

Perry Township Right-of-Way Regulations and Guidelines for Excavation/Construction Permits

A. Background

1. General Provisions

1.1 Authority. Perry Township, Franklin County, Ohio (the "Township") is a limited home rule government and has all the powers of local self-government within the unincorporated areas of the Township, including the ability to adopt and enforce local police, sanitary and other regulations.

1.2 Purpose. The Township has acquired, constructed and maintained public rights-of-way, including paved streets, roads, alleys, bridges, green space and other public places to promote the general health, safety, welfare and convenience of its citizens. The aforesaid rights-of-way are valuable public properties acquired, constructed and maintained by the Township at significant expense to the Township taxpayers and the right to use said rights-of-way is a valuable property right. It is in the public interest for the Township to exercise its legal right and responsibility to manage the public rights-of-way and to obtain reasonable compensation, on a competitively neutral and non-discriminatory basis, for the use of such rights-of-way.

In addition, these Regulations shall apply to utility and other service providers and other users of the public rights-of-way who locate equipment within said rights-of-way to ensure that all citizens have access to services. The health, safety, welfare and convenience of the citizens may be adversely affected by work in the public rights-of-way and the placement of equipment in said rights-of-way, and the Township seeks to minimize potential safety hazards, congestion, visual blight, inconvenience and other adverse effects on the public rights-of-way. The placement of equipment in the public rights-of-way also causes an increase in the cost of maintaining, preserving, repairing and inspecting the Township property. It is the purpose of these regulations to manage and regulate the use of the public rights-of-way by utility and service providers and other users in order to protect health, safety, welfare and convenience of its citizens. Regulations adopted shall be in compliance with Section 5571.16 of the Ohio Revised Code.

B. General Right-of-Way Regulations

1. Obstructions. Unless otherwise authorized by the Township, no obstructions, benches, fences, posts, cables or other structures are permitted within the Township road right-of-way or other county or state road right-of-way where a maintenance agreement between the Township and such an entity exists and provides the Township with maintenance responsibilities. Such obstructions may be removed using the procedures set forth below in Section B.2., as well as other legal remedies available to the Township including, but not limited to, those set forth in O.R.C Chapter 504.

2. Other Obstructions in Right-of-Way. The Township reserves the right to have the Board of Township Trustees ("Board") or Township Road Superintendent ("Superintendent") to determine that an object bounding any Township road and located wholly or in part on the land belonging to the road interferes with snow or ice removal from, the maintenance of, or the proper grading, draining, or dragging of the road, causes the drifting of snow on the road, or in any other manner obstructs or endangers the public travel of the road. The Board or Superintendent then may declare the object to be a public nuisance and proceed in accordance with O.R.C. 5571.14.

Objects that may be declared to be a public nuisance under this section include a fence, bench, post, pole, athletic or recreational apparatus, rock, or berm, any vegetation, or any other object identified by the Board or Superintendent as interfering with or obstructing the Township road.

3. Motor Vehicle Obstructions. On Township roads where no curb and gutters are located, no motor vehicle or other similar vehicle or any portion of such vehicle shall be parked on, extended over, or otherwise located on any paved portion of Township road.

4. Obstruction of Access to Residential Premises. On Township roads, no individual shall park, stop or otherwise locate a motor vehicle or other similar vehicle or a portion thereof in the public right-of-way that restricts, prevents or otherwise obstructs access to a private drive or driveway to a residential structure or garage.

C. Construction/Work in Right-of-Way Regulations

1. General Provisions

1.1 Authority and Management of the Rights-of-Way. Permits are granted in accordance with the provisions of these Regulations. Any person, firm or corporation desiring to perform work in or to occupy the Township right-of-way for any purpose must first obtain a permit. Such permits are issued by the Superintendent or his designated agent, in accordance with the provisions of these Guidelines.

The Township shall have the right to limit the placement of new or addition equipment in the right-of-way if there is insufficient space to reasonably accommodate all requests for occupy and use the rights-of-way. The Township shall consider requests for occupying and using the rights-of-way in the order of receipt of fully completed Applications for Right-of- Way Permits. The Township shall strive, to the extent possible, to accommodate all requests, but shall be guided by the physical condition of the right-of-way and whether such use would have a detrimental effect on public safety as it relates to the right-of-way.

