be effective for facility installations only if, on or after January 1, 2020, DOT has determined the installations to be unlawful. The remaining provisions of the bill will be effective 30 days after the date it is enacted.

---

**ADDITIONAL INFORMATION**

**Fiscal Note:** None

**Information Source(s):** Baltimore City Code; U.S. Code; Maryland Code; Zayo Group, LLC v. Mayor and City Council of Baltimore; Reporting Agencies; Bill 19-0354.

---

Analysis by:   
Analysis Date: May 3, 2019

Direct Inquiries to: (410) 396-1268



## CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations

Chairperson: Eric Costello

Date: May 7, 2019

Time: 10:10 AM

Place: Clarence "Du" Burns Chambers

Subject: Ordinance - Underground Conduit System for Cables, Wires, and Similar Facilities

CC Bill Number: 19-0354

**PLEASE PRINT**

**IF YOU WANT TO TESTIFY PLEASE CHECK HERE**



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	<b>TESTIFY</b>	FOR	AGAINST	YES	NO	WHAT IS YOUR POSITION ON THIS BILL?	LOBBYIST: ARE YOU REGISTERED IN THE CITY?
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

(\*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.

**CITY OF BALTIMORE  
COUNCIL BILL 19-0354  
(First Reader)**

---

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

---

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Transportation,  
Baltimore City Information Technology, Baltimore Development Corporation, Department of  
Finance

---

A BILL ENTITLED

1 AN ORDINANCE concerning

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

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

16 By repealing

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

21 BY adding

22 Article 26 - Surveys, Streets, and Highways  
23 New Subtitle 23 {"Underground Conduit System for Cables, Wires, and Similar Facilities"}  
24 Baltimore City Code  
25 (Edition 2000)

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



**Council Bill 19-0354**

1 BY repealing and reordaining, with amendments  
2 Article 1 - Mayor, City Council, and Municipal Agencies  
3 Section 40-14(c)(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,** City  
12 Code Article 26, Subtitle 23 {"Underground Conduits 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.

28 (D) *FACILITY.*

29 (1) *IN GENERAL.*

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

Council Bill 19-0354

1 (2) *EXCEPTIONS.*

2 "FACILITY" DOES NOT INCLUDE ANY CATENARY CABLE USED TO POWER A STREET  
3 RAILWAY.

4 (E) *PERSON.*

5 (1) *IN GENERAL.*

6 "PERSON" MEANS:

7 (I) AN INDIVIDUAL;

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

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

12 (2) *INCLUSIONS.*

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

16 § 23-2. *{RESERVED}*

17 § 23-3. **ADMINISTRATION.**

18 THE DEPARTMENT OF TRANSPORTATION IS RESPONSIBLE FOR ADMINISTERING AND  
19 ENFORCING THIS SUBTITLE.

20 § 23-4. **RULES AND REGULATIONS.**

21 (A) *DIRECTOR TO ADOPT.*

22 THE DIRECTOR OF TRANSPORTATION SHALL ADOPT RULES AND REGULATIONS TO CARRY  
23 OUT THIS SUBTITLE.

24 (B) *STOP-WORK ORDERS.*

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

29 (C) *FILING WITH LEGISLATIVE REFERENCE.*

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

**Council Bill 19-0354**

1 **§ 23-5. FEES FOR CONDUIT USE.**

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

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

5 (B) *BILLING AND PAYMENT.*

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

7 **§§ 23-5 TO 23-10. {RESERVED}**

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

9 **§ 23-11. LOCATION OF SYSTEM.**

10 A SYSTEM OF CONDUITS FOR THE RECEPTION OF ELECTRICAL, COMMUNICATION, AND SERVICE  
11 CABLES, WIRES, OR SIMILAR FACILITIES SHALL BE CONSTRUCTED WITHIN THE TERRITORY OR  
12 DISTRICTS DETERMINED BY THE DIRECTOR PURSUANT TO CHAPTER 200, LAWS OF MARYLAND  
13 1892.

