

Consideration	<u>7-0</u>
First Reading	<u>7-0</u>
Second Reading	<u>5-0</u>
Third Reading	<u>7-0</u>
Suspend Rules	
Passage	<u>7-0</u>

ORDINANCE NO. 47, 2016

AN ORDINANCE TO ESTABLISH WORK PERMIT REQUIREMENTS, WORK PERMIT CONDITIONS, REGULATIONS, AND CONSTRUCTION REQUIREMENTS FOR STREET EXCAVATIONS AND RIGHT-OF-WAYS IN THE CITY OF EAST LIVERPOOL, OHIO AND TO DECLARE AN EMERGENCY.

NOW, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST LIVERPOOL, COLUMBIANA COUNTY, AND STATE OF OHIO:

SECTION 1:

Permit Requirements

1. No person shall dig up, disturb, excavate or open the ground or pavement in any street, highway or sidewalk within the public right-of-way, or on city property anywhere within the corporate limits of the City of East Liverpool for any purpose whatsoever, without first obtaining a written permit from the East Liverpool Director of Service-Safety, known as "Director" herein..
2. The applicant for a permit, the applicant's agent, or the contractor performing the work within the city's public right-of-way, or on city property, shall, before the issuance of a permit submit the following to the Director:
 - a. A permit bond or an irrevocable letter of credit written on an Ohio bank or other acceptable financial guarantee or cash deposit good for a period of twenty-four (24) months after work has been completed and accepted by the Director. The financial guarantee shall be a minimum amount of Five Thousand Dollars (\$5,000) guaranteeing the condition of the excavation and the fulfillment of the provisions, instructions, and regulations prescribed herein.
 - b. A certificate of insurance, naming the City as additional insured, providing the following coverage:
 - i. Comprehensive General Liability Insurance with limits not less than \$1,000,000 per occurrence for bodily injury, \$1,000,000 per occurrence for property damage, \$2,000,000 general aggregate, \$50,000 fire damage (any one fire) and \$5,000 for medical expenses (any one person). This insurance should include coverage for collapse and underground hazard, explosions and blasting damage, and contractual liability.
 - ii. Automobile liability insurance with not less than \$1,000,000 per occurrence for bodily injury, and \$1,000,000 per occurrence for property damage.

iii. Workmen's Compensation Insurance including Employer's Liability Insurance with limits of \$100,000 for each accident.

The applicant agrees to indemnify and save harmless the city from all claims for damage or injury whatsoever, that may arise from the encumbrance, obstruction, occupation, or use of the street, highway or sidewalk within the city's public right-of-way, as well as claims for loss or interruption of business where the encumbrance or construction impedes the flow of traffic to any person or property arising out of the activities of the permit. The city in no case assumes any responsibility or liability by reason of granting this permit.

c. An affirmation that the applicant is not delinquent in fees, fines, or payments due to the city on prior work.

d. Evidence that the applicant is competent and equipped to do the proposed work.

e. A plan for the subject property and adjacent properties showing existing surface and subsurface conditions including the placement of existing utilities, structures, street layouts, trees, or other vital structures within the public right-of-way or on private properties that may be affected by the work or as designated by the Director.

3. The permit application must be submitted four (4) days prior to the proposed excavation. Once issued and approved, the permit term is for thirty (30) days. Should a permit expire and no work has commenced, the permit must be renewed. An additional administrative and inspection fee will be assessed for each permit renewal. The thirty (30) day expiration period may be waived if the excavation is under contract with the City and or part of a Capital Improvement Program (CIP) project.

4. Work authorized by the excavation permit shall be performed as permitted in all streets, highways and sidewalks within the public right-of-way, Monday through Friday, from April 15th through November 15th.

All excavation permits shall expire on November 15th unless the applicant obtains written consent from the Director to work during another time. Such permission shall be granted only in the case of an emergency, in the event the work authorized by permit is to be performed in high traffic and congested areas, or if in the best interest of the City.

5. Nothing in this article shall be construed to prevent excavation from occurring as may be necessary for the preservation of life or property in an emergency condition.

