

**City of Baltimore
Department of Transportation**



***Rules and Regulations for
Excavating and Restoring, and Use of Streets or Public
Ways in the City of Baltimore***

June 1, 2020

Steve Sharkey, Director

Preface

These Rules and Regulations , sometimes referred to below as the ‘Street Cuts Policy’ or the ‘Policy’, are established under the provisions of Article 26, Surveys, Streets, and Highways Subtitles 15, 19 and 20 of the Baltimore City Code, which regulate respectively Street Cuts, Permits for Grading and Paving, and Builder’s Use of Streets.

These Rules and Regulations shall take effect upon adoption by the Director of Transportation and anything heretofore adopted as Regulations that may be in conflict with the provisions contained herein shall be considered amended or superseded on and after the effective date of these Rules and Regulations.

The Department of Transportation (“DOT”) has separately adopted a set of standards governing different kinds of work in the public way and is found at:

<https://transportation.baltimorecity.gov/transportation/bookofstandards>

All those issued permits for work in the public way are required to adhere to these standards. The failure to do so is grounds for the issuance of a fine.

Permits issued by DOT to perform work in the public way may be subject to one or more “standard conditions” as identified in the permit. All those issued permits for work in the public way are required to adhere to such standard conditions as indicated in the permit. The failure to do so is grounds for the issuance of a fine.

These Rules and Regulations are intended to be consistent with all provisions of the Baltimore City Code. To the extent that there is any conflict between these Rules and Regulations and the City Code, the City Code shall apply to the extent of the conflict.

The failure to adopt a specific rule or regulation with regard to a specific provision of Article 26 of the City Code is not to be interpreted as an expression of DOT policy that such provision of the City Code will not be enforced.

ADOPTED AND APPROVED:

Steve Sharkey, Director
Director of Transportation

Date: _____

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Transportation Office of Street Cuts Division**

Purpose:

Pursuant to Baltimore City Charter and Baltimore City Code Article 26, Subtitle 15 – Street Cuts, any excavation on or in a public way by or on behalf of any public or private utility or any other person must be reviewed by the Department of Transportation to determine if a permit for the excavation (Street Cuts) is required. Pursuant to Baltimore City Code, Article 26, Subtitle 19 – Permits for Grading and Paving, any person who wants to perform any grading, paving, or repaving of any public street, lane, bike facility or alley to be used by the public, in accordance with the City Building Code, must obtain a permit from the Director of Transportation. Pursuant to Baltimore City Code, Article 26, Subtitle 20 – Permits for Builder’s Use of Streets, any builder who wants to use a part of the street, bike facility or sidewalk in front of its property, in accordance with the City Building Code, must obtain a permit from the Director of Transportation. The purpose of these Rules and Regulations is to ensure proper excavation of the public way, complete restoration of the public way to match preexisting conditions and proper use of the public way while work is ongoing.

Authority:

Article 26, Subtitle 15-5 of the Baltimore City Code authorizes the Department of Transportation to set rules and regulations governing Street Cuts in the City’s public ways. Article 26, Subtitle 20-4 authorizes the Department of Transportation to include any other regulations, terms, and conditions that the Director considers necessary for the protection of the public interest. The Baltimore City Charter and Baltimore City Code may be found online at <http://legislative.reference.baltimorecity.gov/city-codes>.

Definitions:

“Anticipated Major Work” means work that involves projects that require excavation of a trench or trenches in one or more City blocks.

“Bicycle Facility (or bike facility)” means infrastructure and provisions to accommodate or encourage bicycling, including bike lanes, parking and storage **facilities**, and shared roadways specifically designated for **bicycle** use.

“Department” or “DOT” means the Department of Transportation.

“Director” means the Director of Transportation or the Director’s designee.

“Decorative Surfaces” means any decorative surface including but limited to dedicated bus lane red pavement markings, bike lane green pavement markings, cobblestone/granite pavement, brick pavers, concrete pavers, granite curbs, brick gutters, stamped concrete and asphalt pavement, graphics or other designated colored pavement surface.

“DOT” means the Department of Transportation

“Duration” means the time during which an activity required by the street cut work continues.

“Emergency” means an emergency where “an excavation is needed, as a result of an unforeseen event, to prevent or abate a potential danger to life, health, or property.

“Excavation” means any work for or in connection with the installation, improvement, maintenance, or repair of any facilities that:

1. Involves the displacement or removal of materials; and
2. Is performed in or below the surface of a public way.

“Facilities” means any equipment or other property that is located or proposed to be located in a public way.

1. Facilities includes access holes, cables, cabinets, ducts, conduits, converters, drains, handholds, pipes, splice boxes, surface location markers, tracks, tunnels, valves, vaults, wires, or other appurtenances or property.

“Includes” or “including” means by way of illustration and not by way of limitation.

“Landscaped Areas” means any planted area, planter bed, median, or other space containing plant material (grass, flowers, shrubs, trees, etc.); mulch, or synthetic turf.

“MOT” means maintenance of traffic

“Pavement Marking” means any kind of device or material that is used on a road surface to convey official information to the traveling public.