14 **§ 23-12. DOT TO MAINTAIN SYSTEM.**

15 THE DIRECTOR S RESPONSIBLE FOR MAINTAINING THIS CONDUIT SYSTEM.

16 **§ 23-13. PLANS AND SPECIFICATIONS; WORK SUPERINTENDENCE.**

17 THE DIRECTOR SHALL:

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

20 (2) SUPERINTEND THAT WORK.

21 **§ 23-14. LABOR AND MATERIALS.**

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

25 **§ 23-15. {RESERVED}**

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

27 **§ 23-16. REQUIRED PERMIT AND AUTHORIZATIONS.**

28 (A) *PERMIT REQUIRED.*

**Council Bill 19-0354**

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

4 (B) *ADDITIONAL AUTHORIZATIONS.*

5 IN ADDITION TO PERMITS, THE DEPARTMENT MAY REQUIRE THE PERSON RESPONSIBLE FOR  
6 THE INSTALLATION TO OBTAIN OTHER AUTHORIZATIONS, INCLUDING LEASE AGREEMENTS,  
7 PRIOR TO ANY INSTALLATION.

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

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

11 (D) *REMOVAL OF UNAUTHORIZED INSTALLATIONS.*

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

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

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

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

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

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

24 (II) THE PERSON RESPONSIBLE FOR THE INSTALLATION IS LIABLE TO THE  
25 DEPARTMENT FOR ALL EXPENSES OF THE REMOVAL AND OF ANY  
26 CONSEQUENT REPAIRS NEEDED TO BE MADE TO THE CONDUIT.

27 **§ 23-17. VOLUNTARY RELOCATION OF FACILITIES.**

28 (A) *IN GENERAL.*

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

**Council Bill 19-0354**

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

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

4 **§ 23-18. MANDATORY RELOCATION OF FACILITIES.**

5 (A) *DIRECTOR MAY ORDER RELOCATION.*

6 THE DIRECTOR MAY:

7 (1) ORDER FACILITIES TO BE REMOVED FROM ABOVE THE STREETS AND PLACED  
8 UNDERGROUND IN THE CONDUIT SYSTEM IN ACCORDANCE WITH CHAPTER 200,  
9 LAWS OF MARYLAND 1892;

10 (2) ORDER FACILITIES TO BE MOVED FROM ONE UNDERGROUND CONDUIT LOCATION TO  
11 ANOTHER; AND

12 (3) USE METHODS THAT, IN THE JUDGMENT OF THE DIRECTOR, ARE NECESSARY TO  
13 PROTECT AND PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE  
14 CITY.

15 (B) *COMPLIANCE REQUIRED.*

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

18 (C) *RELOCATION BY DEPARTMENT.*

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

20 (1) THE DEPARTMENT MAY RELOCATE THE FACILITIES AND REMOVE ANY POLES  
21 REMAINING ABOVE THE STREETS; AND

22 (2) THE PERSON RESPONSIBLE FOR THE FACILITIES IS LIABLE TO THE DEPARTMENT FOR  
23 ALL EXPENSES OF THE RELOCATION AND OF THE REMOVAL OF POLES REMAINING  
24 ABOVE THE STREETS.

25 **§ 23-19. TAMPERING WITH CONDUIT.**

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

28 (1) A PERMIT FROM THE DEPARTMENT; AND

29 (2) ALL OTHER AUTHORIZATIONS REQUIRED BY THE DEPARTMENT.

30 **§ 23-20. {RESERVED}**

Council Bill 19-0354

1 § 23-21. SURVEY OF AND REPORTS BY CONDUIT USERS.

2 (A) DEPARTMENT TO SURVEY USERS.

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

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

7 (B) USERS TO REPORT ANNUALLY.

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

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

- 12 (I) ONE OR MORE MAPS SHOWING THE LOCATION OF ALL FACILITIES INSTALLED IN  
13 THE CONDUIT SYSTEM BY OR ON BEHALF OF THE PERSON;  
14 (II) THE TOTAL LINEAR FOOTAGE OF CONDUIT OCCUPIED BY THOSE FACILITIES; AND  
15 (III) ANY OTHER INFORMATION THAT THE DEPARTMENT DEEMS NECESSARY TO  
16 INCLUDE IN THE REPORT.