In the event of emergencies, the dispatcher on duty at the Police Department shall be notified immediately of any emergency excavation within the public right-of-way or on City property.

After an emergency situation the applicant shall apply for a regular street excavation permit at the office of the Director no later than the first regular business day after such emergency.

SECTION 2:

Permit Fees

1. The fee for a street excavation permit shall be as follows:

- a. Fifty dollars (\$50.00) for the opening of an asphalt surfaced street.
- b. One hundred dollars (\$100.00) for the opening of a concrete or brick surfaced street.
- c. An administrative and inspection charge of \$120.00 per permit for excavations within the public right-of-way or on City property.
- d. A street damage charge of \$ 10.00 per square foot of excavation surface area occurring within the paved, bricked, or concrete surfaced portions of the public right-of-way or on City property.

2. All fees shall be based upon information provided by the applicant at the time of the application subject to verification by the City's inspection representative(s). If the actual excavation surface area is found to be larger than the estimated excavation area reported on the permit application, cost for the street damage charge will be amended according to the actual excavation surface area verified by field measurements.

3. The excavation permit shall cover contiguous construction and work performed as one continuous operation.

SECTION 3:

Penalties

1. If the City's inspection representative determines that an excavation activity is not being carried out in accordance with the requirements of the Ordinance, a written and or a verbal notice will be issued to the person(s) in violation. The written notice will generally contain information pertinent to the applicant's name, excavation location and the nature of the violation. A notice may be issued for the following specific violations or others as deemed pertinent by the Director:

- a. Excavation without a valid street excavation permit.
- b. Excavation without the permit being available for review at the work site.
- c. Excavation without proof of proper notice to Ohio Utilities Protection Service (OUPS).
- d. Excavation without proof of proper notice to the City of East Liverpool Service-Safety Director Office.
- e. Excavations that violate the Federal Highway Administration's Manual on Uniform Traffic Control Devices, latest edition.
- f. Excavations that do not meet requirements for restoration concerning backfill, replacement of pavement base, and finished pavement.

- g. Excavations that exceed the scope of the permit, including, but not limited to obstructing the path of automobiles, bicycles or pedestrian travel in excess of the permitted area.

2. A violation of any of the items listed in Section 1, above, will be grounds for issuance of a notice of violation. Persons receiving a notice of violations will be issued a stop work order and will be required to immediately make the work site safe to the satisfaction of the City's inspection representative and then be ordered to immediately cease all construction activities.

Should the City's inspector determine conditions presented by the Contractor are those that threaten the health, safety and general welfare of the public, the inspector will issue a stop work order effective immediately.

In the event of issuance of a stop work order, as long as the Contractor remains non-compliant, the Contractor will be billed \$250.00 for each twenty-four (24) hour period the stop work order is in force. The Contractor will also be responsible for payment of City services necessary to correct safety issues sited by the inspector. If a stop work ordered has been issued, the City will not complete work in progress.

Failure to address a notice of violation in a timely manner can result in revocation of the Street Excavation Permit followed by a contact with the bond holding company or a forfeiture of your bond amount.

The stop work order will be in effect until the City's inspector confirms that construction activities are in compliance and the violation has been satisfactorily addressed.

3. Persons who operate without a permit or violate the provisions of a Street Excavation Permit are, in addition to any other penalty, guilty of a minor misdemeanor. A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

SECTION 4:

Protection of Streets

1. In an effort to protect the City's investment in its infrastructure, excavations in newly constructed, reconstructed, rehabilitated, or overlaid pavements within the public right-of-way, or on City property, are prohibited, for a period of five (5) years after the effective date of notice of completion of said work except as follows:

- a. Excavations to remedy a public emergency or a situation that creates an imminent threat to the public safety, health, or welfare.
- b. Repair or modification to prevent interruption of essential utility services where no reasonable alternatives are available to avoid excavation in new pavements.
- c. Relocation work that is mandated by State or Federal legislation.

