

RESOLUTION 25-0122-1

RESOLUTION AMENDING RESOLUTION 24-1126-1 WITH RESPECT TO REQUIRING ANY PERSON TO OBTAIN A PERMIT BEFORE MAKING ANY EXCAVATION IN A TOWNSHIP HIGHWAY OR HIGHWAY RIGHT-OF-WAY WITHIN CONCORD TOWNSHIP'S JURISDICTION, EXCEPT AN EXCAVATION TO REPAIR, REHABILITATE, OR REPLACE A POLE ALREADY INSTALLED FOR THE PURPOSE OF PROVIDING ELECTRIC OR TELECOMMUNICATIONS SERVICE.

The Board of Trustees of Concord Township, Delaware County, Ohio met at the Concord Township Hall on January 22, 2025 with the following members present:

Mr. Haney moved for the adoption of the following resolution:

WHEREAS, on November 26, 2024, the Board of Trustees of Concord Township adopted Resolution 24-1126-1 to require any person to obtain a permit before making any excavation in a township highway or highway right-of-way within Concord Township's jurisdiction, except an excavation to repair, rehabilitate, or replace a pole already installed for the purpose or providing electric or telecommunications service; and

WHEREAS, the Board of Trustees of Concord Township have determined to make certain amendments to the rules and regulations and application form adopted pursuant to Resolution 24-1126-1.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of Concord Township, Delaware County, State of Ohio:

- Section 1.** Concord Township hereby adopts the Right-of-Way Excavation Application Form, attached hereto as Exhibit 1, to replace such form attached as Exhibit 1 to Resolution 24-1126-1.
- Section 2.** Concord Township hereby adopts the Right-of-Way Excavation Permit Rules and Regulations, attached hereto as Exhibit 2, to replace such rules and regulations as Exhibit 2 to Resolution 24-1126-1.
- Section 3.** All other items contained in Resolution 24-1126-1 shall remain in full force and effect.

Section 4. That this Board hereby finds and determines that all formal actions relative to the passage of this resolution were taken in an open meeting of this Board, and that all deliberations of this Board which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Mr. Garrett seconded the motion and the roll being called upon the question of its adoption the vote resulted as follows:

Voting Aye thereon:

Voting Nay thereon:

Bart Johnson, Chairman

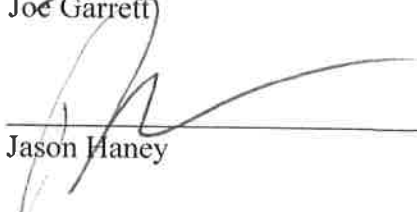
Bart Johnson, Chairman




Joe Garrett



Joe Garrett

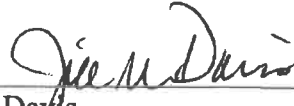


Jason Haney



Jason Haney

I, Jill Davis, Fiscal Officer of Concord Township, hereby certify, as official custodian of the records of Concord Township, Delaware County, Ohio, that the foregoing is taken and copied from the Record of Proceedings of Concord Township and that the same is a true and accurate copy of the original on file in the township hall at 6385 Home Rd, Delaware, OH.



Jill Davis

Date: Jan. 22, 2025.

Approved as to form:

/s/ Christopher A. Rinehart

**CONCORD TOWNSHIP
DELAWARE COUNTY, OHIO**

**APPLICATION FORM
RIGHT-OF-WAY EXCAVATION PERMIT**

Application Received by Concord Township:

Application Review Dates by Concord Township Staff:

Application Determined Complete by Concord Township Staff:

Permit Number Assigned by Concord Township:

Total Amount Due:

Date of Approval:

APPLICANT INFORMATION*:

Applicant Name:	
Address:	
Telephone Number:	
E-mail Address:	

* Please attach additional pages, if necessary, to complete this section.

LOCATION OF EXCAVATION / CONSTRUCTION SITE*:

Name:	
Address:	
Delaware County Parcel Identification Number(s):	
Telephone Number:	
E-mail Address:	

* Please attach additional pages, if necessary, to complete this section.

EMERGENCY CONTACT INFORMATION*:

Individual Name:	
Business Name (if applicable):	
Address:	
Telephone Number:	
E-mail Address:	

* Please attach additional pages, if necessary, to complete this section.



PROPOSED CONSTRUCTION DATES*:

Estimated Start Date:	
Estimated Completion Date:	

* Please attach additional pages, if necessary, to complete this section.

NATURE OF EXCAVATION AND/OR WORK TO BE UNDERTAKEN:*

* Please attach additional pages, if necessary, to complete this section.