“Performance Security” means any one or a combination of (1) a performance bond; (2) an irrevocable letter of credit; or (3) a cash deposit.

“Person” means

1. An individual;
2. A receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
3. A partnership, firm, association, corporation, or other entity of any kind.
4. “Person” includes, except as otherwise specifically provided, a governmental entity or an instrumentality or unit of a governmental entity.

“Primary Street” means a street identified as an arterial per the FHWA roadway classification system. A map of the identified arterial roadways within Baltimore City can be found at BaltimoreCity.gov/Transportation

“Public Way” means the entire area within the boundary lines of any public street, alley, sidewalk, footway, or other right-of-way, whether acquired by purchase, grant, dedication, or otherwise.

“ROW” means Right-of-Way

“Right of Way Permit” or “ROW Permit” means any permit issued by the Department for the temporary use of the public way, which includes but is not limited to a Street-cuts permit, regardless as to the type of specific use being authorized.

“Separate Offense” means each day that a violation continues.

“Street-cuts permit” means any permit required by or issued under subtitle 15, of Article 26 of the Baltimore City Code. Other ROW permits to use the public way may be issued under Subtitle 19, and 20 of Article 26 of the Baltimore City Code.

“TCP” means Traffic Control Plans

“Unsafe Condition” means an unsatisfactory physical condition existing at a Street Cuts location in the public way that varies from a normal accepted safe condition for highway, traffic, bicyclist, and pedestrian and can result in injury, death, or property damage, if not corrected properly.

“Utility” means any person that owns or operates facilities used to provide electrical, gas, stream, water, sewer, telecommunications, information, video, or other services to customers.

LINKS:

Department of Transportation Website

<https://transportation.baltimorecity.gov>

Department of Transportation Right-of-Way Division Webpage

<https://transportation.baltimorecity.gov/transportation-divisions/right-of-way>

<https://transportation.baltimorecity.gov/quick-forms>

Department of Transportation Street Cuts Section Forms and Baltimore City
Department of Transportation Standards

<https://transportation.baltimorecity.gov/electronic-street-cut-notification-form>

<https://transportation.baltimorecity.gov/transportation/bookofstandards>

*City of Baltimore Department of Public Works Specifications for Materials,
Highways, Bridges, Utilities, and Incidental Structures*

<https://generalservices.baltimorecity.gov/gs-major-projects/greenbook>

Baltimore City Legislative reference

<https://legislativereference.baltimorecity.gov/city-codes>

Procedures on Applying for a Street-Cut Permit under Subtitle 15:

Baltimore City Code Article 26, Subtitle 15-11 requires that a Street-cut permit be obtained as follows:

In general

No person may excavate on or in a public way without first obtaining a Street-cut permit unless: The work is emergency excavation performed in accordance with Subtitle 15-13 **Emergency Excavation**.

Application

Applications are processed through the Department of Transportation Right-of-Way Permits Section located at The Councilman Harry S. Cummings Building, 401 East Fayette Street, Lower Level, Baltimore, Maryland 21202. The Temporary Use of Right-of-Way Permit may be obtained at: <https://transportation.baltimorecity.gov/quick-forms>.

Scroll down to **Temporary Use of a Right-of-Way Application**. Email the completed form along with pertinent attachments (engineering plans, traffic control plans, sketches, etc.) and required information to row.permit.documents@baltimorecity.gov.

1. Drawings or acceptable sketches must include the size and location (distance from face of curb and nearest intersection) of each Street Cut.
2. Drawings must include a pavement restoration detail(s) or reference the applicable Book of Standards detail(s) found at <https://transportation.baltimorecity.gov/transportation/bookofstandards> and information on the type of street (pavement type).
3. Drawings must include a final pavement marking plan of reference the applicable Book of Standards detail(s) for roadways with existing pavements markings including bicycle facilities, parking facilities, crosswalks, and other pedestrian pavement marking.
4. The City of Baltimore does not allow directional drilling for electrical facilities within the City right-of-way. Directional drilling for other facilities (sanitary, gas, etc.) are not allowed without written approval from the DOT Director.
5. All disturbed pavements, bicycle facilities, sidewalks, and curbs shall be replaced in kind.
6. Traffic Control Plans (a “TCP”) are required if any of the following conditions are met:
 - A. Sidewalk closure or detour of any duration
 - B. Bicycle facility closure or detour of any duration
 - C. Roadway closure or detour of any duration on a local roadway
 - D. TCP is required for other circumstances where the contractor must provide additional maintenance of traffic (including bicyclists and pedestrians) as deemed necessary to facilitate unhindered travel for all users.
 - E. Any work that impacts bicycle, pedestrian or vehicular traffic on one of the following roadway classes. Refer to the **Roadway Functional Classification** map located at and click on **Map Gallery** <https://transportation.baltimorecity.gov>
 - Collector
 - Minor Arterial

- Other Principal Arterial
- Freeway and Expressway
- Interstate Principal Arterial

A copy of the approved TCP must be kept by the contractor at the work site at all times so that an inspector is able to review it. The failure to obtain an approved TCP when required to do so, or to keep a copy at the work site, or to adhere to the conditions of the TCP is a violation of the permit and is grounds for the issuance of a fine, or if the violation is not immediately corrected, also grounds for the issuance of a stop work order to the extent that DOT believes that public safety requires.