1.2 Type of Permits. There will be one type of permit issued by the Board which will cover any work performed within the right-of-way of Perry Township roads. A Permit Holder shall allow the Township to make inspections of any part of the

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Permit Holder's work and/or equipment located in the rights-of-way.

1.3 When Required. A permit will be required before any person, firm or corporation installs, places, extends, or repairs any pipes, cables, wires, roadway structure or appurtenances, or for any other purposes requiring the use, excavation, or temporary occupancy of Perry Township road right-of-way. Failure to obtain a permit may result in the imposition of a civil fine.

1.4 Application & Review. Applications can be obtained at the Perry Township Administration office, 7125 Sawmill Rd, Dublin, OH 43016, or via the Perry Township website under the Road Department's page. Such submittal shall be deemed to have been submitted to the Township Fiscal Officer. All applications shall be on forms approved by the Board and shall generally conform to Section 2 of these Guidelines. No work may begin until a permit has been issued, except as provided for in Section 6 hereof. The Township may require review and approval of an application from the Township Police Department and/or the Township's applicable fire protection service provider.

1.5 Advance Notification for Road or Lane Closing. This notification is in addition to the time required for review of the applications for a permit.

1.5.1 Full Closure. If the proposed work within the right-of-way will entail the complete closing of a road, notice of such closing must be provided to the Perry Township Road Superintendent, 7125 Sawmill Rd, Dublin, OH 43016 by telephone (614-889-8781) or email (iwarren@perrytp.org) a minimum of five (5) working days prior to the commencement of work and a maintenance of traffic plan shall be provided and approved by the Township. Notification will also be made to Perry Township Police Department and Worthington Fire & EMS or the Upper Arlington Fire Division depending on the appropriate jurisdiction.

1.5.2 Lane Closures. Prior to a lane closure on a road, a minimum of three (3) day notice shall be provided. The contractor shall contact the Superintendent to coordinate traffic maintenance. They shall also notify the Perry Township Police Department and Worthington Fire & EMS or the Upper Arlington Fire Division. Lane closure will be done in accordance with ODOT Standard Drawing MT-97.10 or as directed by the Superintendent.

1.5.3 Steel Plates. The use of steel plates to cover any trenches created on a road, shall be made part of, and detailed in, the Application for a Permit. A minimum of three (3) day notice shall be provided prior to the placement of a steel plate. The contractor shall contact the Superintendent to coordinate and inspect the steel plate and required signage.

1.6 Review and Approval. Each permit application is subject to approval by the Board, or its designee. Once an application has been reviewed and approved, a

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permit may be issued. A permit will not be issued until the applicant can provide an actual starting date. The Superintendent will advise the applicant that a permit can be issued and provide notification of the provisions for issuing the permit. The permit shall be valid for only those days indicated. The applicant is responsible for making the request to issue the permit in accordance with the advance notification requirements of Section 1.5.

Permits shall be issued for a maximum period of thirty (30) days. It will be the applicant's responsibility to request another permit if needed. Permits for extended time periods may be issued for major construction areas or highway improvement plans.

1.7 Liability. The issuance of a permit does not relieve the permit holder and its contractor from any liability, and the permit holder shall at all times indemnify and hold harmless agents of the Township, for any loss or cost, liability, damage, claim, demand or cause of action arising from, under or connected with the excavation(s), work or the use and occupancy of any part of the road and/or right-of-way.

2. Application for Permit. A permit shall only be granted after an Applicant has completed an Application in the form that has been prescribed by the Township, which form may be revised from time to time. Upon request, an Applicant shall be provided with a copy of the then current Application for a Right-of-Way Permit. The Application shall request information regarding the Applicant's proposed or actual physical use and occupation of the rights-of-way. Permit applications shall include, but not necessarily be limited to, the following information:

- a) If applicable, a brief description of the utility or services to be offered or provided in or through the Township;
- b) Specific information regarding the equipment, items and/or improvements proposed to be placed, or currently maintained, in the rights-of-way;
- c) The expected physical burden that such equipment, items and/or improvements will place or does place on the rights-of-way;
- d) Whether the equipment, items and/or improvements will or do have a detrimental effect on public safety as it relates to the rights-of-way;
- e) Name of contractor and/or agent making application;
- f) Address of contractor and/or agent;
- g) Contact name and phone number (a 24-hour emergency number is needed, if not the same);