- d. Utility services for new buildings or parcels without existing utility services where no other reasonable means of providing service exists.
 - e. Excavations within protected streets where the City has scheduled the reconstruction within one year due to the failure of the original pavement.
 - f. Other situations deemed by the Director to be in the best interest of the general public.
2. In all of the above, the applicant will be responsible for paying a pavement life reduction factor. The pavement life reduction factor will be assessed as follows:
- a. Street pavement less than 2 years old – 3.5 times street damage charge.
 - b. Street pavement from 2 years – 5 years old – 3 times street damage charge.
 - c. Street pavement greater than 5 years old – 2 times street damage charge.

SECTION 5:

1. Permit fees will be payable at the East Liverpool Service-Safety Office and calculated as follows:

- a. Permit Fee

Asphalt surface -----	\$ 50.00
Concrete or Brick surface -----	\$ 100.00
- b. Administrative and Inspection charge ----- \$ 120.00
- c. Street damage charge
 (\$ 10.00/ square foot) x (area of opening)----- \$ _____
- d. Pavement life reduction factor

Age of pavement less than 2 years. (3.5 x street damage charge)	
Age of pavement between 2 and 5 years. (3 x street damage charge)	
Age of pavement greater than 5 years. (2 x street damage charge)	
	\$ _____
- e. Total Permit Fee sum of (a+ b+ c+ d) above.

SECTION 6:

General Permit Conditions and Construction Requirements

1. General application requirements:

The permit application must be submitted four (4) days prior to the proposed excavation. Once issued and approved, the permit term is for thirty (30) days. An additional administrative and inspection fee will be assessed for each permit renewal. The thirty (30) day expiration period may be waived if the excavation is under contract with the City of East Liverpool and/or part of a Capital Improvement Program (CIP) project.

A street excavation permit gives the applicant the right to excavate in the public right-of-way with proper traffic controls as specified in the Federal Highway Administration's Manual of Uniform Traffic Control Devices, as long as a minimum of one lane of traffic, 12 feet in width, is maintained in the street at all times.

No more than 200 feet measured longitudinally shall be open in any street at one time, except by special permission of the Director. No opening or excavation in any street shall extend beyond the centerline of the street before being backfilled and the surface of the street made passable to traffic.

Any street excavation permit restricting complete traffic movement, and closures of roadways, will only be issued with an approved traffic control plan. If a complete street closure is necessary, a minimum of seven (7) days advance notice is required, with the confirmation of the proposed closure three (3) working days in advance of the actual street closure.

The local media shall be notified by the Applicant three (3) days prior to work to advise motorists of the construction. This notification shall be at the applicant's expense. The Director will review and approve any detours required. The applicant shall also notify the Police Department, Fire Department, and other City Departments involved with the review of any detours. If an emergency necessitates the complete closing of a street, see the "Emergency Provisions" section of these General Permit Conditions and Construction Requirements.

The applicant shall notify the Director twenty-four (24) hours before the construction begins. A twenty-four (24) hour notice prior to backfill inspection is requested with a minimum of four (4) hours being required. Inspections are only available Monday through Friday, 8:00 AM to 4:30 PM. The Director shall be notified twenty-four (24) hours in advance of the placement of all permanent pavement patches.

Every applicant will be required to place around openings, excavations, encumbrances, or obstructions such barriers, barricades, lights, warning flags, danger signs and traffic control personnel as may be required by the Federal Highway Administration's Manual of Uniform Traffic Control Devices, latest edition.

Where compliance to these regulations and their intent is in question, the applicant at his expense shall provide any and all proof of compliance. Acceptable proof shall be by, but not limited to, approved independent laboratory tests, approved independent field tests, shop drawings, and certificates of compliance from manufacturers and or material suppliers.

After an excavation has commenced, the work shall proceed in a continuous manner with diligence and expedition and the street restored, as nearly as possible to its original condition, so as not to obstruct the public access or travel thereon more than is reasonably necessary. The Applicant shall notify the Director in writing should more time be needed than the completion date indicated on the permit. This notification shall include an explanation as to why the additional time is needed. In any event, the Applicant shall place temporary hot bituminous pavement immediately upon backfilling, which shall be maintained on a daily basis.