F. No equipment, materials, or other construction matter is permitted to be staged, stored, in the bike facilities, on sidewalks, or within other non-motorized travel facilities unless the contractor obtains prior written approval and any additional permits required.

7. The Contractor is required to submit As-Built drawings of the work upon completion.

The Director may impose conditions on the permit as necessary or appropriate to preserve and maintain the health, safety, welfare, and convenience of the public. The Applicant or Applicants listed on the Temporary Use of the Right-of-Way Permit application is responsible for any and all work performed under the permit. The Department recommends that the contractor actually responsible for the work being performed be identified as the applicant for the permit even if another party joins in the application for the reason that the Department will provide any notices concerning the work to the holder or holders of the permit.

Application for a Temporary Use of Right-of-Way Permit for Street Cuts requires:

- a. The applicant name and contact information.
- b. The Contractor and contact information.
- c. Work location/address.
- d. Description of proposed work.
- e. Information for the Street-cut including:
 - (1) Requested start date/time
 - (2) Requested end date/time
 - (3) Lane, bicycle facility or sidewalk closure
 - (4) Steel Plates
 - (5) Length of trench
 - (6) Depth of Trench
 - (7) Width of Trench
 - (8) Weekend work
 - (9) Night Work
 - (10) Traffic Control Plan (TCP)
 - (11) Estimated number of Street Cuts
 - (12) Drawing showing the location, type, size, and TCP

- f. Contractors are to provide evidence of a \$25,000.00 Performance Bond or Deposit (Minimum Performance Security)
 - A single \$25,000.00 deposit may be used for multiple permits by the same Contractor;
 - \$500 Minimum; and
 - \$100 per Square Yard
- g. Contractors who fail to maintain a minimum performance security, as determined by the Director, shall be prohibited from working in the Public Right-of-Way unless specifically authorized by the Director. Performance Security may be any one or a combination of:
 - (i) a performance bond;
 - (ii) an irrevocable letter of credit; or
 - (iii) a cash deposit.
- h. No Street-cut permit may be issued to any person unless that person submits Performance Security as required by this section.
- i. The Performance Security must be approved:
 - (i) as to form and legal sufficiency by the City Solicitor; and
 - (ii) as to amount by the Director.
- j. The Performance Security must serve to indemnify and save the City harmless from:
 - (i) any cost, liability, expense, claim, or suit for damages in any manner arising out of or resulting from the work done under the permit; and
 - (ii) any loss or cost by reason of alleged failure to restore the public way to required conditions and standards.
- k. Multi-permit Security may be allowed under certain conditions:
 - (i) The Director allows the Performance Security to cover all street-cuts permits issued from time to time to any one person.
 - (ii) The Director may require that the amount of the security be increased to an amount sufficient in the Director's judgment to protect the City, based on the volume of work undertaken by the person or the number of permits issued to the person.
- l. 24-hour point of contact (name & phone number for emergencies)

City Agencies doing work in the right-of-way are required to provide and maintain the same information as any permit request, including:

- A. The authorized representative of the Contractor doing the work.
- B. 24-hour emergency contact information (name, number and email address).

- C. Three-year (or long term) plan of anticipated major work involving Street Cuts in the public right-of-way.
- D. Completing and submitting a Temporary Use of Right-of-Way Permit within 18 hours of beginning any emergency excavation (or on the next business day if City offices are closed) every time. Check off ‘**Blanket Permit – Emergency Work**’ on the permit application.
- E. The minimum insurance requirements of the Agency and their Contractor must meet the permit requirements.

Street-Cut permit issued:

A Street-Cut Permit may be issued upon provision of the required information, receipt of the required permit fees and payment of the performance security required.

Each street-cut permit shall specify:

- (1) A start date on which work is first authorized to begin;
- (2) An end date by which all work, inspections, and approvals must be completed. It is the contractor’s responsibility to schedule the work and notify DOT of completion so that sufficient time is provided for the work to be inspected and approved prior to the permit’s end date. Generally speaking, if DOT is notified of the work’s completion 48 hours before the end date of the permit, this will be deemed to be compliant with this requirement.
- (3) Expiration;
 - Unless extended by the Department, a street-cut permit expires if the work to be done under the permit:
 - (1) Has not begun within 30 calendar days of the start date;
 - (2) Is not pursued diligently; or
 - (3) Is not completed by the end date.
 - (4) A Street-Cut Permit is not transferable.

Emergency Excavation

Emergency Excavation **requires** a permit.