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- h) Specific location of work - Applicant shall provide street address and specify limits, land requirements, etc., if applicable;
- i) Size of trench (width/length/depth);
- j) How long permit is needed (maximum thirty (30) days);
- k) Proposed working hours, if applicable;
- l) Purpose of excavation or other work being performed (e.g., utility placement, working on overhead facilities, etc.);
- m) When work is to begin and completion date;
- n) Traffic control needed (e.g., whether a road must be completely closed, or the number and location of lanes to be closed, etc.). Each applicant must provide adequate traffic maintenance plans and notes; and
- o) If steel plates are to be used to cover any trenches created on a road, the Applicant shall indicate the location, number and appropriate signage as part of the Plans set forth below.
- p) Plans as required by Section 3 of these Guidelines.

If the completed Application does not fully provide such requested information, the Township may request such additional information as is necessary to enable it to make a determination regarding the physical use and occupation of the rights-of-way by the Application.

Upon submission of a fully completed Application to the Township and the accompanying fee, the Township shall review the Application as follows: the Township shall grant or deny such Applications within a reasonable period of time. In each case, the Township shall review the Application to determine whether such use would have a detrimental effect on public safety as it relates to the rights-of-way or would place an undue physical burden on the rights-of-way.

In consideration of an Application, the Township may use such outside experts as it deems necessary. In the event the Township deems it necessary to employ an outside expert to advise the Township with respect to a particular Application, the reasonable costs of such expert shall be borne by the Applicant.

3. Permit Plans. Whenever excavation is to be made within the right-of-way, all permit applications shall be accompanied by a plan of suitable size and clarity to show the location, size, type and duration of the work to be performed. Unless waived by the Superintendent, the plan shall also show: all existing utilities and topographic features; existing rights-of-way; adjacent property lines; political subdivision boundaries, if applicable; the horizontal and vertical alignment of all utilities (based on a diligent search

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of records); and the distance to the nearest intersection. All conflicts with any utility facility shall be resolved to the satisfaction of the owner. An area map with the work to be done highlighted, shall also be included with the permit application.

Each permit application shall indicate whether the excavation will be in the road, shoulder, sidewalk, driveway or grass area. The plans shall be annotated to show what method of excavating is to be used (e.g., trench, push, bore or tunnel method) and to indicate trench data, including, width and depth dimensions. The extent of each type of new or replacement work shall be easily identifiable and the proposed work shall be highlighted to assist in identifying it.

Whenever the full closure of a road is needed, the agency or its contractor shall provide the Superintendent with a set of plans showing the proposed traffic control signs, detour route maps, notes, etc.

For Perry Township homeowners replacing or constructing walkways, driveway aprons, curbs in front of their individual place of residence, a simple sketch will suffice. That sketch shall include all width, length and depth of the sidewalks, driveway aprons, parking pads and curbs that are to be replaced or constructed. The sketch shall also indicate materials to be used.

4. Driveway, Sidewalk and Curb Repairs. Whenever driveway approach aprons are being constructed or restored, any necessary cuts in the sidewalk, curb or pavement shall be made by saw and not by jackhammer. When it is necessary to run downspout or drainage tile through a curb, the opening for the tile shall be bored and not cut. The Board has adopted the most recent City of Columbus Standard Drawing 2300 D.R.A., as may be revised or amended from time to time, for sidewalk installation or repair, Standard Drawing 2201 D.R.A., as may be revised or amended from time to time for residential driveway approach installation and repair and Standard Drawing 2202 D.R.A., as may be revised or amended from time to time, for commercial driveway approach installation and repair.

5. Restoration. Whenever a person or company has been given a permit to excavate in any roadway or the right-of-way of any road or public way, the person or company causing such excavation shall restore the same in such a manner and by such time as required by the Board.

