

Rule and Regulations Promulgated by the Department of Housing and Community Development

RULE AND REGULATION #3:

Pursuant to Baltimore City Building, Fire and Related Codes, Chapter 1, Section 108.5.10, governing the Application of a Penalty Surcharge for Work Without a Permit and the Standards and Criteria for a Reduction of a Penalty Surcharge

Pursuant to the power conferred upon the Commissioner of Housing and Community Development by Chapter 1, Section 104.1.1 of the Baltimore City Building, Fire and Related Codes the following rules and regulations are hereby adopted:

A. Definitions In these rules and procedures, the following terms have the meanings indicated.

- 1. Department.** "Department" means the Baltimore City Department of Housing and Community Development.
- 2. Major work.** The Building Official will determine what work is considered major work. As an exhaustive list is impractical to provide, the following list is provided as examples of some work that is considered major:
 - i. additions;
 - ii. decks;
 - iii. demolition (full or partial);
 - iv. electrical work;
 - v. excavation;
 - vi. framing;
 - vii. HVAC;
 - viii. mechanical work;
 - ix. new construction;
 - x. plumbing;
 - xi. pouring concrete for a foundation, footing or wall;
 - xii. structural work;
 - xiii. under pinning;
 - xiv. curbing;
 - xv. formstone removal, and
 - xvi. any work that requires a licensed professional.
- 3. Minor Work.** "Minor Work" means all work that is not determined by the Building Official to be major work. As an exhaustive list is impractical to provide, the following list is provided as examples of some work that is considered minor:
 - i. fences;
 - ii. security door on a vacant building;
 - iii. hanging drywall;
 - iv. concrete work not related to foundation or structure.

- 4. Out of scope (same as Beyond the scope).** “Out of scope” means work that:
- a. is done without a permit, or
 - b. work not covered by an existing permit or plan, or
 - c. work contrary to a permit or plan.

B. Scope

1. These rules and regulations provide for the assessment of a Penalty Surcharge when the Building Official finds work on a property is performed without a permit, outside the scope of a permit, or after the suspension of a permit.
2. These rules and regulations provide standards and criteria for the reduction of surcharges assessed for work performed without a permit, outside the scope of a permit, or after the suspension of a permit.

C. Assessing a Penalty Surcharge

A penalty surcharge will be assessed in the following circumstances for:

1. all major work performed without a permit, outside the scope of a permit, or after the suspension of a permit; and
2. all work performed without a permit, outside the scope of a permit, or after the suspension of a permit on a property that requires a Notice to Proceed from CHAP; and
3. for work that continues after a Stop Work Order has been issued and a permit has not been obtained or the work has not been removed.

D. Application for Reduction of Surcharge

1. All applications for reduction of surcharge must be completed on the form provided by the Department.
2. All applications must be submitted to the Department within 30 days of the assessment of the surcharge.

E. Criteria for Reduction of Surcharge

A penalty surcharge may be reduced up to 100% in the following situations.

1. The surcharge was issued in error because:
 - a. a permit was not necessary for the work performed;

- b. a permit was issued for the work performed;
 - c. the work was completed by the prior owner;
 - d. the assessment of a surcharge is inconsistent with these rules and regulations.
- 2. The applicant can establish to the Building Official's satisfaction that the applicant reasonably believed a permit was not required.
 - 3. The owner hired a licensed professional to perform the work and the written contract with that professional required that the professional obtain all necessary permits and the owner can establish to the Building Official's satisfaction that the applicant reasonably believed the permits were obtained.
 - 4. The work was considered to be major but the applicant can establish to the satisfaction of the Building Official that the work should reasonably be considered minor work under the circumstances.
 - 5. The work was performed due to an emergency situation and permits were applied for within one business day of the work being initiated.
 - 6. The work was being performed under a permit that expired and an extension of that permit was issued.

F. Review of Request For Reduction of Surcharge

- 1. All complete and timely applications for reduction of a surcharge will be reviewed by the Building Official or the Building Official's designee.
- 2. Incomplete applications will be denied.
- 3. Late applications will be denied unless the applicant can demonstrate to the Building Official good cause for missing the application deadline.
- 4. The final decision of the Building Official will be made in writing and mailed to the applicant. Applications not containing an email address will be mailed by first class mail to the applicant at the address provided on the application; all other responses will be delivered electronically.
- 5. Any amount of the surcharge that is not reduced is due upon the mailing of the Building Official's final decision.

G. Severability

The provisions of this regulation are hereby severable. If any word, phrase, clause, sentence, paragraph, section or part in or of this regulation or the application thereof to any person, circumstance or thing is declared invalid for any reason whatsoever, the remaining provisions and the application of such provisions to other persons, circumstances or things shall not be affected thereby but shall remain in full force and effect, the Commissioner hereby declaring that he would have ordained the remaining provisions of this regulation without the word, phrase, clause, sentence, paragraph, section or part, or the application thereof, so held invalid.

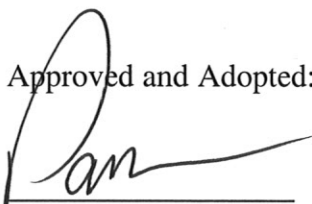
H. Filing with Legislative Reference

The Department shall file these rules and procedures with the Department of Legislative Reference.

I. Effective Date

These rules and procedures take effect on August 10, 2009.

Approved and Adopted:



Paul T. Graziano
Commissioner
Department of Housing and Community Development

8/10/09

Date

Baltimore City Construction Code Enforcement
Request for Reduction of Surcharge

INSTRUCTIONS: Complete all fields on this form; be specific in all responses. Incomplete applications will be denied. Return this form to the Building Official 417 E. Fayette Street, Room 202, Baltimore, MD 21202.

Applicant's Name: _____

Applicant's Home address: _____

Applicant's Phone Number: _____

Applicant's email address: _____

Address Subject to Surcharge: _____

Date Surcharge Applied (if known): _____

A reduction of the surcharge is being requested based on the following circumstances (select all that apply):

- ☐ A permit was not necessary for the work performed;
- ☐ A permit was issued for the work performed;
- ☐ the work was completed by the prior owner;
- ☐ the assessment of a surcharge is inconsistent with these rules and regulations.
- ☐ A Notice to Proceed was not required for the work and I reasonably believed a permit was not required.
- ☐ I contracted a licensed professional to perform the work. The terms of the written contract required that the professional obtain all necessary permits and I reasonably believed the permits were obtained.
- ☐ The work should be considered minor work.