A person may conduct an emergency excavation without first obtaining a street-cut permit **only if**:

- (1) The excavation is needed, as a result of an unforeseen event, to prevent or abate a potential danger to life, health, or property;
- (2) Before undertaking the excavation:
 - (i) The person notifies the Director of the emergency by calling Street Cuts Section Between the hours of 7AM to 4:30PM M-F; 410-396-2889; the DOT Transportation Management Center (TMC) at 443 984-2189 24 hours/day; or by email to streetcuts@baltimorecity.gov 24 hours/day.
 - (ii) The Director authorizes the person to proceed with the excavation; and

- (3) The person obtains a street-cut permit for the excavation:
 - (i) Within 18 hours after beginning the excavation; or
 - (ii) When City Offices and the Department of Transportation offices are closed, on the next business day that offices are open.

(4) Limitations.

Under no circumstances may an emergency excavation be closed before:

- (i) A street-cut permit is issued; and
- (ii) The work is inspected and approved by the Department.

Blanket Permits

A Blanket Permit may be issued to utility companies and The Department of Public Works (DPW) for **EMERGENCY WORK ONLY**. All emergency work whether performed under a blanket permit or a site-specific permit must be in accordance with Article 26 Subtitle 15-13.

Street-Cut Permit Fees:

Fees for street-cut permits shall be assessed in accordance with a fee schedule established by the Director, with the approval of the Board of Estimates (BOE). The Street-cut Permit Fees are in addition to the Temporary Use of The Right Of Way Permit Fee.

Current Street-Cut Permit Fees listed below may be updated from time to time, subject to approval by the City of Baltimore Board of Estimates (BOE).

FEE	AMOUNT	FREQUENCY
Street Cuts Fee	\$100 Cut/\$65.00 Week	Each Cut/Week
Test Holes (Test Pits)	\$100 Cut/\$65.00 Week	Each Cut/Week

Additional fees may be assessed as outlined in this Street Cuts Policy and as allowed by Law.

Baltimore City Code Article 26, Sections 15-41 and 15-42 provide that cutting into a publicly-owned street without a permit is illegal and subjects the violator to criminal penalties under Article 26, Subtitle 20-7 and civil penalties including fineable offenses under Article 26, Subtitle 20-7.

Performance Schedules and Standards:

Baltimore City Code Article 26, Subtitle 15 requires the following for each Street Cut location permitted:

Display of Permit

Any person doing excavation work must:

- Maintain the appropriate street-cut permit on site at all times; and
- Exhibit the permit when requested by the Department.

Work schedule

No person may begin work under a street-cut permit until:

- The start date specified in the permit.
- **Notwithstanding the start date on the permit, the permittee must also provide notification to the Street Cuts Section by email to streetcuts@baltimorecity.gov a minimum of 48 hours prior to the time it intends to actually start work, including the permit number for the work and sketch drawing showing the location of the work.**
- The permittee must diligently pursue the work until its completion.
- The permittee must call the TMC everyday work is ongoing:
 - in the morning prior to beginning work that the crew is on site
 - In the afternoon before leaving the site that work is completed for day
- All work to be done under a street-cut permit must be completed, inspected, and approved before the end date specified in the permit. If the work is interrupted by a Baltimore City Agency, the permittee is required to notify the Street Cuts Section as soon as possible and must provide the following information: permit number, location, City Agency involved, City Agency contact person, City Agency work order number, expected length of the delay, and procedures taken to secure the site. Upon verification of the delay by a City Agency, the Street Cuts Section will notify the permittee of such additional time as will be allowed to account for the interruption as well as any additional requirements pertaining to the permit.
- **Emergency Excavation** must be performed in accordance with Baltimore City Code Article 26 Subtitle 15-13.

Securing Public Way

At the end of each workday, the permittee must secure and make safe the public way:

- With temporary fill or paving;
- By trench plating; or (steel plates)
- By other protective measures as required by the Department.

Decorative or Landscaped Areas

Before disturbing decorative surfaces, streetscapes, and landscaped areas, the applicant for a street-cut permit must first provide proof to the Street Cuts Section that an

alternative to such action is unavailable. The permit holder must restore the decorative or landscaped area to its preexisting condition.

Bicycle Facilities

Before disturbing existing bicycle facilities, the applicant for a street-cut permit must provide proof to the Street Cuts Section that an alternative to such action is unavailable. The permit holder must restore the bicycle facilities to preexisting conditions.

Restoration

Restoration of the Street Cuts area must

- Comply with all conditions and other requirements of the permit;
- Conform with current rules, regulations, and standards of Baltimore City;
- When completed, match preexisting conditions.

Pavement Markings

A meeting with the Traffic Division shall be held prior to any work being started on the roadway to review and develop a pavement marking plan for the affected roadway. Roadways with bicycle facilities require a meeting with the Traffic Division and the Bicycle Planning Section to review and develop a pavement marking plan and demarcation materials (flex posts, monolithic curbs, vertical barriers, and other warning surface treatments for the affected roadway). The Maryland Manual on Uniform Traffic Control Devices (MdMUTCD) can be found at

https://www.roads.maryland.gov/mmutcd/2011_rev122011_mdmucd_complete.pdf

Locating or Relocating Poles

Pursuant to Article 26, Subtitle 15, 19 and 20 before erecting or relocating any pole, the applicant for a Street-cut permit must agree, for itself and its successors in interest, to the following conditions:

Locating Pole:

- The pole may be placed only in the position that the Director specifies.
- The pole location cannot create any ADA non-compliance.