The City of Columbus Pavement and Utility Cut Repair Standards (Standard Drawing 1441), as may be revised or amended from time to time, have been adopted by the Board for use within the Township. Standard Drawing 1441 provides specifications on long pavement cuts, small pavement repairs, and other minor repair work within the right-of-way. Permanent repairs to any road; open-cut for the purpose of installing, extending or repairing any pipe, utility, wire, cable, conduit; or any other repair shall be made in accordance with current City of Columbus Pavement and Utility Cut Repair Standards (Standard Drawing 1441). If the contractor, public or private utility decides to use Item 912 compacted granular material for backfill of utility repairs instead of Item 636 Controlled Density Fill (CDF) they must provide proof of proper compaction of the granular backfill. This testing shall be done by a certified and independent lab. The testing

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shall be paid for by the contractor, public or private utility and the results provided to the Township.

A copy of all materials tickets (asphalt, concrete, gravel, CDF, etc.) needs to be turned in to Perry Township after job is complete either by mail to 7125 Sawmill Rd, Dublin, OH 43016 or the ticket can be turned in to 7125 Sawmill Rd, Dublin, OH 43016 from 8:00 am to 4:00 pm, Monday through Friday.

6. Emergency Repairs. When a political subdivision of the State of Ohio, a public agency, private utility company or contractor must excavate within the roadway to make emergency repairs for the safety and convenience of the public, an application for a permit shall be filed with the Township the next working day. All permanent repairs shall conform to Section 5 of this policy.

7. Miscellaneous Construction Standards. No contractor or other construction work shall endanger or interfere with the safety of persons or property within the Township. All operating, maintenance, construction and repair personnel shall be thoroughly trained in the safe use of all equipment and in the safe operation of vehicles. Such personnel shall follow all safety procedures required by applicable federal, state and local laws and regulations. The Permit Holder shall routinely inspect and maintain all areas so that conditions that could develop into safety hazards shall be corrected before they become a hazard.

Except in the case of any Emergency, at least three (3) days prior to the commencement of any construction activity, Permit Holder shall notify nearby residents of such construction activity in a manner which is satisfactory to the Township. The name of the Permit Holder shall be clearly disclosed to such residents.

All construction activity shall be performed in an orderly and workmanlike manner, and in close coordination with public utilities service the Township following accepted industry construction procedures and practices.

All wires, cables and other equipment shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundles with due respect for engineering considerations.

All wires, cables and other equipment shall be installed underground consistent with the same requirement being imposed on all other similarly situated companies, including public utilities.

8. Inspection. The Superintendent shall inspect and accept all work performed under a permit issued pursuant to these Guidelines. The contractor shall call the Perry Township Road Superintendent at 614-889-8781 at least four (4) hours before any needed inspection.

Required Inspections:

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Backfill - Call before backfill operation begins.
Approval needed to start backfill.

Sidewalk, Driveway or Curb - Form inspection required before placement of concrete.

Final Inspection when all work is complete.

It is the permit holder's responsibility to request inspections. Failure to do so will result in a forfeiture of any required deposits and fees.

9. Traffic Control. All required traffic control devices shall be furnished, erected, maintained and removed by the contractor in accordance with the manual of "Traffic Control for Construction and Maintenance Operations", with current revisions.

10. New Pavement or Repavement. No permit will be granted to open-cut new pavement or repavement of a road, except for the purpose of emergency repairs, until after three (3) years from the completion of such new pavement or repavement.

11. Fees and Deposits. All applications for permits shall be accompanied by a fee of Fifty and 00/100 Dollars (\$50.00). The application fee shall be returned to the applicant if the application is denied. The fee for replacement residential sidewalks, driveways, curbs, and approaches shall be waived. No application or fee shall be required for an excavation project to install five or fewer poles for the purpose of providing electric or telecommunications service, but the person making that excavation shall provide verifiable notice of the excavation to the township fiscal officer at least three business days prior to the date of the excavation.

A pavement cut deposit is also required for all street excavation permits when the pavement is open cut. This deposit shall be a minimum of Five Hundred and 00/100 Dollars (\$500.00) for an open cut area of three (3) square yards or less. For cuts larger than three (3) square yards the deposit shall be One Hundred Fifty and 00/100 Dollars (\$150.00) per square yard of pavement to be cut. The pavement cut deposit will be refunded if the work is completed in a manner satisfactory to the Superintendent.