The Director, as a condition of the permit, reserves the right to order the applicant to restore the street or highway or order the same to be restored by others if in the opinion of the Director the applicant is non-responsive or in default of performance of the permit. The applicant shall reimburse the City for

any and all liability and expense suffered by reasons of such work especially in the case where an independent contractor, after notice, has been ordered to make final restorations.

The Permit shall be kept with the foreman at the place where the work is being performed and shall be made readily available for inspection.

2. Construction Requirements

Cuts shall be parallel or perpendicular to the line of the trench. In the case of transverse or diagonal trenching, the pavement shall be saw cut with a two (2) foot minimum overlap on undisturbed material that will permit only one wheel of a vehicle at a time to strike the patch area. An acceptable alternative to saw cutting is cold planing.

Backfill shall be compacted in maximum nine (9) inch lifts. Premium backfill, ODOT Item 304, crushed limestone will be the only acceptable material for use as backfill material. All materials excavated from the site shall be disposed of off-site at an approved landfill.

Within the sawed limits of the final patch, the existing pavement and any temporary material shall be removed and replaced to a depth specified herein:

- Asphalt Surface, replace with a minimum of four (4) inches of hot bituminous pavement consisting of two and one-half (2 ½) inches of base and one and one-half (1 ½) inches of wearing course over a cured nine (9) inch concrete base. The face of all joints and exposed pavement to be overlaid shall be coated with an approved asphalt emulsion (tack coat)
- Concrete Surface, replace with a minimum of nine (9) inches of plant mixed concrete.
- Brick Surface, replace with a minimum of nine (9) inch concrete base, one (1) inch of leveling sand and brick paver.

After completion the new patch shall match exactly the line and grade of the adjacent roadway.

All disturbed traffic striping, traffic signage, and traffic signal equipment (detector loops, conduit, etc.) shall be replaced with like or better materials.

All excavations performed in a City street shall be reconstructed in accordance with these regulations and the following additional conditions:

a. Excavating across the street center line.

If the trench is excavated in such a manner so that more than half the entire width of the street's pavement is disturbed, the final pavement patch surface course will be a one and one-half (1 ½) inch wearing course overlay from curb to curb the entire width and will extend twenty (20) feet beyond the trench limits longitudinally in each direction. The existing pavement shall be cold planed on each side of the trench prior to the pavement overlay to provide clean pavement joints, and correct surface grade, profile, and cross-section.

b. Excavating in one travel lane.

If the trench is excavated in such a manner so that less than half the entire

width of the street's pavement is disturbed and within the travelway, the final pavement patch surface course will be a one and one-half (1 ½) inch overlay of the entire width of the lane disturbed and will extend twenty (20) feet beyond the trench limits longitudinally in each direction. The existing pavement shall be cold planed on each side of the trench prior to the pavement overlay to provide clean pavement joints, and correct surface grade, profile, and cross-section.

c. Excavating in a paved shoulder or parking bay.

If the trench is excavated in such a manner so that only the paved shoulder or parking bay is disturbed and is not within the travelway, the final pavement patch surface course will be a one and on-half (1 ½) inch overlay limited to the area disturbed so as to minimize the effects of the work on the new pavement. The existing pavement shall be cold planed on each side of the trench prior to the pavement overlay to provide clean pavement joints, and correct surface grade, profile and cross-section.

d. Excavation at multiple locations.

In cases where multiple excavations are made in a street that would result in the edge of patches being (60) feet or less in distance from the next patch, measured from the closest trench line, restoration will be in kind with a one and on-half (1 ½) inch wearing course overlay extending (20) feet from the two farthest trench ends for the entire lane width. If one of the multiple patches crosses the center line, then restoration will be in kind with a one and on-half (1 ½) inch wearing course overlay extending (20) feet from the two farthest trench ends for the entire road width.

e. Excavation of longitudinal trenches.

