

Introduced November 2, 2009
Public Hearing November 6, 2009
Council Action December 7, 2009
Executive Action December 8, 2009
Effective Date February 8, 2010

County Council Of Howard County, Maryland

2009 Legislative Session

Legislative Day No. 15

Bill No. 60 -2009

Introduced by: The Chairperson at the request of the County Executive
Co-Sponsored by Calvin Ball, Mary Kay Sigaty, Jennifer Terrasa, and Courtney Watson

AN ACT amending the Howard County Cable Television Systems Franchise Act to clarify certain maintenance requirements; to allow for the use of temporary lines under certain conditions and for a certain period of time; to require certain notice of temporary lines; to prohibit certain temporary lines; to provide certain civil penalties; to allow for certain waivers of certain time requirements; providing for the application of this Act; and generally related to the Howard County Cable Television Systems Franchise Act.

Introduced and read first time November 2, 2009. Ordered posted and hearing scheduled.

By order Stephen Le Gendre
Stephen Le Gendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 6, 2009.

By order Stephen Le Gendre
Stephen Le Gendre, Administrator

This Bill was read the third time on December 7, 2009 and Passed ☐ Passed with amendments ☒ Failed ☐.

By order Stephen Le Gendre
Stephen Le Gendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 8th day of December, 2009 at 10:00 a.m./p.m.

By order Stephen Le Gendre
Stephen Le Gendre, Administrator

Approved/Vetoed by the County Executive December 8, 2009

Ken Uman
Ken Uman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. *Be It Enacted by the County Council of Howard County, Maryland, that***
2 ***Section 14.416 "Use of rights-of-way" of Subtitle 4 "Howard County Cable Television***
3 ***Franchise Act" of Title 14 "Licenses, Permits and Inspections" of the Howard County***
4 ***Code is amended to read as follows:***

5
6 **Title 14. Licenses, Permits and Inspections.**

7 **Subtitle 4. Howard County Cable Television Systems Franchise Act.**
8

9 **Section 14.416. Use of rights-of-way AND CONSTRUCTION AND MAINTENANCE OF**
10 **SYSTEM.**

11 (a) A franchisee shall utilize, with the owner's permission, existing poles, conduits or
12 such other facilities whenever possible. Copies of agreements for use of poles, conduits
13 or other facilities shall be filed with the Cable Administrator as required by the franchise
14 agreement or upon request of the Cable Administrator.

15 (b) All transmission lines, equipment and structures shall be ~~[[installed and located]]~~
16 INSTALLED, LOCATED, AND MAINTAINED to cause minimum interference with the rights
17 and reasonable convenience of property owners. MAINTENANCE SHALL INCLUDE
18 ENSURING THAT CABINETS ARE PROPERLY SECURED AND BOLTS ARE PROPERLY TIGHTENED.

19 The County may from time-to-time issue such reasonable rules and regulations
20 concerning the installation and maintenance of the cable system installed in the public
21 rights-of-way as may be consistent with this subtitle and the franchise agreement.

22 (c) Suitable safety devices and practices as required by local, County, State and Federal
23 laws, ordinances, regulations and permits shall be used during construction, maintenance
24 and repair of a cable system.

25 (d) A franchisee shall remove, replace or modify at its own expense the installation of
26 any of its facilities within any public right-of-way when required to do so by the County
27 to allow it to change, maintain, repair or improve a public thoroughfare.

28 (e) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A FRANCHISEE SHALL LOCATE CABLES
29 AS FOLLOWS:

- (1) On streets and roads where electrical or telephone utility wiring is located underground, either at the time of initial construction or subsequently, the cable shall also be located underground at the franchisee's expense.
- (2) Between a street or road and a subscriber's residence, the cable shall be located underground at the franchisee's expense if electrical and telephone utility wiring are located underground.
- (3) Between a street or road and a subscriber's residence, if electric or telephone utility wiring is aerial, a franchisee may install aerial cable except where a property owner or resident requests underground installation and agrees to bear the difference in cost by which underground installation exceeds the cost of aerial installation.

(F) A FRANCHISEE MAY NOT USE TEMPORARY LINES UNLESS IT IS NECESSARY TO INITIALLY DELIVER SERVICE OR TO CONTINUE TO PROVIDE SERVICE, AND UNLESS THE FOLLOWING CRITERIA ARE MET:

- (1) UNLESS AN EXTENSION IS GRANTED PURSUANT TO SUBSECTION (G) OF THIS SECTION, TEMPORARY LINES SHALL BE BURIED OR PERMANENTLY PLACED AERIALLY ON EXISTING POLES IN A RIGHT-OF-WAY WITHIN 15 WORKING DAYS OF INSTALLATION OF THE TEMPORARY LINE;
- (2) WHEN A TEMPORARY LINE IS INSTALLED, THE FRANCHISEE SHALL LEAVE A WRITTEN NOTICE WITH THE HOME OR BUSINESS OWNER OF THE PROPERTY ON WHICH THE TEMPORARY LINE IS INSTALLED, INDICATING THE NEED FOR THE TEMPORARY LINE AND CLEARLY NOTING THE DATE OF INSTALLATION OF THE TEMPORARY LINE; AND
- (3) A FRANCHISEE MAY NOT, UNDER ANY CIRCUMSTANCES, LOCATE TEMPORARY LINES OFF THE GROUND, INCLUDING, BUT NOT LIMITED TO TEMPORARY LINES STRUNG THROUGH TREES, ON TOP OF EQUIPMENT OR SHRUBBERY, ACROSS DOORS, AND OVER STRUCTURES.

(G) IF A FRANCHISEE REQUIRES MORE THAN 15 WORKING DAYS TO PERMANENTLY LOCATE CABLES UNDERGROUND OR THROUGH PERMANENT AERIAL MEANS, NOT LESS THAN 5 WORKING DAYS BEFORE THE EXPIRATION OF THE ~~15-DAY~~ 15-WORKING-DAY PERIOD, THE FRANCHISEE SHALL:

(1) NOTIFY IN WRITING THE IMPACTED HOME OR BUSINESS OWNER OF THE NEED FOR AN EXTENSION; AND

(2) REQUEST AN EXTENSION, WHICH SHALL INCLUDE A JUSTIFICATION, FROM THE LOCAL FRANCHISING AUTHORITY WHICH MAY:

(i) GRANT AN EXTENSION OF UP TO 15 WORKING DAYS; OR

(ii) IF EXTREME WEATHER CONDITIONS PREVENT THE FRANCHISEE FROM PERMANENTLY LOCATING CABLES WITHIN THE ~~15-DAY~~ 15-
WORKING-DAY PERIOD, GRANT AN EXTENSION REASONABLY NECESSARY TO PERMANENTLY LOCATE CABLES.

[[f]] (H) A franchisee shall obtain any required permits before causing any damage or disturbance to public thoroughfares or private property as a result of its construction or operations and shall restore as nearly as possible to their former condition in accord with applicable construction industry standards such private property and public thoroughfares, the latter in a manner approved by the County. If such restoration is not satisfactorily performed within a reasonable time, the County, or the property owner in the case of private property, may, after prior notice to the franchisee, cause the repairs to be made at the expense of the franchisee.

[[g]] (i) A franchisee may trim trees within public rights-of-way at its own expense as necessary to protect its wires and facilities, subject to any direction that may be provided by the County. Trees on private property may be trimmed with the consent of the property owner.

[[h]] (j) At the request of any person holding a valid building moving permit and upon sufficient notice, the franchisee shall temporarily raise, lower or cut its wires as necessary to facilitate such move upon not less than 72 hours' advance notice. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and the franchisee may require payment in advance.

(K) *ENFORCEMENT.* WHEN THE LOCAL FRANCHISING AUTHORITY DETERMINES THAT A VIOLATION OF THIS SECTION EXISTS OR HAS OCCURRED, THE LOCAL FRANCHISING AUTHORITY MAY ENFORCE THE PROVISIONS OF THIS SECTION WITH CIVIL PENALTIES PURSUANT TO TITLE 24 OF THIS CODE AND MAY ISSUE A CITATION WITHOUT THE PRIOR ISSUANCE OF A NOTICE OF VIOLATION, AS FOLLOWS:

- 1 (1) EXCEPT FOR A VIOLATION OF SUBSECTION (F)(3) OF THIS SECTION, A
2 VIOLATION OF THIS SECTION SHALL BE A CLASS C OFFENSE;
3 (2) A VIOLATION OF SUBSECTION (F)(3) OF THIS SECTION SHALL BE A CLASS A
4 OFFENSE; AND
5 (3) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

6
7 ***Section 2. And Be It Further Enacted by the County Council of Howard County,***
8 ***Maryland, that this Act shall apply on and after April 1, 2010.***

9
10 ***Section 3. And Be It Further Enacted by the County Council of Howard County,***
11 ***Maryland, that this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 8, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2009.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

Amendment 1 to Council Bill No. 60-2009

BY: Calvin Ball

Legislative Day No. 1
Date: December 7, 2009

Amendment No. 1

(This amendment specifies that time periods are calculated using "working days".)

- 1 On page 2, in lines 17, 28, and 29, in each instance, before "DAYS" insert "WORKING".
- 2 Also on page 2, in line 30, strike "15-DAY" and substitute "15-WORKING-DAY".
- 3 On page 3, in line 5, before "DAYS" insert "WORKING".
- 4 Also on page 3, in line 7, strike "15-DAY" and substitute "15-WORKING-DAY".

DATE December 7, 2009
FILED _____
SIGNATURE Calvin Ball