Removal or Relocation:

- If, at any time, the Director orders the pole to be removed or relocated, the pole must be removed or relocated within 3 days of the order or within the time specified in the order.
- All costs of removing or relocating the pole, including the cost of all needed repairs to the public way, will be borne by the permit holder or its successors in interest.

1. An Order to Remove or Relocate a Pole issued by the Department must:
 - (a) be in writing;
 - (b) signed by the Director or the designee of the Director; and

(c) contain the following:

- (1) Name of the permit holder;
- (2) Facts that support issuing a pole removal/relocation order;
- (3) The location of the pole;

2. The Department must serve a pole removal/relocation Order by:

- (a) delivering it to any employee, agent, contractor, or sub-contractor of the permit holder on site;
- (b) mailing or emailing a copy of the order to the address on file for the permit holder; or
- (c) fax to the permit holder to the fax number on file for the permit holder.

Pavement Repairs and Restoration:

Repairs will be done in accordance with Baltimore City DOT Standards BC-576.18-1, BC-576.18-2, BC-576.19-1, BC576.19-2, and BC-576.20-1, BC576.20-2, regardless of the cut type. These details may be found on DOT's website at:

<https://transportation.baltimorecity.gov/transportation/bookofstandards>

Additional Requirements for Pavement Repairs

The DOT Street Cuts Division has the authority to increase the requirements of pavement restoration beyond the minimum standards shown in the Standard Details based on site conditions and Street Cuts permit application information.

- Whenever a utility cut is within five feet (5') of another cut whether preexisting or under the new permit, both cuts shall be encapsulated into a single patch. This must be accomplished either by milling away the intervening existing surface to allow for a single surface patch when one cut is preexisting and one cut is new, or by combining the cuts into a single full-depth patch when both cuts are new. Such combined patches are subject to applicable Baltimore City DOT Standards.
- During resurfacing, the longitudinal pavement joints must be constructed within six inches (6") of the lane lines, not within the travel lanes.
- If more than fifty percent (50%) of an asphalt or asphalt overlaid (composite) roadway is disturbed during longitudinal and/or transverse trenching, the entire block, curb to curb (or to the median curb if one exists), must be milled and resurfaced.
- If an asphalt or asphalt overlaid (composite) intersection is trenched diagonally or if more than fifty percent (50%) of the intersection is disturbed during longitudinal and/or transverse trenching, the entire intersection must be milled and resurfaced.
- All utility cuts must be backfilled and compacted in accordance with Baltimore City Standards as outlined in Article 32.01.10 of the *City of Baltimore Department of Public*

Works Specifications for Materials, Highways, Bridges, Utilities, and Incidental Structures (the 'Green Book'). <https://generalservices.baltimorecity.gov/gm-major-projects/greenbook>

Suitable fill material must be placed in 6" lifts and tamped with a mechanical tamper. Material one-foot below subgrade must be compacted to 92%. Material in the top one-foot must be compacted to 97%. Per modified proctor ASTM D1557 (AASHTO T180) In lieu of borrow, CR-6 or excavation fills, #57 stone may be used. It must be placed in no greater than one-foot lifts and tamped with a mechanical tamper.

- Crusher Run Aggregate (CR-6) or Graded Aggregate Base (GAB) must be used for the proposed roadway paving sub-base meeting the requirements of Article 32 11 23.10 of the Green Book. **Recycled Concrete (RC-6)** may not be used for the sub-base material.
- The Contractor must supply compaction testing results for any paving patch greater than one thousand square feet (1,000 ft²) in area and/or any trench longer than one hundred feet (100 ft.). A copy of the compaction test results, along with the relevant location, work date(s), and permit number, must be submitted to the Department at the following e-mail address within 24 hours of the compaction: streetcuts@baltimorecity.gov

Final Pavement Restorations must include:

- Removal of temporary backfill.
- Properly squaring off all Street Cuts to the bottom of the Sub-base.
- Proper permanent backfill and compaction (as specified above).
- Permanent street restoration per this Street Cuts Policy, the City of Baltimore DOT Standards and the DGS Green Book. The patch must be installed so that it will remain flush with the surrounding pavement for one (1) year after the work has been completed, inspected, and approved.

Temporary Repairs:

For utility upgrades and repairs that are performed in advance of a scheduled DOT contract, DOT may, at its sole discretion, allow the permit holder to provide temporary pavement repairs in lieu of permanent paving. The Department will endeavor to permit such temporary repairs based upon the timing of the work in relation to the DOT contract schedule and the extent of the proposed trench excavations necessary for the utility work. The type of temporary repair to be allowed will be decided by the Department on a case-by-case basis. The temporary pavement trench repair must conform to the current backfill procedures.

The Department understands that utilities affected by these requirements may incur certain costs, but these will likely be offset by the reduced cost of being allowed to make only temporary repairs and not the permanent repairs as set forth in the Section above relating to Temporary Repairs.

