

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; proving 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(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,** 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

§ 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:

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

§ 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 determiner 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 30th day after the date it is enacted.