In the case of longitudinal trenches in the roadway area, full lane width restoration will be required. Restoration will be in kind with a one and on-half (1 ½) inch wearing course overlay extending (20) feet from the two furthest trench ends.

In all other areas, the excavation shall be restored to the condition that existed before the excavations or as directed by the Director. Any existing grassland shall be restored with four (4) inches of screened loam that shall be fine graded, fertilized, seeded, rolled, and mulched.

Salt tolerant seed mixtures shall be used immediately adjacent to the roadway; slope seed shall be used on all slopes; park seed mixture shall be used in all other areas.

If the subsurface materials or pavement over or within the trench influence area becomes depressed or broken at any time, the area shall be immediately repaired. Repairs to the installation or backfill shall be made and the pavement restored in the manner and within the time period specified by the Director.

As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. Dust control consisting of wetting, use of calcium chloride or other approved methods shall be required to prevent a nuisance.

3. Traffic Control

The applicant is required to take all appropriate measures to assure that during performance of the excavation work, so far as practicable, normal traffic conditions including vehicular, bicycle and pedestrian traffic shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the adjoining property and to the general public.

Minimally, the applicant will be required, while street excavation opening work is in progress, to utilize a certified flagger detail to maintain traffic control and public safety at the project site.

4. Emergency Provisions

When a situation occurs that requires an emergency excavation, the Police, Fire Department and Utility Companies shall be notified immediately by telephone. At the earliest opportunity and no later than the first business day after said emergency, the applicant shall obtain a regular permit at the Office of Service-Safety Director.

The Director reserves the right to waive any of the provisions of this regulation in the case of an emergency, and to impose such conditions as they may require as part of an emergency permit. Partial or full street closures under the emergency provision will require proper traffic controls as per regular street excavation procedures.

5. Winter Construction Procedures for Pavement Restoration

Winter construction procedures are in effect from November 15th through April 15th and are intended to supplement the permitting conditions and construction requirements specified herein. The procedures outlined in the Street Excavation Permit requirements shall be followed except for the placement of hot bituminous pavement.

- a. If hot bituminous pavement is available, three (3) inches of temporary hot bituminous pavement (1/2" aggregate) shall be used.
- b. When hot bituminous pavement is not available, cold patch may be allowed with the approval of the Director.
- c. The Applicant may be required to use a temporary concrete patch. If a concrete patch is used, the following procedures will be followed:
 - i. Nine (9) inch pavement of 4000 p.s.i. concrete shall be placed. Use of "high early" strength or 6000 p.s.i. concrete mix is also acceptable.
 - ii. Concrete shall be placed over a prepared crushed gravel base.
 - iii. Concrete shall be placed flush to the existing line and grade of the adjacent asphalt pavement.
 - iv. The surface of the pavement will have a rough broom type finish placed perpendicular to the flow of traffic.

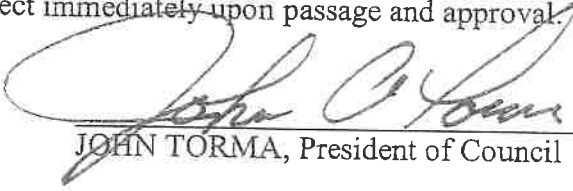
v. Concrete pavement shall be protected from freezing for a minimum of two (2) days by covering it with polyethylene insulated blanket or hay and polyethylene plastic.

d. The following spring, when hot bituminous pavement becomes available, the temporary "cold patch", temporary bituminous pavement, or temporary concrete pavement shall be removed and replaced with a permanent patch as required by terms and conditions of this permit

SECTION 7: The City of East Liverpool Street Excavation and Right-of-Way Work Permit Application is attached hereto and made a part hereof.

SECTION 8: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of East Liverpool, Ohio and shall take effect immediately upon passage and approval.

Passed this 5 day of ^{July}~~May~~, 2016.


JOHN TORMA, President of Council

APPROVED AS TO FORM:

Charles L. Payne
Law Director

Attest:


PATRICK SCAFIDE, Clerk of Council

Approved by the Mayor this 6TH day of ^{JULY}~~May~~, 2016.


