

Right of Way Permit

STREET CLOSURE, PARKING LOT, DRIVEWAY EXPANSION,

STREET OPENING AND SIDEWALK OPENING

Compliance with Ordinance 1670 passed 2-20-2012
Chapter 901 (A copy of the Ordinance becomes a part of the permit)

1. LOCATION: _____

2. KIND AND EXTENT OF WORK PREFORMED: (Provide Plans if applicable)

3. REMOVAL OF SIDEWALK: Yes _____ No _____

4. PARKING LOT DEMINSIONS: (If applicable) _____

5. PURPOSE AND SIZE OF DRIVEWAY EXPANSION, OPENING or STREET CLOSURE:

6. DATE WHEN WORK WILL COMMENCE: _____

7. DATE WHEN WORK WILL BE FINISHED: _____

NAME OF PERSON, FIRM, OR CORPORATION COMPLETING THE WORK:

SIGNATURE: _____

DATE: _____

Fee \$100.00 payable with application, plus the cost of any labor provided by the Village.

Village Administrator / Approval

Date

**AN ORDINANCE AMENDING
CHAPTER 901 “STREET RIGHT-OF-WAY & OPENINGS” OF THE
CODIFIED ORDINANCES OF THE VILLAGE OF MOUNT GILEAD, OHIO**

BE IT ORDAINED by the Council of the Village of Mount Gilead, State of Ohio, at least two-thirds (2/3) of all members elected thereto concurring that;

SECTION I: That Chapter 901 “Streets Right Of Way Openings” is hereby amended to read as follows:

- 901.01 Definitions.
- 901.02 Permit required; application information.
- 901.03 Exceptions.
- 901.04 Supervision by Village Administrator.
- 901.05 Protection of openings.
- 901.06 Compulsory service connections.
- 901.07 Additional Obligations of the Permit Holder.
- 901.08 Emergencies.
- 901.99 Penalty.

CROSS REFERENCES

- Assessments - see Ohio R.C. 701.05, Ch. 727
- Openings by the Municipality - see Ohio R.C. 723.02
- Surface treatment - see Ohio R.C. 723.23, 723.31
- 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. 517.03
- Water line extensions - see S.& P.S. 911.12
- Deposit for sewer line extension excavations - see S. & P.S. 913.10(e)
- Permit to place building materials on street - see BLDG. 1301.02

901.01 DEFINITIONS.

Applicant: Any person applying for a permit hereunder.

Approved: Approval by the Village Administrator pursuant to this Chapter or any regulation adopted hereunder.

Contractor: A person or business which provides goods or services to another entity under terms specified in a contract.

Council: The Council of the Village of Mount Gilead

Emergency: A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property; that calls for immediate action.

Permit: The non-exclusive grant of authority to use or occupy all or a portion of the Village's Rights of Way granted pursuant to this Chapter.

Permit Holder: Any person issued a Right of Way permit pursuant to this Chapter to use or occupy all or a portion of the Right of Way in accordance with the provisions of the Chapter and said permit.

Right of Way: Wherever the words "streets", "boulevards", "avenues" and "alleys" are used in this chapter, such words mean that land which lies between private lot lines and which is dedicated for public use. It includes the surface of the area and the areas both above and below the surface. (Ord. 675. Passed 6-21-65.)

Village Administrator: The Administrator of the Village appointed by Council, or a designee of the Village.

901.02 PERMIT REQUIRED; APPLICATION INFORMATION.

Before any person, other than a duly authorized Village employee, shall make any opening or tunnel in any street, boulevard, avenue, alley, curb, highway or other public grounds in the Village, or remove the surface of any sidewalk or any part thereof, such person shall file with the Village Administrator a written application, accurately indicating the location, kind and extent of the proposed opening, tunnel or removal of sidewalk, and the number, purpose and size of the openings or excavations which are desired or necessary. (Ord. 675. Passed 6-21-65.)

