

CODE OF BALTIMORE REGULATIONS ANNOTATED

EDITOR'S NOTE:

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Title 14: DEPARTMENT OF TRANSPORTATION

Subtitle 03: Right of Way | Chapter 04: Curbside Commercial Permits

Authority: Baltimore City Charter Art. 8, §§ 1 and 2

14.03.04.01 Scope.

This chapter establishes:

- A. A framework for the temporary private use of public space in order to promote an active, accessible, safe, and vibrant urban environment;
- B. Restrictions on the location, construction, and use of a curbside facility;
- C. Insurance requirements for curbside facility permit holders;
- D. The application process for a curbside facility permit, including obtaining a minor privilege to construct the curbside facility;
- E. Responsibilities for permit holders;
- F. Enforcement of the Curbside Permit Guidelines; and
- G. Rules regarding revocation of a minor privilege.

14.03.04.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “ADA” means the federal Americans with Disabilities Act.
- (2) “Applicant” means the individual or entity pursuing a permit under this policy.
- (3) “BCDOT” means the Baltimore City Department of Transportation.
- (4) “Curbside Facility” means the commercial spaces permitted and regulated by this policy.
- (5) “Dimension” means measurable width, length, depth, and height of a curbside facility using feet and inches.
- (6) “Floodplain” means the same as City Code Article 7, § 1-2(w).
- (7) “Floodplain district” means the same as City Code Article 7, § 1-2(x).
- (8) “Forbidden road space” means portions of the public right-of-way including:
 - (a) Crosswalks,
 - (b) Pedestrian ramps,
 - (c) Bike lanes,
 - (d) Transit lanes or facilities,
 - (e) Driving lanes,
 - (f) Intersection space,
 - (g) No-parking zones,
 - (h) Commercial truck bays,
 - (i) Handicapped parking spots,
 - (j) Fire lanes,
 - (k) Garages or driveways, and
 - (l) Restricted parking zones that BCDOT will not consider for a curbside facility.
- (9) “Indoor area” means the interior space of a structure with a ceiling and sides enclosed by:
 - (a) A combination of permanent or temporary walls, windows, or doorways, whether open or closed, or

- (b) Other physical barriers extending from floor to the ceiling.
- (10) “Local design standards” means neighborhood-specific aesthetic rules issued by Baltimore City.
- (11) “Membrane structure” means an element erected utilizing fabrics, foils, and other textiles with the support of tension cables.
- (12) “Minor privilege fee schedule” means a list of fees for minor privileges that is approved by the Board of Estimates and posted for public view on the BCDOT website.
- (13) “Minor privilege permit” means an approval of a temporary minor privilege” as defined by Baltimore City Charter, Article VIII, § 9.
- (14) “Modular” means a method of design and build with standardized units allowing for a streamlined process in the construction or dismantling of a curbside facility.
- (15) “Parking lane” means a space abutting the curb that is
 - (a) Designated for on-street public vehicle storage, and
 - (b) Contiguous to the property to which the curbside facility permit is issued.
- (16) “Partner agency” means the following Baltimore City agencies and entities:
 - (a) Fire Department,
 - (b) Police Department,
 - (c) Health Department,
 - (d) Parking Authority of Baltimore City,
 - (e) Planning Department,
 - (f) Department of Housing and Community Development,
 - (g) Baltimore Development Corporation,
 - (h) Liquor Board, and
 - (i) Environmental Control Board.
- (17) “Permanently attached” means a curbside facility which is nailed or bolted to the right-of-way or an existing building.
- (18) “Permit holder” means a person or entity who has been issued a permit to operate a curbside facility.
- (19) “Protective vertical element” means a barrier designed to deflect a vehicular impact while protecting facility occupants, including:

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- (a) Water-filled Jersey barriers;
 - (b) Weighed barrels;
 - (c) Concrete barriers; or
 - (d) Other portable barriers.
- (20) “Stop work order” means a formal demand issued by the City requiring the permit holder to remove their facility from the right-of-way.
- (21) “Temporary” means something that lasts for period of time and is not permanent.