17 (C) UNDER OR MIS-REPORTING.

18 NO PERSON THAT FILES A REPORT UNDER THIS SECTION MAY INTENTIONALLY  
19 MISREPRESENT:

- 20 (1) THE NATURE OR LOCATION OF THE PERSON'S FACILITIES THAT HAVE BEEN  
21 INSTALLED IN THE CONDUIT SYSTEM;  
22 (2) THE TOTAL LINEAR FEET OF CONDUIT OCCUPIED BY THOSE FACILITIES; OR  
23 (3) ANY OTHER INFORMATION PROVIDED IN THE REPORT.

24 §§ 23-22 TO 23-25. {RESERVED}

25 PART 4. CIVIL AND CRIMINAL PENALTIES

26 § 23-26. ENFORCEMENT BY CITATION.

27 (A) IN GENERAL.

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

**Council Bill 19-0354**

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

3 (2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL  
4 CITATIONS"}.

5 (B) *PROCESS NOT EXCLUSIVE.*

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

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

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

10 **§ 23-27. CRIMINAL PENALTIES.**

11 (A) *IN GENERAL.*

12 ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE, A RULE OR REGULATION  
13 ADOPTED UNDER THIS SUBTITLE, A CONDITION IMPOSED ON A PERMIT ISSUED UNDER THIS  
14 SUBTITLE, OR A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE IS GUILTY OF A  
15 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAT \$1,000 OR  
16 IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR BOTH FINE AND IMPRISONMENT FOR  
17 EACH OFFENSE.

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

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

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

21 ***Subtitle 40. Environmental Control Board***

22 **§ 40-14. Violations to which subtitle applies.**

23 (e) *Provisions and penalties enumerated.*

24 (4b) ***Article 26. Surveys, Streets, and Highways***

25 Subtitle 6. Building Address Numbers \$ 25

26 SUBTITLE 23. UNDERGROUND CONDUITS \$1,000

**Council Bill 19-0354**

***Subtitle 41. Civil Citations***

1

2 **§ 41-14. Offenses to which subtitle applies – Listing.**

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

4 **SUBTITLE 23. UNDERGROUND CONDUITS** **\$1,000**

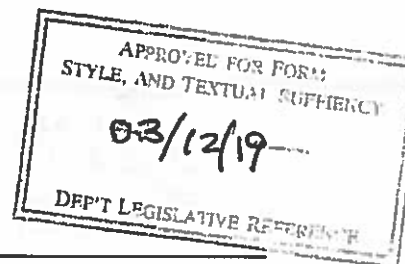
5 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
6 are not law and may not be considered to have been enacted as a part of this or any prior  
7 Ordinance.

8 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the civil and criminal penalties  
9 imposed by Article 26, § 23-26 and § 23-27, and by Article 1, § 40-14(e)(4b)(Subtitle 23) and  
10 § 40-14(3a)(Subtitle 23), as added by this Ordinance, shall be effective for facility installations  
11 only if, on or after January 1, 2020, the Department of Transportation has found or determiner  
12 the installations to be unlawful.

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



**INTRODUCTORY\***  
**CITY OF BALTIMORE**  
**COUNCIL BILL \_\_\_\_\_**



Introduced by: President Young

**A BILL ENTITLED**

**AN ORDINANCE concerning**

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

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

**By repealing**

Article 26 - Surveys, Streets, and Highways  
Subtitle 23 {"Underground Conduits for Wires"}, in its entirety  
Baltimore City Code  
(Edition 2000)

**By adding**

Article 26 - Surveys, Streets, and Highways  
New Subtitle 23 {"Underground Conduit System for Cables, Wires, and Similar Facilities"}  
Baltimore City Code  
(Edition 2000)

**By repealing and reordaining, with amendments**

Article 1 - Mayor, City Council, and Municipal Agencies  
Section 40-14(e)(4b) {"Article 26"}  
Baltimore City Code  
(Edition 2000)

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

\* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.  
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies  
Section 41-14(3a) {"Article 26"}  
Baltimore City Code  
(Edition 2000)

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

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

**Baltimore City Code**

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

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

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

**§ 23-1. DEFINITIONS.**

(A) *IN GENERAL.*

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

(B) *DEPARTMENT.*

"DEPARTMENT" MEANS THE CITY DEPARTMENT OF TRANSPORTATION.

