

CHAPTER 921
Excavations

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CROSS REFERENCES

- Power to establish and care for streets - see Ohio R. C. 715.19, 717.01, 723.01
 Openings by the Municipality - see Ohio R. C. 723.02
 Excavation liability - see Ohio R. C. 723.49 et seq.
 Digging, excavating and piling earth on streets - see Ohio R. C. 5589.10
 Barricades and warning lights - see GEN. OFF. 521.03

921.01 COMPLIANCE REQUIRED.

No person, firm or corporation, other than the Municipality, shall perform work or place equipment or facilities on, under or adjacent to the right-of-way of the Municipality without first having complied with the requirements of this chapter.
 (Ord. 07-159. Passed 12-31-07.)

921.02 APPLICATION FOR PERMIT; DEPOSIT.

Before any person, firm or corporation, other than the Municipality, shall work or place equipment or facilities on, under or adjacent to any right-of-way, the Municipality, the party shall:

(a) Make application directly to the Village Administrator detailing the nature of the work contemplated, the proposed location of the equipment or facilities, the method of work, the remedial work planned, the starting date and the anticipated completion date. The application shall be made on a form prescribed by the Village Engineer, giving the exact location of the proposed work, equipment or facilities, the proposed opening, the kind of paving, the area and depth to be excavated and such other facts as the Village Engineer may deem necessary. A separate application for each project shall be made even if the applicant is a public utility which has posted an annual bond pursuant to Section 921.05(b).

(Ord. 07-159. Passed 12-31-07.)

(b) There shall be an application fee of one hundred dollars (\$100.00) submitted with the application. In addition, the applicant shall submit a cash deposit in an amount not less than one thousand dollars (\$1,000) or such greater cash deposit as shall be determined by the Village Engineer,

to be equal to the estimated cost of (1) the Engineer's review of the applicant's plans and (2) the inspection of the work to be performed.

(c) The applicant shall submit evidence of insurance as follows: comprehensive general liability insurance for bodily injury and death in an amount not less than \$2,500,000.00 per person/\$5,000,000.00 each accident; property damage insurance in an amount not less than \$1,000,000.00 per occurrence/\$1,000,000.00 aggregate. The Municipality shall be covered by such insurance as a co-insured party.

(d) Upon determination of the amount of the bond as provided by Section 921.05, the applicant shall submit a bond to the Village Administrator in a form meeting the requirements of Section 921.05.

(e) Upon submission of the application and the application fee, the Village Administrator shall submit the application to the Village Engineer to determine the amount of the deposit, the appropriateness of the proposed method of work and the amount of the required bond, as provided by Sections 921.04 and 921.05.

(Ord. 06-101. Passed 1-19-06.)

921.03 MAYOR'S PERMIT. (REPEALED)

Editor's Note: Former Section 921.03 was repealed by Ordinance 06-101, passed January 19, 2006.

921.04 REVIEW OF APPLICATION; ISSUANCE OF PERMIT.

(a) Upon receipt of the application by the Village Engineer as set forth in Section 921.02, the Engineer shall contact the applicant in writing and advise that the proposed location for the placement of equipment or facilities, the suggested method of work and remedial is satisfactory or unsatisfactory as the case may be and if it is unsatisfactory, outline a satisfactory location or method; that the time allotted is sufficient or insufficient and if it is insufficient, advise a sufficient time; the estimated cost of the involvement of the Municipal roadway, water system and/or sewer system and the amount of the required bond as provided by Section 921.05.

(b) Upon payment of all applicable fees, submission of evidence of insurance, posting of the bond, and upon approval of the Village Engineer, the Village Administrator shall issue a permit for the work.

(Ord. 07-159. Passed 12-31-07.)

921.05 BOND.

The Village Engineer shall determine the amount of bond to be posted by the applicant, subject to the following requirements:

(a) Subject to the provisions of Section 921.05(b) the bond shall be in an amount at least one hundred dollars (\$100.00) per lineal foot of right-of-way being effected.

(Ord. 07-159. Passed 12-31-07.)

(b) If the applicant is a public utility licensed by the State of Ohio, the applicant may submit an annual bond for all routine work on, under or adjacent to the right-of-way in the municipality during a given year. Upon application, the amount of the annual bond shall be established in the discretion of the Village Engineer. Said bond shall not apply to any project determined by the Village Engineer to be non-routine, and any non-routine project shall be subject to the requirements of Section 921.05(a).

(c) The bond may be either cash, mortgage bond or performance bond supplied by a bonding company satisfactory to the Village Administrator.

(Ord. 06-172. Passed 12-21-06.)

921.06 REVOCATION OF PERMIT.

If, for any reason, the proposed work is done, or is being done in a manner other than as specified by the Village Engineer, the Engineer shall send written notice to the applicant, specifying where the applicant has failed to comply and giving the applicant twenty-four (24) hours to correct the violations. If the applicant fails to correct the violations within twenty-four (24) hours, the Engineer, may, at the Engineer's option, revoke the applicant's permit and take whatever steps are necessary to return the public improvements to their original state, with all costs therefor to be borne by the applicant. The applicant shall forfeit the deposit and the bond to the extent of the cost to the Municipality for the work performed, and the applicant shall be liable to the Municipality for all costs incurred by the Municipality in excess of those paid for by the deposit and the bond.

