A BILL ENTITLED

AN ORDINANCE concerning: Public Works – Roads and Rights-of-way – Obstructions
   – Abandonment of Facilities

FOR the purpose of adding a deadline for relocating obstructions in or removing
obstructions from County roads, easements, and rights-of-way; adding County
remedies for failure to relocate obstructions in or remove obstructions from County
roads, easements, and rights-of-way; adding provisions relating to facilities abandoned
in the County rights-of-way; and generally relating to public works.

BY repealing and reenacting, with amendments: §§ 13-1-105; and 13-3-502(a)
Anne Arundel County Code (2005, as amended)

SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland,
That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

ARTICLE 13. PUBLIC WORKS
TITLE 1. DEFINITIONS; GENERAL PROVISION

13-1-105. County’s prior rights in roads, easements, and rights-of-way.

(a) **Definition.** In this section, “obstruction” means any object or structure that blocks or impedes the construction or maintenance of public works, including [[private]] facilities that provide electricity, gas, information services, sewer service, steam, telecommunications, traffic controls, transit service, video, water, or other services to customers; shrubbery or plants of any kind; and storage materials.

(b) **Duty to remove obstruction to construction or maintenance of public works.** A person who places or maintains an obstruction in, on, over, under, or through a County road, easement, or right-of-way shall [[promptly]] shift, adjust, accommodate, or remove the obstruction [[on reasonable]], IN CONSULTATION WITH THE COUNTY. IF THE PERSON FAILS TO ACT PROMPTLY AND DILIGENTLY, AS DETERMINED BY THE DEPARTMENT, THE COUNTY SHALL SEND A NOTICE TO THE PERSON BY FIRST CLASS MAIL, POSTAGE PREPAID, AND BY EMAIL IF AN EMAIL ADDRESS IS AVAILABLE. THE NOTICE SHALL REQUIRE THE PERSON TO SHIFT, ADJUST, ACCOMMODATE, OR REMOVE THE OBSTRUCTION WITHIN 45 CALENDAR DAYS OF THE DATE OF THE notice [[from the County]].

(c) **Costs.**

(1) If a person fails or refuses to shift, adjust, accommodate, or remove an obstruction [[after reasonable]] within 45 CALENDAR DAYS OF THE DATE OF notice FROM THE COUNTY, the Department may SUSPEND ANY ACTIVE PERMITS OR ISSUANCE OF ANY PERMIT UNTIL THE OBSTRUCTION IS SHIFTED, ADJUSTED, ACCOMMODATED, OR REMOVED.

(2) IF A PERSON FAILS OR REFUSES TO SHIFT, ADJUST, ACCOMMODATE, OR REMOVE AN OBSTRUCTION WITHIN 45 CALENDAR DAYS OF THE DATE OF NOTICE FROM THE COUNTY, THE DEPARTMENT MAY shift, adjust, accommodate, or remove the obstruction, and the Director may DEDUCT THE COST OF PERFORMING THE WORK FROM ANY SECURITY PAID TO THE COUNTY BY THE PERSON REFUSING TO DO THE WORK OR MAY OTHERWISE charge the person having or maintaining the obstruction for the cost of performing the work.

(D) **Abandonment of facilities.**

(1) **Except as provided in (D)(4)(II), an underground facility may be**
ABANDONED IN PLACE IF A PERMANENT RECORD OF THE EXISTENCE AND ACCURATE LOCATION OF THE ABANDONED FACILITY IS PROVIDED TO THE DEPARTMENT UPON ABANDONMENT.

(II) IF AN ABANDONED UNDERGROUND FACILITY PREVENTS OR MAKES IMPRACTICABLE ANY IMPROVEMENT TO OR IN A COUNTY ROAD, EASEMENT, OR RIGHT-OF-WAY, THE OWNER SHALL REMOVE THE ABANDONED UNDERGROUND FACILITY AT THE OWNER'S EXPENSE WITHIN 30 DAYS OF THE DEPARTMENT'S REQUEST.

(5) IF AN OWNER FAILS OR REFUSES TO REMOVE AN ABANDONED FACILITY IN A COUNTY ROAD, EASEMENT, OR RIGHT-OF-WAY, AFTER 60 CALENDAR DAYS FROM THE DATE OF A REQUEST FROM THE DEPARTMENT, THE DEPARTMENT MAY REMOVE THE ABANDONED FACILITY, AND THE DIRECTOR MAY SHALL CHARGE THE PERSON HAVING OR MAINTAINING THE ABANDONED FACILITY FOR THE COST OF PERFORMING THE WORK.

(E) Sanction for violation. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, FAILURE TO COMPLY WITH THIS SECTION SHALL BE A CLASS B CIVIL OFFENSE, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION. CIVIL FINES MAY NOT EXCEED ANY LIMITS SET FORTH IN A FRANCHISE AGREEMENT.

TITLE 3. PERMITS FOR USE OF COUNTY RIGHTS-OF-WAY

13-3-502. Stop work order; permit modification or revocation.

(a) Grounds for issuance. The Director may issue a stop work order, impose conditions on a permit, OR SUSPEND ISSUANCE OF PENDING AND FUTURE PERMITS if the Director determines that:

(1) a person has violated applicable law, regulations, the Design Manual, the County’s Standard Specifications and Details for Construction, or any term, condition, or limitation of a permit;

(2) activity in the right-of-way poses a hazardous situation or constitutes a public nuisance, public emergency, or other threat to the public health, safety, or welfare; OR

(3) OBSTRUCTIONS IN, ON, OVER, UNDER, OR THROUGH COUNTY ROADS, EASEMENTS, OR RIGHTS-OF-WAY HAVE NOT BEEN REMOVED OR RELOCATED AS REQUIRED BY THE DEPARTMENT;

(4) FEES, SECURITIES, AND OTHER COSTS ARE DUE AND OWING TO THE COUNTY;

[(3)] (5) there is a paramount public purpose.

SECTION 2. And be it further enacted, That this Ordinance shall take effect 45 days from the date it becomes law.

AMENDMENTS ADOPTED: February 3 and 18, and March 2, 2020
READ AND PASSED this 4th day of May, 2020

By Order:

JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 5th day of May, 2020

JoAnne Gray
Administrative Officer

APPROVED AND ENACTED this 8th day of May, 2020

Stuart Pittman
County Executive

EFFECTIVE DATE: June 22, 2020

I HEREBY CERTIFY THAT THIS IS TRUE AND CORRECT COPY OF BILL NO. 8-20, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.

JoAnne Gray
Administrative Officer