TERMS AND CONDITIONS OF PERMIT:

1. Applicant acknowledges he / she / it has read the Concord Township Right-of-Way Excavation Permit Regulations and agrees to be bound by such regulations and the terms and conditions contained in this application.
2. Applicant agrees to provide and place such warning devices as are necessary to protect travelers on the road and to ensure their safety.
3. Applicant agrees to complete all work to be performed under this application as soon as reasonably possible and to completely restore the entire road and right-of-way to the condition that existed before such work was undertaken, in accordance with the Concord Township Right-of-Way Excavation Permit Regulations.
4. Applicant agrees to notify Concord Township staff, the Concord Township Fire Department, and all applicable utility providers of the right-of-way excavation and to obtain all required permits prior to the commencement of any work or excavation in the road right-of-way. Further, the applicant agrees to provide copies of any such required permits to Concord Township.
5. Applicant agrees to indemnify and hold harmless Concord Township, its board of trustees, and all officers, employees and agents of Concord Township, for any loss, cost, liability, damage, claim, demand, or cause of action arising from, under or connected with the excavation and work covered by this application, and has properly executed the attached indemnification and hold harmless agreement.

- 6. This application is accompanied by a \$50.00 fee (O.R.C. §5571.16). In addition, Applicant agrees to reimburse Concord Township for all costs incurred by Concord Township to review plans submitted by the applicant and for any inspection activities associated with this application, which Applicant agrees to pay prior to Concord Township's issuance of a permit pursuant to this application.
- 7. Plans, as required by Concord Township, are attached to this application.
- 8. A list of materials to be used is attached to this application.
- 9. A security bond in the amount of \$_____ accompanies this application.
- 10. The Applicant's proposed contractor(s) is / are identified in Exhibit A attached hereto. (If more than one contractor, please provide an exhibit for each contractor performing work subject to the permit application.)

BOND REQUIRED:

- A. If open-cutting pavement, \$150.00 per square yard of pavement to be cut with a minimum bond of \$500.00.
- B. If working in right-of-way but outside pavement, \$100 per linear foot of work area length.
- C. If setting new poles for utilities (6 or more overhead utility lines, 1 or more for underground utility lines), \$50.00 per pole.

Security bonds shall not be refundable if it has been determined by inspection that the applicant has not met all conditions, standards and requirements contained in this application and in the Concord Township Right-of-Way Excavation Regulations. It is the responsibility of the applicant to notify Concord Township when ready for inspection. No refund will be granted until inspection has taken place and it has been determined by the responsible Concord Township official that the work has been completed to the required standards.

- 11. Persons failing to comply with the standards and regulations, or failing to obtain a permit, shall be notified in writing by Concord Township that they have 30 days from the date of notification to eliminate the violation and return the right-of-way to its original condition.

Persons failing to come into compliance within the 30-day period will forfeit their bond and may be prosecuted pursuant to Section 5571.99 of the Ohio Revised Code. The Concord Township Trustees will recommend to the Court that violators be ordered to eliminate the violation at the violator's expense; or that the Court appoint a qualified company to remove the violation, and the costs of same be placed on the tax duplicate as lien, to be collected with other taxes.

SIGNATURE:

(Must be signed by property owner or owner's authorized agent)

PRINTED NAME:

TITLE:

DATE:

EXHIBIT A

PROPOSED CONTRACTOR(S)

The Applicant is required to state, in the spaces provided below, any contractor which will be performing any part of the proposed work. Copy this sheet as necessary to provide information for all contractors.

CONTRACTOR: _____

PRIMARY CONTACT PERSON: _____

SECONDARY CONTACT PERSON: _____

ADDRESS: _____

CITY / STATE / ZIP: _____

WORK DESCRIPTION: _____

TELEPHONE: _____

FAX: _____

E-MAIL: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY CONTRACTOR:

The Contractor accepts the terms and conditions stated hereby by signing this application below:

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____ **DATE:** _____

**CONCORD TOWNSHIP
DELAWARE COUNTY, OHIO**

**RIGHT-OF-WAY EXCAVATION PERMIT
INDEMNIFICATION AND HOLD HARMLESS
AGREEMENT**

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Now comes the undersigned being _____, (hereinafter the "Indemnitor") and the Board of Township Trustees of Concord Township, Delaware County, Ohio, (hereinafter the "Township") and enter into this Agreement on this _____ day of _____, 20__.

WHEREAS, The Indemnitor desires to engage in excavation or construction activities within a Township Right-of-Way, pursuant to an application for such authority submitted to the Township, and

WHEREAS, the Township agrees to permit such excavation or construction activities but requires the execution of this Agreement pursuant to the Ohio Revised Code §5571.16,

NOW, THEREFORE, the Indemnitor and the Township, in consideration of the mutual covenants and agreements, hereby agrees as follows:

The Indemnitor agrees to indemnify and hold harmless the Township and each member of the Board of Trustees of the Township and each officer of said Board (and their heirs, executors, administrators and assigns) who is made a party or is threatened to be made a party to any litigation, action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a trustee, officer, employee or agent of the Board or is or was serving at the request of the Board against expenses, attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding in connection with any activity by the Indemnitor, or his designee, employee, agent, assign or contractor permitted under this agreement including, but not limited to, any negligent or intentional act which results in any harm or damage to another or to property of another. The foregoing right of indemnification shall not be exclusive of other rights or remedies to which such Board or Township official, or their heirs, executors and administrators may be entitled.

