

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2017 Legislative Session**

Bill No. CB-117-2017

Chapter No. \_\_\_\_\_

Proposed and Presented by Council Member Lehman

Introduced by \_\_\_\_\_

Co-Sponsors \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**BILL**

1 AN ACT concerning

2 Utilities - Construction within the Roadway

3 For the purpose of requiring valid road construction permits; providing requirements for road  
4 construction permits; regarding the submittal and approval of plans; providing the regulation of  
5 utility permits; providing for inspection and notice; providing for general construction  
6 requirements for roads; and generally relating to highway and street construction.

7 BY repealing and reenacting without amendments:

8 SUBTITLE 23. ROADS AND SIDEWALKS.

9 Sections 23-107 and 23-108

10 The Prince George's County Code

11 (2015 Edition, 2016 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
13 Maryland, that Sections 23-107 and 23-108, of the Prince George's County Code be and the same  
14 are hereby repealed and reenacted without amendments:

15 **Sec. 23-107. - Penalty.**

16 (a) Any person who does any road construction in a public right-of-way without a valid  
17 permit, or performs work in conflict with the detailed plans submitted and approved for work to  
18 be performed under permit, or creates a situation within the right-of-way which requires  
19 corrective action shall immediately take those actions necessary to reinstate a pre-existing permit  
20 where the permit has expired or been suspended, or obtain a permit where none existed, and then  
21 correct or remove said work or correct said situation to bring it into conformance with

1 established requirements or standards within the time specified in a written Notice of Violation  
 2 from the Department. Noncompliance on the part of the responsible person shall be a violation of  
 3 this Subtitle.

4 (b) Any person required by this Subtitle to have a permit who performs work which is in  
 5 violation of the provisions of this Subtitle, approved permit plans, or a lawful order issued  
 6 thereunder, or creates a situation in the right-of-way which constitutes a hazard to public safety,  
 7 shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars  
 8 (\$1,000.00), by imprisonment for not more than ninety (90) days, or by both such fine and  
 9 imprisonment for each offense. Each day that a violation continues shall be deemed a separate  
 10 offense.

11 (c) The application of such penalty shall not preclude the enforced removal, abatement, or  
 12 correction of the conditions, which were found to be in noncompliance, through appropriate  
 13 proceedings in a court of competent jurisdiction. In addition, the County may take those actions  
 14 necessary to correct the situation, and all costs therefor shall be billed to the responsible person  
 15 in accordance with the provisions of Section 23-109, or be recovered through legal recourse.

16 **Sec. 23-108. - Appeals; right of appeal.**

17 (a) Prior to the commencement of any appeal, any person aggrieved, with the exception of  
 18 a person aggrieved under Section 23-117(a), shall, within fifteen (15) days of a decision, action,  
 19 or nonaction by an authorized representative of the Department, make known in writing the basis  
 20 of his complaint to the individual responsible for the decision, action, or nonaction, together with  
 21 a request for review. If a satisfactory resolution cannot be reached within fifteen (15) days of the  
 22 receipt of the written complaint, the person aggrieved may request a review of the decision by  
 23 the next higher level of authority (as established by the Director).

24 (b) Any person may file an appeal to the Board of Administrative Appeals within thirty  
 25 (30) days (except for a Notice of Violation which shall require the appeal to be filed within  
 26 fifteen (15) days) after the resolution period provided for in Subsection (a), above, or within  
 27 thirty (30) days after the expiration of a thirty (30) day period allowed for such resolution. No  
 28 appeal (with the exception of a Notice of Violation) shall be considered by the Board of  
 29 Administrative Appeals until the person aggrieved has obtained a decision by the Director, or the  
 30 thirty (30) day period for resolution has passed without such decision.

31 **SUBTITLE 23. ROADS AND SIDEWALKS.**

1 Sections 23-112, 23-120, 23-123, and 23-129,  
2 The Prince George's County Code  
3 (2015 Edition, 2016 Supplement).

4 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,  
5 Maryland, that Sections 23-112, 23-120, 23-123, and 23-129, of the Prince George's County  
6 Code be and the same are hereby repealed and reenacted with the following amendments:

7 **SUBTITLE 23. ROADS AND SIDEWALKS.**

8 **DIVISION 2. PERMITS, BONDS, FEES.**

9 **Sec. 23-112. - Application for permit.**

10 (a) Application for a road construction permit shall be made on forms provided by the  
11 Director, and shall, when required by the Director, be accompanied by:

12 (1) The specifications applicable to the scope of work covered by the permit;

13 (A) For utility permits, the plan for meeting the public notification  
14 requirements, including how the public will be notified, which neighborhoods will be  
15 impacted, and whether any change of traffic patterns will be part of the notification, as  
16 approved by the Department;

17 (B) The plan for meeting the milling, overlay, and greenspace restoration  
18 requirements, per the approved utility policy;

19 (2) The maintenance of traffic plan;

20 (3) The proposed inspection plan;

21 [(2)] (4) Suitable prints of detailed plans of the work;

22 [(3)] (5) A filing fee in accordance with Section 23-115 for each application;

23 [(4)] (6) Estimated cost of the work; and

24 [(5)] (7) The signature of the owner or authorized agent.