14.03.04.03 Restrictions.

- A. A Minor Privilege Permit for a curbside facility shall be restricted to a parking lane.
- B. BCDOT may consider installations within the following restricted parking zones:
 - (1) Loading zones,
 - (2) Metered parking,
 - (3) Valet zones, and
 - (4) Street sweeping corridors.
- C. A curbside facility may not be permanently attached to sidewalks, roads or buildings, and doing so may result in automatic permit revocation.
- D. A curbside facility may not use:
 - (1) Amplified music,
 - (2) Live entertainment, or
 - (3) Open flames.

14.03.04.04 Applicant Responsibilities.

- A. An applicant shall obtain all permits relevant to their curbside facility including:
 - (1) A minor privilege permit,
 - (2) Other permits as required by law.
- B. An applicant shall obtain commercial general liability insurance which:
 - (1) Provides coverage of one million dollars per occurrence,
 - (2) Provides a minimum total aggregate of two million dollars, and
 - (3) Designates the Mayor & City Council of Baltimore as an additional named insured.
- C. An applicant shall obtain the following insurance policies to cover a curbside facility:
 - (1) Commercial general liability,
 - (2) Umbrella insurance,
 - (3) Worker's compensation, and
 - (4) Liquor liability if applicable.

14.03.04.05 Design Standards.

A. A permit holder shall adhere to the following fire safety guidelines:

- (1) A curbside facility built primarily out of untreated wood or other flammable material shall be built a minimum distance of ten feet from a building; and
- (2) A curbside facility built primarily out of fire-resistant material such as treated wood shall be built a minimum distance of five feet from a building.

B. BCDOT may not approve a curbside facility that:

- (1) Functions as an indoor area;
- (2) Is within 15 feet of a fire hydrant;
- (3) Is within 15 feet of a pull-in bus stop;
- (4) Is within 15 feet of dumpster;
- (5) Is on a street with a running slope of five percent or more;
- (6) Is on a street with a posted speed limit above 30 miles per hour;
- (7) Is located in or interferes with the functions of forbidden road space;
- (8) Intrudes on the sidewalk;
- (9) Is not ADA compliant;
- (10) Is more than one level;
- (11) Obstructs visibility of a traffic control sign or street sign;
- (12) Blocks stormwater drainage; or
- (13) Permanently restricts access to utilities.

C. A curbside facility shall:

- (1) Fit within the width of the parking lane;
- (2) Use a protective railing or barrier which does not obstruct visibility above three feet, as determined by BCDOT;
- (3) Provide for a minimum seven feet of clearance between the ground plane and overhead elements;
- (4) Have an entrance which:
 - (a) Is accessible via the abutting sidewalk,
 - (b) Is at least 48 inches wide,

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- (c) Is flush with the curb, and
 - (d) Meets ADA compliance standards;
 - (5) Feature protective vertical elements within the parking lane which separate the curbside facility from forbidden road space;
 - (6) Be free of any tripping or slipping hazards; and
 - (7) Incorporate lighting and reflective elements.
- D. A permit holder may incorporate the following weather mitigating elements:
 - (1) Canopies;
 - (2) Umbrellas;
 - (3) Transparent igloos or bubbles; and
 - (4) Other protective elements approved by BCDOT.
- E. An elevated curbside facility built flush with the curb shall be designed to support a minimum of 100 pounds per square foot.
- F. A curbside facility may be constructed using modular design practices.
- G. A curbside facility shall adhere to local design standards and adherence shall be reviewed on an annual basis.
- H. A curbside facility located within a floodplain district may be required to implement additional safety measures.