RYAN STOVALL, Mayor

Requested by: Streets/Lands & Buildings Committee
Sponsored by: Streets/Lands & Buildings Committee
Prepared by: Charles L. Payne, Law Director from a draft provided by the Director of Planning,
William Cowan

City of East Liverpool
Street Excavation and Right-of-Way Work
Permit Application

Permit Number: _____ Date: _____

Application filed by: ___ Owner, ___ Contractor OUPS confirmation number: _____

Contractor's name: _____ Fed Tax ID Number: _____

Contractor's address: _____

Contractor's phone number: _____ Cell phone number: _____

East Liverpool Contractor License Number: _____

Address of proposed work: _____

Explanation of proposed work: _____

Proposed work will require excavation of: ___ Curb, ___ Sidewalk, ___ Road, ___

Surface area of disturbance (square feet): _____

Start date: _____ Expected completion date: _____

Name of insurer: _____ Policy expiration date: _____

Name of surety: _____ Surety expiration date: _____

Bond amount: \$ _____

If residential work complete the following:

Property owner's name: _____

Property owner's address: _____

My signature below is evidence that I have read and understand the City of East Liverpool Street Excavation and Right-of-Way Work Conditions, Regulations and Construction Requirements and understand what is expected of me. I further agree to conform to the Conditions, Regulations and Construction Requirements, to protect the work and guard against accident, to be accountable/liable for the cost of any damage or injury which may result from the work and to restore the public area disturbed to a condition of better or the same as when the permit was issued to the satisfaction of the City.

Signature: _____ Printed name: _____

- d. Utility services for new buildings or parcels without existing utility services where no other reasonable means of providing service exists.
 - e. Excavations within protected streets where the City has scheduled the reconstruction within one year due to the failure of the original pavement.
 - f. Other situations deemed by the Director to be in the best interest of the general public.
2. In all of the above, the applicant will be responsible for paying a pavement life reduction factor. The pavement life reduction factor will be assessed as follows:
- a. Street pavement less than 2 years old – 3.5 times street damage charge.
 - b. Street pavement from 2 years – 5 years old – 3 times street damage charge.
 - c. Street pavement greater than 5 years old – 2 times street damage charge.

SECTION 5:

1. Permit fees will be payable at the East Liverpool Service-Safety Office and calculated as follows:

- a. Permit Fee

Asphalt surface -----	\$ 50.00
Concrete or Brick surface -----	\$ 100.00
- b. Administrative and Inspection charge ----- \$ 120.00
- c. Street damage charge
 (\$ 10.00/ square foot) x (area of opening)----- \$ _____
- d. Pavement life reduction factor

Age of pavement less than 2 years. (3.5 x street damage charge)	
Age of pavement between 2 and 5 years. (3 x street damage charge)	
Age of pavement greater than 5 years. (2 x street damage charge)	
- e. Total Permit Fee sum of (a+ b+ c+ d) above. \$ _____

SECTION 6:

General Permit Conditions and Construction Requirements

1. General application requirements:

The permit application must be submitted four (4) days prior to the proposed excavation. Once issued and approved, the permit term is for thirty (30) days. An additional administrative and inspection fee will be assessed for each permit renewal. The thirty (30) day expiration period may be waived if the excavation is under contract with the City of East Liverpool and/or part of a Capital Improvement Program (CIP) project.

Amendment

Section 3: PENALTIES

SubSection 4

City utilities for both Water and Wastewater Departments may open city streets from November 16 through April 14 in the event of a utility Emergency. In these cases a total of seven days from the street opening shall be granted to complete necessary utility repairs and temporary street repairs with cold patch. After seven days a thirty day notice to the city utility department will be issued by the Safety Service Director before the fee and penalty schedule is imposed.

From April 15 through November 15 permanent Street repairs to city streets must be made by the city utilities. These repairs must follow the guidelines of this ordinance and be completed within sixty days after which a thirty day notice to the city utility department will be issued by the Safety Service Director before the fee and penalty schedule is imposed.