The pavement cut deposit may be waived for all public and private utility companies when work is being performed by their employees; or for political subdivisions who are performing or having performed work on public improvements. In the event that the application is being sought by a political subdivision pursuant to paragraph (C)(6) in regard to emergency repairs, the political subdivision shall make any required deposits as soon as is practicable.

12. Performance Bond. A Permit Holder may be required, prior to construction, to obtain a performance bond in a reasonable amount set by the Township based upon the construction cost of the equipment to be installed in the rights-of-way and the extent of the disturbance of such rights-of-way. The performance bond shall ensure the Permit Holder's

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faithful performance of its construction obligations. The Township may reduce or cancel the bond requirement when construction is completed.

13. Marking of Utility Pavement Cuts. The Township requires the tagging or flagging of repair work in paved surfaces resulting from permit work. Below are the specifications for making requirements:

- a) All permanent asphalt and concrete road repairs shall be identified with a tag placed a minimum of one per each 50' of trench resurfacing or, in the case of small cuts, one tag in the center of the repair.
- b) The tag shall be colored per American Public Works Association (APWA) uniform color code.
- c) The tag shall indicate the name, initials or logo of the company that owns or operates the line, conduit or utility and the year of repair.
- d) The tag shall be embedded at zero grade tolerance or slightly below the new surface without the use of adhesives or nails, and shall be of one-piece construction.

e) The tag shall be of a material meeting or exceeding the following specifications:

Tensile yield strength:	3,500 psi at Gardener Impact
Tensile modulus:	150,000 psi at 73F: 300 in-lb
Flexural modulus:	130,000 psi at 0F: 180 in-lb at -40F: 65 in-lb
Average pull-out value in asphalt	>140 lbs
Average pull-out value in concrete	>600 lbs

14. Notification and Other Permits. The permit holder shall be responsible for notifying all applicable utility providers of the proposed excavation(s) and for obtaining all other applicable permits.

15. Liability and Indemnification.

15.1 A Permit Holder shall, at its sole cost and expense, indemnify and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising out of the Permit Holder's use or occupancy of the rights-of-way. A Permit Holder shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the Permit Holder's use or occupancy of the rights-of way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification. A Permit Holder shall not be required to indemnify and hold the Township harmless

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for claims caused by the Township's negligence, gross negligence or willful misconduct.

15.2 A Permit Holder shall at all times during the life of a Permit carry and require its subcontractors to carry liability, property damage, worker's disability and vehicle insurance in such form and amount as shall be determined by the Township as set forth in the Permit. A Permit Holder shall name the Township as an additional insured on its liability insurance policies. All required insurance coverage shall provide for thirty (30) day notice to the Township in the event of material alteration or cancellation of such coverage prior to the effective date of such material alteration or cancellation.

16. Political Subdivision Exception.

16.1 Any political subdivision of the State of Ohio shall not be required to indemnify the Township as may be set forth or required by any paragraph of this policy. Likewise, with respect to any political subdivision which is self-insured, the provisions of paragraph (C)(15.2) do not apply with respect to that political subdivision.

16.2 The Township shall retain its right to employ any expert it deems necessary with respect to a particular Application pursuant to paragraph (C)(2) except to the extent that charging the reasonable costs of such expert would be in violation of the laws of the State of Ohio as against a political subdivision, and in such an event any charges shall not be borne by a political subdivision but rather by the Township.

16.3 With respect to political subdivisions, all provisions contained herein shall be interpreted in accord with the Constitution and laws of the State of Ohio. To the extent that any of the provisions herein would violate the Constitution or laws of the State of Ohio those provisions are deemed unenforceable, null, and void. The inapplicability of any provision herein, in whole or in part, with regard to political subdivisions does not render any other provision, otherwise in accord with the laws of the State of Ohio, unenforceable, null or void.

D. Penalty.

1. Civil Fine. Any violation these right-of-way regulations and guidelines for excavation/construction shall constitute an unclassified civil fine punishable according to the civil fine schedule set forth in the Limited Home Rule Resolution.
2. Other Remedies. Nothing here in shall be construed to impair any common law or statutory cause of actions, or legal remedies available under O.R.C. Chapter 504.