The application may be obtained from the Village Administrator or designee in the Village Office, 72 West High Street, Mount Gilead, OH 43338. Please refer to the schedule of fees on file in the Village Office for the Right of Way application fee. If the existing plan review is extensive or requires multiple reviews by the Village Administrator due to non-conforming plans, then the fees may be increased.

901.03 EXCEPTIONS.

Nothing contained in this chapter shall be deemed applicable to any contracts with the Village with respect to street openings. (Ord. 675. Passed 6-21-65.)

901.04 SUPERVISION BY VILLAGE ADMINISTRATOR.

All openings made within the street lines or sidewalks shall be subject to the directions of and under the supervision of the Village Administrator. All paving, material, flagging, curbing and ballasting shall be carefully removed and preserved. After the work is done, as contemplated by the permit application, the trench or opening shall be refilled in accordance with the directions of the Village Administrator, and the flagging, concrete, paving or other paving material shall be properly replaced under the supervision of the Village Administrator. All work shall be at the applicant's expense. (Ord. 675. Passed 6-21-65.)

The applicant shall comply with the following additional terms and conditions:

1. No work shall begin until the applicant has an approved Right of Way Permit and has submitted the required bond and evidence of insurance.
2. The permit holder must contact the Ohio Utilities Protection Service (OUPS) to locate all existing utilities in the proposed work areas for project design and again at least two days prior to construction. All utilities which are not members of the OUPS shall be contacted directly.
3. All excavations shall be pre-marked by the contractor performing the excavation for the immediate area and perimeter of the proposed excavation site before notifying OUPS about the proposed excavation. The markings must be made in white. The white marking may be

through the use of an industry recognized method such as chalk-based paint, flags, stakes, or other method applicable to the specific site. When possible, the markings must indicate the excavator's identity by name, abbreviation or initial(s).

4. All contractors must be registered with the Village.
5. Any contractor using trenchless excavation methods (e.g. directional drilling) to install a proposed utility shall perform the following:
 - a. Confirm all underground utility facilities at each crossing point by the proposed excavation in a non-destructive manner (e.g. potholing).
 - b. Confirm all parallel underground utility facilities in a nondestructive manner at the beginning and end of each trenchless excavation. Any parallel underground utility facility that is within five feet of the proposed alignment shall also be exposed every 100 feet. Any parallel underground utility facility that is within three feet of the proposed alignment shall be exposed every 50 feet.
 - c. Ensure that the final product installation maintains a minimum 12 inch or other agreed upon clearance from existing underground utility facilities.
6. All traffic control within the work area will be maintained in accordance with the Ohio Manual of Uniform Traffic Control Devices at all times during construction. All traffic control shall also comply with the Village of Mount Gilead Traffic Control Ordinances.
7. All excavation under and within three feet of the edge of the pavement will require premium backfill with ODOT #304 limestone. Compaction efforts shall be in accordance with ODOT standards.
8. All excavation three feet beyond the edge of pavement shall be backfilled and compacted in accordance with ODOT Item 203.
9. If settlement does occur within a two year period after completion of construction, the applicant shall place additional fill as required and also perform the associated restoration of the area disturbed.
10. All disturbed areas shall be restored to the original or better condition.
11. Any infrastructure (i.e. pavement, curbs, sidewalks, utilities, etc.) which is disturbed or damaged shall be replaced as directed by the Village Administrator.
12. The permit holder or its contractor shall immediately notify the Village Administrator and the utility's owner, if other than the Village of Mount Gilead, of any damage to any utility resulting from the construction of the proposed work. The permit holder or its contractor shall temporarily suspend further construction of the proposed work and immediately repair or replace at the permit holder or contractor's sole expense and under the direction of the Village Administrator any utility so damaged. Failure by the permit holder or its contractor to make the above notifications and repairs to the satisfaction of the Village may result in suspension of the Right of Way Permit, during which time no further work may proceed. After the damaged utility is replaced or repaired to the satisfaction of the Village Administrator and the utility owner, if other than the Village of Mount Gilead, the Right of Way Permit shall be reinstated and the proposed work may continue.