25 (b) The Director may refuse to accept an application for a road construction permit from  
26 any applicant, as principal, who is or was in default on a previously issued permit, or who is  
27 the permittee listed on an expired permit which is not currently in the process of being  
28 extended by County administrative action.

29 (c) Before the Department may issue a road construction permit, or concur in the  
30 issuance of a building permit, all bonds required shall be approved by the Director and the  
31 County Attorney.

1 **Sec. 23-120. - Other types of permits.**

2 (a) Utility Permit. Utilities shall be required to apply for and obtain a permit from the  
3 Department for all work performed within the public right-of-way related to the repair or  
4 modification of their systems. A separate permit may be required for each new installation,  
5 major repair, or modification to the system located within the paved portion of the right-of-  
6 way. The Director may issue to a utility, at his discretion, a [blanket] maintenance permit or  
7 permits for the performance of work within the right-of-way, and establish the conditions for  
8 operation under the permit(s) so issued. Utility construction specifications for road resurfacing  
9 shall be reviewed annually by the Department and submitted with the maintenance permit  
10 application.

11 (1) [Blanket] Maintenance permits may be issued for a period of up to one year.  
12 [Bonding and permit fees for utility permits shall be in accordance with this Subtitle.]

13 (2) If a contractor has performed work without a utility permit three or more times  
14 within one year, they shall be debarred for a period of up to one year. Bonding and permit fees  
15 for utility permits shall be in accordance with this Subtitle. Utilities performing work without a  
16 utility permit shall be fined One Thousand Dollars (\$1,000.00) per day in accordance with  
17 Subtitle 23.

18 \* \* \* \* \*

19 **Sec. 23-123. - Inspection and notice.**

20 (a) Notice. For utility permits, [T]the permittee shall post notice in the following  
21 situations:

22 (1) [A notice provided by the Department shall be posted in a conspicuous place  
23 on each project site near an existing road] The permittee shall notify the Department and the  
24 public in impacted neighborhoods of the time of commencement of road construction, if the  
25 duration of work is expected to be more than five (5) working days, or if there will be a  
26 change in traffic patterns, at least fifteen (15) working days before commencement of any  
27 construction under said permit;

28 (2) [The permittee shall notify the Department of the time of commencement of  
29 work at least two (2), and not more than five (5), working days before commencement of  
30 any construction under the said permit] A project information sign provided by the permittee  
31 and approved by the Department shall be posted in a conspicuous place on each project site

1 near or within an existing road five (5) working days in advance of the start of construction  
2 unless waived by the Department;

3 (3) Where work is interrupted for a period of five (5) working days or more, the  
4 permittee shall, at the end of each interruption, notify the Department of his intent to  
5 actively resume work under the permit;

6 (4) Where the permittee has completed work on the subgrade and concrete forms,  
7 he shall give notice to the Department that the work is ready for inspection and approval.

8 (5) The permittee shall be fined Five Hundred Dollars (\$500.00) per day of  
9 noncompliance with the public notification plan.

10 (b) Inspection; penalty for noninspection.

11 (1) [The Department shall provide inspection services to assure compliance with  
12 this Subtitle.] All utilities, or contractors doing work on behalf of utilities, doing work under a  
13 utility permit or a maintenance permit are required to provide for an independent third party  
14 inspector approved by the County to perform an inspection to ensure that permitted work is in  
15 compliance with the Prince George’s County Code and Specifications. The permittee shall,  
16 during the hours of work, make available to the inspector and to other employees of the  
17 Department the construction work, materials, plans, and specifications.

18 \* \* \* \* \*

19 (d) Compliance; penalties.

20 (1) The permittee, including public utilities, agents, contractors, and subcontractors  
21 shall comply with all requirements of the permit, including sediment and erosion control, either  
22 before or during the course of construction.

23 (2) Where the permittee fails to comply with the requirements cited in the Notice of  
24 Violation, said noncompliance may result in the following:

25 (A) Issuance of a stop work order. A stop work order may be issued for work  
26 that commences without a permit. A stop work order shall be issued by the Director and  
27 constitute a suspension of the applicable permit, and shall prohibit the violator from doing any  
28 further work under the permit except such work as shall bring any previous work into  
29 compliance. When the permittee corrects the work to the satisfaction of the Department in  
30 accordance with the applicable requirements, the Director shall rescind the stop work order in  
31 writing at which time the permittee may resume further work under the permit; or

1 (B) The County may complete the required work and charge the permittee on a  
2 cost basis, including the costs of administration and overhead.