Steel Plates

Baltimore City Code Article 26, Subtitle 15-24 requires that at the end of each workday, the Permittee must secure the public way with temporary backfill, steel plates, or by other protective measures approved by DOT.

Steel plates shall be in accordance with Section 32 01 30.10 of the Green Book and Baltimore City DOT Standards- Details BC 576.17-1 and BC 576.17-2.

Steel plates must be recessed in the winter months to allow for snow plowing operations. Refer to Baltimore City DOT Standards- Detail BC 576.17-2.

Exceptions to these Rules and Regulations:

Applicants and contractors must adhere to this Street Cuts Policy. However, it is left to the Director's discretion to permit exceptions to this policy from time to time under special circumstances. Such **exceptions must be approved by the Director in writing.**

Work by Utilities in Advance of a Scheduled DOT Contract:

If a public or private utility either owns a facility or is planning to perform work in a right of way that is scheduled to be repaved by the Department of Transportation, the utility must:

- Notify the Department of any planned utility work scheduled for the current fiscal year or the next 2 fiscal years within the limits of the Department's scheduled repaving work
- Coordinate such utility work with the Department.
- Investigate, test, repair and upgrade the utility's existing facilities in a manner that will ensure that future maintenance or replacement will not be needed for at least 5 years after the right-of-way is repaved by the Department.
- Immediately notify the Department if the utility becomes aware of any emergency work that will be required in a right of way scheduled by the Department to be repaved during the current calendar year.

The Department understands that utilities affected by these requirements may incur certain costs, but these will likely be offset by the reduced cost of being allowed to make only temporary repairs and not the permanent as set forth in the section above relating to Temporary Repairs.

- DOT submits plans for its proposed work to all utilities several times during the design process. It is during this review process that each utility must consider all the improvements it will need.
 - (i) DOT uploads scheduled roadways and repaving limits to the utility coordination platforms/software;
 - (ii) Communicates scheduled roadways at the monthly utility coordination meetings held at DOT;

- (iii)Emails Utility providers directly of scheduled roadway repaving locations for review and coordination.
- DOT understands that there will be some contracts that will require the utility agencies to perform extensive design and require construction lead times that conflict with the tentative advertising dates.
 - When necessary and properly coordinated, DOT will consider delaying the advertisement, or altering the contract to allow utility work to be completed.

Warranty; Performance Security; Indemnification:

The Applicant is required to provide a Performance Security before the permit is issued. Warranty; Performance Security; indemnification does not apply to excavation work performed by a governmental entity.

Baltimore City Code Article 26, Subtitle 15 requires the following:

Warranty; Correction of Defects:

(a) **One (1) -Year Warranty**

By accepting a street-cut permit, the permittee warrants all work done under the permit against all defects in workmanship and materials for a period of 1 year after the work has been completed, inspected, and approved.

(b) **Correction of Defect**

On written notice from the Department of any defect in workmanship or materials during the warranty period, the permittee must make the necessary repairs within the period specified in the notice.

(c) **Abatement by City**

If the permittee fails to correct the defects within the time specified in the notice, the City may make the repairs at the permittee's expense:

The Permittee:

- (i) is responsible for all expenses incurred by the City, including any related administrative expenses; and
- (ii) shall pay those expenses to the City within 30 days following notice of the amount owed.

(d) **Extension of Warranty**

Any repair during the warranty period automatically extends the warranty period to run for 1 additional year beyond the original warranty period.

(e) **Release of Security**

The Department shall release the Performance Security, in whole or in part, after completion of the warranty period and the correction of any defects or violations identified during that period.

Indemnification

- (a) By accepting a street-cut permit, the applicant and permittee agree, for and on behalf of itself and, if different, the owner, and their respective successors and assigns, to indemnify, defend, protect, and hold harmless the City, its elected/appointed officials, officers, agents, and employees, from and against all claims, actions, costs, damages, demands, expenses, fines, injuries, judgments, liabilities, losses, penalties, suits, fees, and attorneys' fees allegedly arising directly or indirectly from any act, omission, or negligence of the permittee, owner, or operator, their subcontractors, or the officers, agents, or employees of any of them relating to the permit or the activities authorized by the permit.
- (b) Obligation to defend. Each permittee, owner, and operator have an immediate and independent obligation to defend the City from any claims that actually or potentially fall within this indemnity obligation, even if the allegations are groundless, false, or fraudulent.
- (c) This indemnity obligation survives expiration of the permit and completion of the work authorized by it.

The City maintains the right to:

The City has a cause of action for indemnity against each permittee, owner, and operator for any costs the City may incur with respect to the permit, except for claims resulting directly from the negligence or willful misconduct of the City.

Denial of Permit:

The Director may deny an application if the applicant:

- (i) Within the preceding two (2) years, has done excavation work without a street-cut permit or otherwise in violation of any applicable laws, rules, or regulations;
- (ii) Has not satisfactorily completed all repairs required under a previously issued street-cut permit; or
- (iii) Remains indebted to the City for:
- Expenses previously incurred under this subtitle by the City; or
 - Fines previously imposed under this subtitle by the City.