The permit holder shall indemnify the Village for the full value of all costs and expenses incurred by the Village in repairing or replacing any damage to any utility left unrepaired by the permit holder, or that is repaired or replaced by the permit holder or its contractors in an unsatisfactory manner as determined in the sole discretion of the

Village. Additionally, the permit holder shall indemnify the Village for the full value of any costs incurred from the need to use any Village personnel and equipment in repairing or replacing any damaged utility. At any time during a utility damage incident, the Village reserves the right to halt the work of the permit holder and its contractor, and hire a third party contractor to complete any required repairs. The permit holder shall indemnify the Village for the full value of any costs incurred in hiring a third party contractor.

13. The permit holder and its contractor will assume all responsibility for safety during the construction period.
14. The permit holder and its contractor will follow all OHSA standards during execution of the work.
15. The Village Administrator shall be notified seven days prior to commencement of work.
16. As-built drawings shall be provided to the Village Administrator within 30 days of the completion of work.

901.05 PROTECTION OF OPENINGS.

All openings, obstructions or sidewalk removals shall be carefully guarded, protected or barricaded at all times, and during the night shall be defined by red colored lights and such other precautions shall be taken as may be necessary to guard against accidents. In this respect the Village Administrator may issue any additional orders as he may deem proper which shall be implicitly and promptly complied with. At all times the work shall be done so as to cause the least inconvenience to property owners and the general public. (Ord. 675. Passed 6-21-65.)

901.06 COMPULSORY SERVICE CONNECTIONS.

Whenever Council deems it necessary, in view of contemplated street paving or as a sanitary regulation, it may require, pursuant to Ohio R.C. 729.06, 743.23 or 743.37, that either sewer, water or gas connections be installed by the owners of lands abutting such street.

901.07 ADDITIONAL OBLIGATIONS OF PERMIT HOLDERS

1. The permit holder and his/her contractor(s), subcontractor(s), representative(s) or any other party executing the work on behalf of the permit holder all agree to indemnify and hold the Village and its authorized representatives harmless from any and all claims or damage resulting from the installation, operation and the maintenance of the proposed work.
2. The permit holder will assume responsibility for all contractors during the execution of the proposed work. The permit holder must indemnify all contractors proposing to perform any part of the proposed work. All terms and conditions of the Right of Way permit are also applicable to all contractors authorized by the permit holder to execute the proposed work.
3. The permit holder shall provide a Certificate of Liability Insurance with minimum coverage of at least \$300,000/\$500,000 for personal injuries and \$500,000 for property damages.
4. The permit holder shall provide a permit surety in the amount of \$100,000 for work within the Right of Way to ensure all existing infrastructure repairs and property restoration is properly completed. A final site inspection to approve the site conditions is required before the Village Administrator will recommend release of surety. The Village Administrator shall have the authority to waive the surety requirements for individual residents requesting a permit. Contractor hired by the Village shall also be exempted for this requirement.
5. The permit holder shall indemnify the Village of Mount Gilead and the Village's authorized agents acting in their official capacity for any reasonable legal fees and other expenses incurred by them in defense of any claim, dispute or threat of claim or dispute associated with the proposed work by the permit holder, its contractor(s), subcontractor(s) or any other

person or entity associated with the proposed work or any third party claim, dispute or threat thereof arising out of the construction of the proposed work.

901.08 EMERGENCY SITUATIONS

If an unforeseen situation occurs that has a potential to endanger personal safety, health or damage to property, the contractor must notify the Village Administrator or designee within one business day after beginning the repair work.

901.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00). Any such violation shall constitute a separate offense on each successive day continued.

SECTION II: That it is found and determined that all formal action of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council. All deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.