(C) *DIRECTOR.*

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

(D) *FACILITY.*

(1) *IN GENERAL.*

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

(2) *EXCEPTIONS.*

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

(E) *PERSON.*

(1) *IN GENERAL.*

"PERSON" MEANS:

- (I) AN INDIVIDUAL;
- (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND; OR
- (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(2) *INCLUSIONS.*

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

**§ 23-2. {RESERVED}**

**§ 23-3. ADMINISTRATION.**

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

**§ 23-4. RULES AND REGULATIONS.**

(A) *DIRECTOR TO ADOPT.*

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

(B) *STOP-WORK ORDERS.*

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

(C) *FILING WITH LEGISLATIVE REFERENCE.*

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

**§ 23-5. FEES FOR CONDUIT USE.**

(A) *BOARD OF ESTIMATES TO SET.*

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

(B) *BILLING AND PAYMENT.*

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

**§§ 23-5 TO 23-10. {RESERVED}**

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

**§ 23-11. LOCATION OF SYSTEM.**

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

**§ 23-12. DoT TO MAINTAIN SYSTEM.**

THE DIRECTOR S RESPONSIBLE FOR MAINTAINING THIS CONDUIT SYSTEM.

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

THE DIRECTOR SHALL:

- (1) CAUSE TO BE PREPARED THE PLANS AND SPECIFICATIONS FOR THE WORK REQUIRED TO CONSTRUCT, MAINTAIN, AND REPAIR THE CONDUIT SYSTEM; AND
- (2) SUPERINTEND THAT WORK.

**§ 23-14. LABOR AND MATERIALS.**

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

**§ 23-15. {RESERVED}**

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

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

**(A) PERMIT REQUIRED.**

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

**(B) ADDITIONAL AUTHORIZATIONS.**

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

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

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

(D) *REMOVAL OF UNAUTHORIZED INSTALLATIONS.*

- (1) THE PROCEDURES IN PARAGRAPH (2) OF THIS SUBSECTION FOR THE REMOVAL OF AN UNAUTHORIZED INSTALLATION ARE IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL ENFORCEMENT ACTION OR PENALTY AUTHORIZED BY PART 4 {"CIVIL AND CRIMINAL PENALTIES"} OF THIS SUBTITLE OR OTHERWISE AUTHORIZED BY LAW.
- (2) IF AN INSTALLATION IS DETERMINED TO HAVE BEEN INSTALLED WITHOUT THE REQUIRED PERMIT OR OTHER AUTHORIZATIONS:
  - (I) THE DEPARTMENT SHALL NOTIFY THE PERSON RESPONSIBLE FOR THE INSTALLATION AND ORDER ITS REMOVAL;
  - (II) THE PERSON RESPONSIBLE FOR THE INSTALLATION SHALL REMOVE THE INSTALLATION WITHIN 30 DAYS OF THE NOTICE; AND
  - (III) IF THE INSTALLATION IS NOT REMOVED WITHIN THE REQUIRED PERIOD:
    - (I) THE DEPARTMENT MAY REMOVE THE INSTALLATION; AND
    - (II) THE PERSON RESPONSIBLE FOR THE INSTALLATION IS LIABLE TO THE DEPARTMENT FOR ALL EXPENSES OF THE REMOVAL AND OF ANY CONSEQUENT REPAIRS NEEDED TO BE MADE TO THE CONDUIT.

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

(A) *IN GENERAL.*

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

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

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

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

(A) *DIRECTOR MAY ORDER RELOCATION.*

THE DIRECTOR MAY:

- (1) ORDER FACILITIES TO BE REMOVED FROM ABOVE THE STREETS AND PLACED UNDERGROUND IN THE CONDUIT SYSTEM IN ACCORDANCE WITH CHAPTER 200, LAWS OF MARYLAND 1892;
- (2) ORDER FACILITIES TO BE MOVED FROM ONE UNDERGROUND CONDUIT LOCATION TO ANOTHER; AND

- (3) USE METHODS THAT, IN THE JUDGMENT OF THE DIRECTOR, ARE NECESSARY TO PROTECT AND PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITY.