If an application is denied, the Director must notify the applicant, by written, electronic, or facsimile communication, of the reasons for the denial; and how to request a hearing of the denial.

Administrative and Judicial Review:

Baltimore City Code Article 26 specifies the following:

Administrative Review

Any person aggrieved by a decision or action of the Department under this subtitle, whether as the result of the disapproval of an application, the issuance of a violation notice, an alleged failure to properly enforce this subtitle, or otherwise, may appeal that decision or action to the Director.

(1) **The appeal must:**

- (i) Be in writing;
- (ii) Be filed within ten (10) days of the decision or action in dispute; and
- (iii) Clearly state the grounds on which the appeal is based.

(2) **Procedures**

The Director shall adopt procedures for Appeals and Administrative Hearings. A copy of these procedures must be filed with the Department of Legislative Reference before they take effect.

(Current Regulations regarding Department of Transportation Hearings can be found in Appendix B of this Street-Cuts Policy)

Judicial Review

A party aggrieved by a final decision of the Director under Subtitle 15-36 “Administrative Review” of this subtitle may appeal that decision to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Civil Procedure.

Penalties

Baltimore City Code Article 26, Subtitle 15 specifies the following:

Civil Fines

The Director may impose civil fines for violations of:

- (1) This subtitle;
- (2) A rule or regulation adopted under this subtitle;
- (3) A condition imposed on a permit issued under this subtitle; or
- (4) A stop-work order issued under this subtitle.

Schedule of Fines

A schedule of fines, not to exceed \$500.00 for any one offense, shall be established and may be amended from time to time by the Director with the approval of the Board of Estimates.

Criminal Penalties

Any person who violates any provision of this subtitle, of a rule or regulation adopted under this subtitle, of a condition imposed on a permit issued under this subtitle, or of 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 \$1,000.00, imprisonment for not more than 1 year, or both fine and imprisonment, for each offense.

Each Day A Separate Offense

Each day that a violation continues is a separate offense.

Schedule of Fines:

The following fineable offenses are for work being performed in and on City public way. **Unless specifically provided for below, fines may be imposed by DOT without provision of a pre-fine notice. It is the responsibility of the permit holder to ensure that its work complies with the regulations set forth in this policy and Article 26 Subtitle 15, 19 and 20. It the responsibility of the permit holder to make a timely request consistent with the end date of the permit for final inspection upon completion of full restoration to the street.**

An additional fine in the amount set forth below per day for each day the violation continues may be imposed on the Applicant and Contractor for the following violations found on work sites. In the case of failure to complete full restoration of the public way within 120 days of the start of work, the total fine amount imposed will be equal to the number of days past 120 days until the restoration is completed times the daily fine amount per violation set forth below.

The Street Cuts Section is not required to issue a Pre-Fine Notice for any violation observed during inspection operations. DOT will not issue a Pre-Fine Notice for failure to complete Permanent restoration within 120 days. Street Cuts not completed within the 120-day restoration period are required to apply for a new permit. The new street cut permit start date is the expiration date of the previous permit and the new expiration date is the expected date that permanent restoration will be complete for the street cut. (The permit fee owed to the City includes this entire timeframe).

The Winter season is defined generally as the period from November 15 to March 15, or **when paving plants are closed** and will not count towards the calculation of the 120 day-period within which full restoration must be completed.

- Any permit holder that is not able to complete full restoration within the 120-day period must make a written request to the Street Cuts Division prior to the expiration of this period and demonstrate good cause for extension.
- The Street Cuts Division may then grant written extension for a reasonable time period to the permit holder.

Violation	Fines	Occurrence
Failure to obtain a Street Cuts permit prior to beginning work or, in an emergency where permit cannot be obtained ahead of work, within 18 hours of an emergency street-cut (Absence of a permit at jobsite)	\$500	Daily
Unsafe job site, TCP setup, or other unsafe condition	\$500	Daily
Not reporting intended work forty-eight (48) hours prior and/or steel plate placement as required on permit	\$500	Daily
Compaction testing not performed	\$500	Daily
Non-compliant installation of steel plates	\$500	Daily
Not clearing away construction debris	\$500	Daily
Not providing for temporary patching or plating until full restoration is completed	\$500	Daily
Patch not flush with the surrounding pavement	\$500	Daily
Absence of identification markings (if faded, they must be refreshed daily)	\$500	Daily
Blocked travel lanes before 9:00 AM or after 3:00 PM on weekdays without prior written DOT authorization	\$500	Daily
Incorrect traffic control (TCP) setup and/or absence of the approved TCP in site	\$500	Daily
Use of unapproved materials	\$500	Daily
Failure to construct to Baltimore City standards	\$500	Daily
Final striping not completed within 15 calendar days of permanent restoration	\$50	Daily
Street Cuts not fully restored to be permanent within one hundred twenty (120) days from start of work in the public way	\$50	Daily (beginning day 121 and each day until permanent restoration is complete)
Steel plates extending beyond thirty (30) days in the public right-of-way without an approved extension	\$100	Daily (beginning day 31 and each day until steel plating is removed and replaced with temporary patching or until full and permanent restoration is complete)
Permanent patch failure within the one-year warranty period if not corrected with thirty (30) days of notice	\$50	Daily (beginning day 31 and each day until permanent restoration is complete)

Extension of Steel Plates

Steel plates may not extend beyond 30 days in the public way, unless an extension has been granted by the Department. The Steel Plat extension notification can be found at <https://transportation.baltimorecity.gov/quick-forms>.