3 (3) Any governmental agency not required to obtain a permit from the Department  
4 or post a bond shall be subject to the provisions of Subsections (d)(1) and (d)(2), above. In  
5 addition, nonpayment by any governmental agency of any outstanding balance due to the  
6 County within the time allotted shall subject said governmental agency to liability in the  
7 amount of nonpayment, except where state or federal law provides to the contrary.

8 \* \* \* \* \*

9 **DIVISION 3. DESIGN AND CONSTRUCTION STANDARDS**  
10 **AND REQUIREMENTS.**

11 **Sec. 23-129. - General construction requirements for existing or proposed County roads.**

12 \* \* \* \* \*

13 (j) Utility cuts.

14 (1) No person, including any public or private utility, shall cut any road for the  
15 purpose of installing, connecting, repairing, or otherwise modifying underground gas,  
16 electric power, water, sewer, storm water, telephone or cable lines, or other utility without  
17 first obtaining a permit from the Director. Any person, including public utilities with a valid  
18 public utility permit, shall be required to provide the Department with forty-eight (48) hours  
19 notice prior to cutting the pavement. Said notice shall include the location, type, timing, and  
20 extent of the cut.

21 (2) Except in an emergency, no utility or person shall be allowed to cut into any  
22 road pavement for a period of three (3) years from the date of acceptance of the road  
23 construction in the case of new road construction, or completion of pavement resurfacing in  
24 the case of maintenance or improvement to an existing road. The placement of all new  
25 utilities shall be accomplished, to the maximum practicable extent as determined by the  
26 Director, by tunneling, jacking, boring, or other means which will avoid disturbing the  
27 pavement. This subparagraph shall not be effective until two (2) years after a utility location  
28 protocol is approved as part of the Design and Construction Standards.

29 (3) Any public utility which cuts, and then subsequently repairs a pavement with  
30 either a temporary or permanent patch, shall mark the patch or adjacent pavement surface to  
31 identify the utility responsible for the pavement cut. Temporary patches may be designated

1 using paint or other approved markers. Permanent pavement patches shall be designated  
2 using an approved marker manufactured and installed in accordance with the Design and  
3 Construction Standards. Public utilities not in compliance with this standard shall be fined  
4 Five Hundred Dollars (\$500.00) per violation of this subsection.

5 (4) The permittee or their contractor shall have in his possession on site, and  
6 make available to an inspector, on request, a copy of the subject permit and detailed plans  
7 showing the location of all existing utilities within the area of the cut.

8 \* \* \* \* \*

9 (9) Restoration and Repairs.

10 (A) Where a pavement cut has been made, the permittee shall be responsible  
11 for the following in accordance with the Design and Construction Standards:

- 12 (i) Restore road base and surface to comply with County standards and  
13 specifications;
- 14 (ii) Repair pavement failure;
- 15 (iii) Repair settlements; and
- 16 (iv) Construct permanent patches in the cut area.

17 (B) The permittee shall also be responsible for all future repairs to the cut  
18 area which are the result of consolidation, subsidence, or inadequate compaction of the  
19 subgrade, or any other type of failure of the patch.

20 (C) It shall be the sole responsibility of the permittee to protect property  
21 adjacent to, and within the area of, the cut, including sidewalks, driveways, shrubbery, trees,  
22 buildings, lawns, or other objects during construction and maintenance. In the event that a  
23 public utility(ies) cuts the pavement in so many places or in such a way that the road surface  
24 or subgrade deteriorates over time resulting in numerous pavement failures or a poor riding  
25 surface such that the road must be resurfaced or reconstructed as a direct result of the utility  
26 cuts and pavement repairs, the Director may instruct the utility company(ies) to resurface or  
27 reconstruct the roadway as the Director may determine. Failure to repair the roadway in a  
28 timely fashion shall result in the suspension of any existing permits.

29 (D) For any pavement cut, the following pavement rehabilitation  
30 considerations apply unless waived by the Director or his designee:

1                    (i) When the pavement cut is within a roadway intersection (i.e. up to  
2 the outside fillet points that define the roadway intersection), the mill and overlay  
3 requirements, as a minimum, apply to the full surface area of said intersection; and

4                    (ii) When the pavement cut is within a cul-de-sac bulb, (i.e. up to the  
5 outside fillet points where the cul-de-sac bulb meets the regular section roadway), the mill  
6 and overlay requirements, as a minimum, apply to the full surface area of said cul-de-sac  
7 bulb.

8                    \*                    \*                    \*                    \*                    \*                    \*                    \*

9                    SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
10 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
11 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
12 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
13 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
14 Act, since the same would have been enacted without the incorporation in this Act of any such  
15 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,  
16 or section.

17                    SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
18 calendar days after it becomes law.



Adopted this \_\_\_\_ day of \_\_\_\_\_, 2017.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Derrick Leon Davis  
Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.