(B) *COMPLIANCE REQUIRED.*

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

(C) *RELOCATION BY DEPARTMENT.*

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

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

**§ 23-19. TAMPERING WITH CONDUIT.**

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

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

**§ 23-20. {RESERVED}**

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

(A) *DEPARTMENT TO SURVEY USERS.*

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

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

(B) *USERS TO REPORT ANNUALLY.*

- (1) NO LATER THAN JUNE 30 OF EACH YEAR, EACH PERSON WHOSE FACILITIES HAVE BEEN INSTALLED IN THE CONDUIT SYSTEM SHALL REPORT ANNUALLY TO THE DEPARTMENT, IN THE FORMAT THAT THE DEPARTMENT REQUIRES.
- (2) THE REPORT REQUIRED BY THIS SUBSECTION SHALL CONSIST OF:

- (I) ONE OR MORE MAPS SHOWING THE LOCATION OF ALL FACILITIES INSTALLED IN THE CONDUIT SYSTEM BY OR ON BEHALF OF THE PERSON;
- (II) THE TOTAL LINEAR FOOTAGE OF CONDUIT OCCUPIED BY THOSE FACILITIES; AND
- (III) ANY OTHER INFORMATION THAT THE DEPARTMENT DEEMS NECESSARY TO INCLUDE IN THE REPORT.

(C) *UNDER OR MIS-REPORTING.*

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

- (1) THE NATURE OR LOCATION OF THE PERSON'S FACILITIES THAT HAVE BEEN INSTALLED IN THE CONDUIT SYSTEM;
- (2) THE TOTAL LINEAR FEET OF CONDUIT OCCUPIED BY THOSE FACILITIES; OR
- (3) ANY OTHER INFORMATION PROVIDED IN THE REPORT.

**§§ 23-22 TO 23-25. {RESERVED}**

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

**§ 23-26. ENFORCEMENT BY CITATION.**

(A) *IN GENERAL.*

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

- (1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40 {"ENVIRONMENTAL CONTROL BOARD"}; OR
- (2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL CITATIONS"}.

(B) *PROCESS NOT EXCLUSIVE.*

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

(C) *EACH DAY A SEPARATE OFFENSE.*

EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

**§ 23-27. CRIMINAL PENALTIES.**

(A) *IN GENERAL.*

ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE, A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE, A CONDITION IMPOSED ON A PERMIT ISSUED UNDER THIS

SUBTITLE, OR A STOP-WORK ORDER ISSUED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

(B) *EACH DAY A SEPARATE OFFENSE.*

EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

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

### ***Subtitle 40. Environmental Control Board***

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

(c) *Provisions and penalties enumerated.*

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

Subtitle 6. Building Address Numbers	\$ 25
SUBTITLE 23. UNDERGROUND CONDUITS	\$1,000

### ***Subtitle 41. Civil Citations***

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

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

SUBTITLE 23. UNDERGROUND CONDUITS	\$1,000
-----------------------------------	---------

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

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

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



**ACTION BY THE CITY COUNCIL**

MAR 18 2019

FIRST READING (INTRODUCTION) \_\_\_\_\_ 20 \_\_\_\_\_

PUBLIC HEARING HELD ON May 7, 2019 \_\_\_\_\_ 20 \_\_\_\_\_

COMMITTEE REPORT AS OF May 13, 2019 \_\_\_\_\_ 20 \_\_\_\_\_

FAVORABLE \_\_\_\_\_ UNFAVORABLE \_\_\_\_\_ FAVORABLE AS AMENDED \_\_\_\_\_ WITHOUT RECOMMENDATION

*E. F. [Signature]*

Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

MAY 13 2019

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING \_\_\_\_\_ JUN 11 2019

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

WITHDRAWAL \_\_\_\_\_ 20 \_\_\_\_\_

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

\_\_\_\_\_  
President

\_\_\_\_\_  
Chief Clerk