Warranty Period

Permanent patch failure within the one-year warranty period will be given a 30-day notice for repairs. A new permit is required for the repair. Fines will be imposed at a rate of \$50.00 per day until such time that the patch is repaired beyond the 30-day notice period. Another one-year warranty will then take effect until the day of final approval.

Unsafe Street Cuts Condition

An unsatisfactory physical condition existing at a Street Cuts location in the public way that varies from a normal accepted safe condition for highway, traffic, bicyclist, and pedestrian and can result in injury, death, or property damage.

- Utility trench, permanent patch within the warranty phase, or utility cut where paving restoration is left:
 - (i) 1-inch (1”) or more below existing grade;
 - (ii) 2-inches (2”) or more above existing grade.
- Utility trench, permanent patch within the warranty phase, or utility cut on roadways with bicycle facilities where paving restoration is left:
 - (iii) 1/4-inch (1/4”) or more below existing grade;
 - (iv) 1/2-inches (1/2”) or more above existing grade.
 - (v)
- Debris left onsite by a contractor for a period of twenty-four (24) hours or more
- Wooden boards placed over utility cut
- Fenced site where the fence is collapsed
- Any exposed excavation left unattended
- Blocking of a bicycle facility by equipment, debris, vehicles, signs or other obstruction
- Blocking a pedestrian walkway, crosswalk, curb ramp or other facility by equipment, debris, vehicles, signs or other obstruction
- Exposed excavation left unattended
- Any other circumstances where the contractor has left work in a state considered to be a substantial threat to public safety

RULES AND REGULATIONS FOR STOP WORK ORDERS:

Baltimore City Code Article 26 § 15-5 (c) authorizes the DOT to issue rules and regulations for stop work orders, which may include procedures.

When Issued

1. The Director or the Director's Designee may issue a stop work order for work conducted on public right-of-way and when it is determined that a violation for any of the following has occurred:
 - (a) State law or State code; or
 - (b) City Code or DOT regulation; or
 - (c) The requirements and constraints imposed by a permit issued for the project;

2. In addition to issuing a stop work order pursuant to Section 1, the Director or the Director's Designee may also issue a stop work order for any of the following:
 - (a) For a project that endangers public health or safety; or
 - (b) If a permit holder fails to meet a time set for the abatement of a previously issued violation notice; or
 - (c) Failure to pay a City fine

A. Process

1. A stop work order must:
 - (d) be in writing;
 - (e) signed by an authorized Director or designee of the Director; and
 - (f) contain the following:
 - (1) Name of the violator;
 - (2) Facts that support issuing a stop work order;
 - (3) The location at which the violation occurred;
 - (4) Reference to the specific provision of law, regulation, or permit that has been violated;
 - (5) The remedial measures required to be taken for the abatement of the violation;

2. The Department must serve a stop work order by:
 - (b) delivering it to any employee, agent, contractor, or sub-contractor of the permit holder on site;
 - (b) mailing or emailing a copy of the order to the address on file for the permit holder; or
 - (c) fax to the permit holder to the fax number on file for the permit holder.

3. A stop work order becomes effective as soon as it is served via one of the methods above whether delivery is accepted.

B. Compliance

- Upon issuance of a stop work order, the violator must immediately cease all work as specified in the order and comply with all directives contained in the order to abate the violation.
- The violator is required to pay fines assessed per the Stop Work Order to the Right-of-Way Permits Office and provide receipt of payment to the Street Cuts Section.
- The violator is required to contact the Street Cuts Section (phone 410-396-5889 or email streetcuts@baltimorecity.gov) to request an on-site inspection for correction of the violation.

C. Term of Order

A stop work order remains in effect until the Department notifies the permit holder in writing of its termination or modification.

D. Separate Enforcement Not Precluded

Termination of the stop work order does not preclude separate enforcement action by the Department relating to the present or a subsequent violation.

APPENDIX A

**BALTIMORE CITY CODE
ARTICLE 26
SUBTITLE 15 - STREET CUTS**

APPENDIX B

BALTIMORE CITY CODE

ARTICLE 26

SUBTITLE 19 – GRADING AND PAVING PERMITS

APPENDIX C

BALTIMORE CITY CODE

ARTICLE 26

**SUBTITLE 20 – PERMIT FOR BUILDERS’ USE OF
STREET**

APPENDIX D

**PROCEDURES AND GUIDELINES FOR
HEARINGS BEFORE
THE DEPARTMENT OF TRANSPORTATION
OFFICE OF STREET CUTS DIVISION**