14.03.04.06 Application Process.

- A. An applicant is required to submit a site plan during the application submission process.
- B. A site plan shall be drawn to scale, clearly labeled and include the following:
 - (1) Dimensions,
 - (2) Property limits,
 - (3) Existing objects,
 - (4) Location of a heating device to be used in the curbside facility, if applicable,
 - (5) Site features including:
 - (a) Posted speed limit,
 - (b) Grade of the roadway,
 - (c) Pavement type,
 - (d) Parking restrictions, and
 - (e) Access to utilities.
- C. A permit application shall be reviewed by BCDOT within 60 days.
- D. BCDOT shall submit the application to partner agencies for review and comment during the 60-day review period.
- E. Following the review period, BCDOT may:
 - (1) Approve the permit application,
 - (2) Request that the applicant revise the application, or
 - (3) Reject the application.
- F. Upon BCDOT approval, the applicant shall:
 - (1) Send a copy of the application via certified mail return receipt requested to abutting property owners to notify them of the proposed curbside facility; and
 - (2) Provide the return receipt to BCDOT as proof of notification.
- G. BCDOT shall submit the application to the Board of Estimates for final review and approval of the minor privilege permit application.
- H. An applicant shall pay a minor privilege fee assessed by the Board of Estimates upon the issuance of a minor privilege permit.
- I. Payment of the minor privilege fee shall be:

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- (1) By check or money order in the required amount, and
 - (2) Payable to the Director of Finance.
- J. The minor privilege fee is calculated by the method in the curbside commercial section of the minor privilege fee schedule approved by the Board of Estimates.
- K. A final site plan and payment shall be submitted to BCDOT Special Events section by:
 - (1) Mail addressed to BCDOT Special Events at the Harry S. Cummings Building at 401 East Fayette Street, Baltimore, MD 21202; or
 - (2) In person at the lobby of the Harry S. Cummings Building on 401 East Fayette Street, Baltimore, MD 21202.

14.03.04.07 Permit Holder Responsibilities.

- A. A permit holder is responsible for the following maintenance tasks required to keep the curbside facility safe for consumption of food and beverage:
 - (1) Cleaning the curbside facility daily, including:
 - (a) Removing all trash and food waste, and
 - (b) Implementing non-toxic preventative pest control measures;
 - (2) Securing tables and chairs so that they may not be used outside business hours; and
 - (3) Repairing any structural failures or defects immediately upon discovery.
- B. A permit holder may not serve patrons in a curbside facility with known structural or sanitation deficiencies.
- C. A permit holder who desires to make a structural alteration to an existing curbside facility shall
 - (1) Submit a new application for the alteration, including a site plan, and,
 - (2) Be subject to review by BCDOT and its partner agencies.

14.03.04.08 Enforcement of Regulation Guidelines.

- A. A curbside facility is a temporary installation and BCDOT may require removal of the curbside facility:
 - (1) On a permanent basis if site conditions no longer permit the curbside facility to operate safely, or
 - (2) On a temporary basis if removal of the curbside facility is necessary for reasons including:
 - (a) Maintenance or repairs within the public right-of-way,
 - (b) Extreme weather event preparation,
 - (c) Flooding, and
 - (d) Other emergencies.
- B. A permit holder who fails to remove a curbside facility upon request may be liable for costs incurred by BCDOT in removing the curbside facility.
- C. A permit holder shall be subject to random inspections by BCDOT and partner agencies.
- D. BCDOT and partner agencies may enforce these regulations by:
 - (1) Investigating complaints,
 - (2) Issuing warnings,
 - (3) Issuing stop work orders,
 - (4) Confirming the validity of permits, and
 - (5) Recommending the revocation of permits.
- E. The City and its agencies shall not be liable for costs associated with the removal, restoration, or replacement of a curbside facility.

14.03.04.09 Revocation of Minor Privilege.

- A. The City may revoke or refuse to renew a minor privilege.
- B. BCDOT may issue a stop work order for a curbside facility that is noncompliant with the rules in the curbside commercial regulations.
- C. A permit holder whose curbside facility is noncompliant with these regulations may have their minor privilege permit revoked without a hearing.