IN WITNESS WHEREOF, we have set our hands on the date set forth above.

INDEMNITOR:

Signature

Printed Name

Title

CONCORD TOWNSHIP

**RIGHT-OF-WAY EXCAVATION PERMIT
INDEMINFICATION AND HOLD HARMLESS
AGREEMENT**

PAGE 2 OF 2

CONCORD TOWNSHIP BOARD OF TRUSTEES:

By:

**RIGHT-OF-WAY EXCAVATION PERMIT
RULES AND REGULATIONS**

1. **PERMIT REQUIRED:** A right-of-way excavation permit is required when placing, extending, or repairing any pipes, cables, wires, roadway structure or appurtenances, or for any other purposes requiring the use of or connection to a Township road right-of-way. (U.S. Postal Maintenance approved mailboxes on breakaway posts are exempted from permit requirements). This permit requirement does not apply to the installation or replacement of a driveway or other culvert that is currently subject to review by the Delaware County Engineer's Office. Failure to obtain a permit may result in the imposition of a fine equal to the permit and inspection fees (listed below) that would have been charged had the work been properly permitted and inspected. Further penalties may also apply, including the opening of the construction site for inspection and/or prosecution under Ohio Revised Code §5571.99. A permit may be obtained by submitting an application for the same to the Concord Township Fiscal Officer, who shall receive such application and forward the same to the Concord Township Road Superintendent, and any other township official or representative deemed reasonably necessary by the Concord Township Road Superintendent, for review and consideration. Such application shall be reviewed and acted upon within a reasonable period of time based upon the permit request.

2. **LIABILITY:** The applicant and the applicant's contractors assume all responsibility for safety during the construction project and shall conform to all required laws applicable to the construction project, including OSHA standards. 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 save harmless Concord Township and its employees and officials against all claims from injury or damage to persons and property that may be asserted by any firm, person or corporation arising out of the use and occupancy of any part of the road and/or road right- of-way. The attached indemnification agreement must be completed and submitted with permit application. In addition to the foregoing, the applicant shall provide a certificate of liability insurance with respect to the proposed work / project naming Concord Township as an additional insured with minimum coverage of at least \$300,000 / \$500,000 for personal injuries and \$500,000 for property damage prior to commencing any work pursuant to a permit.

3. **PERMIT PLANS:** Whenever excavation is to be performed within the right-of-way, all permit requests shall be accompanied by plans of suitable size and clarity to show the nature of the work to be performed and the staging of the proposed work to be completed, including the location and storage of any vehicles, equipment, and materials to be used in the performance of the proposed work. Such plans shall show all existing utilities and topographic features, existing right-of-way and adjacent property lines. The utilities shall be shown on the plans as to horizontal and vertical alignment based on a diligent search of records. All conflicts with any utility facility shall be resolved to the satisfaction of the utility owner. Trench data is to include length, width and depth dimensions and indicate fill material to be used. Method of closure must also be shown. (Please request a copy of current filling and closing materials and procedures). Indicate if excavation is in pavement, sidewalk, driveway or grass areas. Make notation if a trench, push, bore or tunnel method is involved. Proposed work should be highlighted for easy identification. **NOTE: Concord Township discourages the practice of enclosing natural or man-made swales and ditches with storm pipe in the Township. In most cases, permits will not be granted for such excavation work.**