(Ord. 06-101. Passed 1-19-06.)

921.07 INSPECTION PRIOR TO BACKFILLING.

Prior to backfilling any excavation performed as part of work on, under or adjacent to any right-of-way in the Municipality, the person, firm or corporation performing the work shall have the work inspected by the Director of Streets and Utilities or the Village Engineer. No backfilling of any such excavation shall occur unless and until the Director of Streets and Utilities or the Village Engineer has verified that the excavation or other work performed did no damage to the Municipality's roadways, water systems and/or sewer systems, or that any such damage which may have occurred was repaired to the full satisfaction of the Municipality by and at the cost of the person, firm or corporation performing the excavation.

(Ord. 06-101. Passed 1-19-06.)

921.08 PROTECTION OF OPENINGS AND OBSTRUCTIONS.

All openings and obstructions in public property shall be carefully guarded, protected or barricaded at all times and at night shall be defined by lights, and such other precautions shall be taken as may be necessary to guard against accidents. At all times the work shall be done in a manner so as to cause the least inconvenience to the Municipality, to property owners and to the general public.

(Ord. 06-101. Passed 1-19-06.)

921.09 RETURN OF DEPOSIT.

When the work authorized by the right-of-way permit issued under the Chapter is complete and all provisions of this Chapter have been met, the Village Administrator shall direct the Fiscal Officer to return the unused portion of the cash deposit (if any) to the applicant. If the cash deposit is insufficient to reimburse the Municipality for its expenses in connection with the right-of-way work, the Village Administrator shall notify the applicant of the deficiency and proceed to collect the deficiency from the applicant or its surety.

(Ord. 06-101. Passed 1-19-06.)

921.10 GENERAL PUBLIC RIGHT-OF-WAY USE REGULATIONS.

(a) No permit holder under this Chapter shall locate or maintain its equipment or facilities so as to unreasonably interfere with the health, safety and welfare of the general public or with the use of any right-of-way by the Municipality, by the general public or by other persons authorized to use or be present in or upon the right-of-way. All such equipment and facilities that are in violation of this

Section shall be moved by the permit holder, temporarily or permanently, as determined by the Village Administrator.

(b) No permit holder under this Chapter shall take any action or permit any action to be done which may impair or damage any Municipal property, right-of-way or any other public or private property located on, under or adjacent to any right-of-way of the Municipality.

(c) Restoration of public right-of-way and municipal property.

(1) When a permit holder under this Chapter does any work under, on or affecting any right-of-way in the Municipality or any Municipality-owned property, it shall, after the work is completed and at its own expense, promptly remove any obstructions therefrom and restore such right-of-way or property, within ten days, to the condition that existed before the work was undertaken, unless otherwise directed by the Village Administrator.

(2) If weather or other conditions do not permit the complete restoration required by this Section, the permit holder shall temporarily restore the affected ways or property as directed by the Village Administrator. Such temporary restoration shall be at the permit holder's sole expense and the permit holder shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(Ord. 07-159. Passed 12-31-07.)

921.11 LOCATION OF EQUIPMENT OR FACILITIES OF A PERMIT HOLDER UNDER THIS CHAPTER.

(a) All equipment or facilities of a permit holder under this chapter to be located on, under or adjacent to any right-of-way within the Municipality shall be constructed, reconstructed, installed and located in accordance with the following terms and conditions:

(1) Equipment or facilities shall be installed within an existing compatible underground duct or conduit whenever excess capacity exists within such facility or equipment.

(2) A permit holder with permission to install overhead equipment or facilities shall install its equipment or facilities on pole attachments to existing utility poles only, and then only if surplus space is available on the existing utility poles.

(3) Whenever the existing electric, cable, telecommunications and other similar equipment or facilities are located underground in any right-of-way, a permit holder under this Chapter with permission to occupy the same public right-of-way with the electric, cable, telecommunications or other similar equipment or facilities, must also locate its equipment or facilities underground.

(4) Except for overhead equipment or facilities as provided herein, no equipment or facilities shall be located above ground in a public right-of-way without the express written permission of the Village Administrator in accordance with Section 921.04.

(b) The Municipality retains the right and privilege to cut or move any equipment or facilities, or stop work on any construction, reconstruction, installation, operation or evacuation, located in the right-of-way as the Village Administrator may determine to be necessary, appropriate or useful in response to any need to protect the public health, safety or welfare; except to the extent that the Municipality's actions would cause a dangerous or potentially dangerous situation.

(Ord. 07-159. Passed 12-31-07.)

921.99 PENALTY.

(a) Whoever violates any provisions of this Chapter, whether such violation consists of the commission of an act forbidden thereby, or the failure to perform any act required thereby, shall be

deemed guilty of a misdemeanor of the first degree. A separate offense shall be deemed to occur each day during or on which a violation occurs or continues.

(b) In addition to the penalty imposed in subsection (a) hereof, the Municipality shall have the further right to institute injunctive proceedings or seek other equity relief against any violations thereof.

(Ord. 06-101. Passed 1-19-06.)