EXHIBIT

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4. **CONTRACTOR REGISTRATION:** All contractors for a project shall be registered with Concord Township. The applicant will assume responsibility for all contractors during the execution of the proposed work. The applicant must identify all contractors proposing to perform any part of the proposed work. All terms and conditions of an issued permit are also applicable to all contractors authorized by the applicant to executed the proposed work.
5. **OHIO UTILITIES PROTECTION SERVICE (OUPS):** Prior to any work being performed pursuant to a permit issued pursuant to these rules and regulations, a permit holder shall contact the Ohio Utilities Protection Service (OUPS) to locate all existing utilities in the right-of-way and work areas at least two (2) days prior to construction. All utilities which are not members of the OUPS shall be contacted directly.
6. **TRENCHLESS EXCAVATION:** Any contractor using trenchless excavation methods (e.g. directional drilling) to install a proposed utility shall perform the following:
 - (A) Expose and confirm all underground utility facilities at each crossing point by the proposed excavation in a non-destructive manner.
 - (B) Expose all parallel underground utility facilities in a non-destructive manner at the beginning and end of each trenchless excavation. Any parallel underground utility facility that is within five (5) feet of the proposed alignment shall also be exposed every one hundred (100) feet. Any parallel underground utility facility that is within three (3) feet of the proposed alignment shall be exposed every fifty (50) feet.
 - (C) Ensure that the final product installation maintains a minimum 12-inch or other agreed upon clearance of existing underground utility facilities.
7. **ROAD CLOSURE:** Whenever the full closure of a road is needed, the permit holder or its contractor shall provide the Concord Township with a set of plans showing the proposed traffic control signs, detour route maps, notes, etc. Upon approval of plans, contractor must notify Concord Township and the Concord Township Fire Department five (5) working days prior to actual closure of road.
8. **RESTORATION:** Whenever any party is issued a permit to excavate in any roadway or right-of-way of any road or public way, such party causing such excavation shall restore the same in such a manner and by the time as required by Concord Township. All road and driveway repairs shall conform to any required township or county standards and specifications. 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 specifications and conditions approved by Concord Township. In addition to the foregoing, all excavation under and within five (5) feet of the edge of pavement and the 1:1 zone of influence will require premium backfill with ODOT #304 limestone. Compaction efforts shall be in accordance with ODOT standards. If settlement does occur within a two (2) year period after completion of construction, the applicant shall place additional fill as required and also perform the associated restoration of the area disturbed.
9. **EMERGENCY REPAIRS:** When any public agency, private utility company or contractor must excavate within the roadway to make emergency repairs for the safety and convenience of the public, the same shall request a permit the following working day. All permanent repairs shall conform to these regulations.

10. **INSPECTION:** Personnel of Concord Township, or its designee, shall perform inspections and approve acceptance of work performed under these permits. It is the permit holder's responsibility to request inspections. If, in the opinion of Concord Township, additional inspections are needed due to the size or nature of the work, the contractor shall place on deposit funds necessary to pay for said inspections. If a deposit is required, the amount will be negotiated with the contractor.
11. **TRAFFIC CONTROL:** If traffic control devices are required, all such devices shall be furnished, erected, maintained and removed by the contractor in accordance with the Ohio Uniform Manual of Traffic Control Devices with current revisions. Copies are available at the Ohio Department of Transportation, 25 S. Front Street, Columbus; or ODOT District 6, Delaware, Ohio.
12. **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 years from the completion of such new pavement or repavement. When any emergency repairs are necessary, such repairs shall be made in accordance with any conditions or requirements of these regulations and Concord Township.
13. **FEES:** A permit fee of **\$50.00** shall be charged (ORC §5571.16). In addition, plan review and inspection fees will be charged for all new work. See Application for fee schedule. No permit or fee is required if work involves only the installation of U.S. Postal Maintenance approved mailboxes on breakaway posts. If full stand-by inspection is requested by the contractor, a fee will be negotiated which must be deposited with Concord Township prior to commencement of work.
14. **CONSTRUCTION BOND:** In addition to permit fees, plans review fees, and inspection fees, a bond shall be required for the following: open-cutting of pavement; work in right of way outside of paved area; installation of culvert pipes. No bond shall be required for replacement of existing driveway culvert pipe so long as the replacement is the same diameter and alignment as the existing culvert pipe (application and permit still required).

No bond shall be refunded if the construction does not meet the required standards, is in violation of these regulations, or is not carried out according to the application and approved permit. Bond will be refunded if work is corrected within 30 days of initial inspection and the correction meets the standards and regulations. It is the applicant's responsibility to request both the inspection fee and refund of bond.
15. **MATERIALS TO BE USED:** All materials to be used shall be listed on the application for excavation in the right-of-way and shall be approved by Concord Township, or its designee.
16. **SUBSTANDARD OR INCOMPLETE WORK:** Substandard or incomplete construction or restoration will result forfeiture of bond in the amount required for Concord Township to complete, repair or restore the excavation at a rate of **\$50.00** per hour plus materials. Severe nonconformance with these standards may result in the issuance of a stop work order by the Road Superintendent or, if unavailable, such other Township representative as may be designated by the Concord Township Board of Trustees.

17. **ENFORCEMENT:** Notwithstanding any of the foregoing, these Rules and Regulations may be enforced by the Concord Township Road Superintendent, or his or her designee, or, if the Road Superintendent is unavailable for any reason (including vacancy in the position), by any official or representative designated by the Concord Township Board of Trustees. If the Township incurs any costs associated with such enforcement, such costs shall be borne by the party or parties against whom enforcement is sought. If a violation of these rules and regulations results in an immediate risk of danger to any affected party, as a condition of any issued permit, an applicant consents to the immediate enforcement of these rules and regulations by the Township to the extent necessary to eliminate the identified risk of danger.