



July 2, 2018 Version

Right-of-Way Permit

What is Right-of-Way? It is a legal right of passage over another person's ground or property. Millersburg City Code, Chapter 93 defines right-of-way as including streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all public ways or areas, including subsurface and air space over these areas. Street right-of-way includes: street, curb and gutter, sidewalks, planter strips, and may extend beyond the sidewalk in locations where the sidewalk abuts the curb.

What is the purpose of a Right-of-Way Permit? This is a permit issued to use and/or construction improvements in a portion of City right-of-way or easements in the City's possession. All proposed work and private improvements in City right-of-way must be reviewed by City staff prior to permit issuance. This permit also covers Access and Encroachment work within the City's right-of-way.

Who Needs a Right-of-Way Permit? Homeowners, engineers, contractors, utility companies and franchises seeking to work within the Millersburg right-of-way or for access or encroachment purposes, to include above ground (within the City's air rights) and underground.

What type of activities require a Right-of-Way Permit? Water, sewer, paving, concrete, drainage, grading, landscaping, utilities, special-event activities, placement of materials or staging and/or storage within City rights-of-way require this permit.

Frequent Activities Requiring a Right-of-Way Permit

Sidewalk, driveway, and curb/curb and gutter work such as cutting, breaking, blockage, penetrating, and construction related sidewalk, driveway, and curb/curb and gutter projects;

Street work including cutting, potholing, trenching, excavation, patching, and any penetration of the pavement surface;

Landscaping work including planting of trees and/or shrubs within the planter strips.

Note: If you plan to do something on City lands involving transportation or utility conveyance, or desire to access land through public property where there is no existing public access or encroach on City right-of-way for storage purposes or sponsorship of an event, you may need this permit. When in doubt, ask Millersburg City staff for assistance.

Depending on the nature of the work, the applicant may need to provide drawings, specifications, computations, and other data for the City Engineer's review. The information needed is determined during the permit review process.

Term Definition

Access: is a means of approaching or entering a place. This permit conditionally grants the applicant the right or opportunity to enter a place to use or benefit from using the access to reach the project site. Typically, the work involves street or sidewalk access to an offsite location.

Easement: An easement is a legal right to use somebody's land for a specific and limited purpose. When someone is granted an easement, he/she is granted a conditional right to use the property, but the legal title to the land itself remains with the owner of the land.

Encroachment: The intrusion of someone's property or right constitutes encroachment. The City has regulatory control over work performed within the right-of-way; hence, a need for City approval prior to initiating projects within its right-of-way.

Excavation: Excavation means cutting into or penetrating the grounds or streets to perform work.

Types of Right-of-Way Permits

There are three types of right-of-way permits: Access, Encroachment, and Physically Impacting.

Access: Sometimes a right-of-way permit is issued for access from public property to private property. For example: A need to cross a public sidewalk or easement to gain access to private land. It should be noted the City does not provide any permanent accesses, except through a land use action.

Encroachment: Sometimes a right-of-way permit is issued for encroachment purpose. For example: A person desires to have a block party and wishes to cordon off the street for a certain time; or a contractor or homeowner desires to store material in the right-of-way for a short amount of time [a spoil pile] or a contractor needs right-of-way to store

equipment affiliated with construction activity [create a staging area] or a person desires to sponsor a running event or parade.

Physically Impacting: A physically impacting activity is something that permanently or semi-permanently physically impacts or alters the right-of-way. Examples of physically impacting activities are utility installation, new or widened driveways, and placement of trees within the planter strip.

Most physically impacting work within the City's right-of-way must be performed by a contractor licensed in the State of Oregon and shall be bonded in an amount suitable to the project. It should also be noted that impacts to a public street must be in compliance with the City's trench backfill and pavement patching standards and are subject to inspection. The contractor may be required to provide proof of insurance and maintain a commercial or general insurance liability in an amount to be determined based on the nature of the work.

Trench Backfill and Pavement Patching Standards

Trench Backfill Requirements: Trench backfill shall be per Standard Details No. 204 and 205, except use of Controlled Density Fill (CDF) may be required for pipe zone or trench backfill material at the direction of the City Engineer.

Patching Requirements: Pavement patching requirements will vary based on the age and functional classification of the roadway

In addition to Standard Detail 206A, a grind and inlay of the 2" top lift wearing course on each side of the trench will be required per the dimensions in Table 2.1 and 2.2 below. The work shall be conducted in accordance with the requirements of Standard Detail 206B.

Table 2.1 Transverse

Age of Roadway	Functional Classification		
	Arterial	Collector	Residential/ Local
Less than 5 years	120"	120"	120"
Between 5 and 10 years	120"	72"	36"
Between 10 and 15 years	60"	60"	24"
Over 15 years	60"	48"	0"

In addition, for arterials and collectors, if a trench extends more than 4 feet into a traffic lane, the patch shall extend across entire traffic lane.

Table 2.2 Longitudinal

Age of Roadway	Functional Classification		
	Arterial	Collector	Residential/ Local
Less than 5 years	Full lane	Full lane	Full lane
Between 5 and 10 years	Full lane	Full lane	36"
Between 10 and 15 years	Full lane	Full lane	24"
Over 15 years	Full lane	Full lane	0"

Supporting Information

Authority: Millersburg City Code Chapter 93 addresses jurisdiction and regulatory control over all rights-of-way within the City limits. Specifically, City Code Chapter 93.18 states: No person may occupy or encroach on a public right-of-way without City permission. Right-of-way permitting authority comes from the City Charter, State law, adopted ordinances, and Land Use Development Code.

Enforcement: The City requires the acquisition of a right-of-way permit prior to work performed in the City's right-of-way to include excavation, trenching, and patching activities. A violation of this code provision may subject the owner to sanctions noted in article 1 (administrative provisions), Section 1.180 of the City Land Use Development Code.

Permit application information: Development projects initiated on Millersburg's right-of-way, including accesses and easements, require a permit.

If the project involves the penetration [cutting] of City streets, the applicant or their contractor must be licensed and bonded in sufficient amounts. Permit information can be obtained from Millersburg City hall located at 4222 Old Salem Road, Millersburg, Oregon 97321 or by calling 541-928-4523.

The applicant must provide:

1. A description of the proposed work within the ROW, Easement, Access or Encroachment.
2. An adequate site plan showing the location of the proposed ROW project.
3. Applicant must call City Hall staff for inspection of a trench 24 hours prior to excavation and 12 hours after completion of project. Office hours are Monday through Friday 8:00 A.M. to 5:00 P.M. Monday through Friday.

Exceptions:

Permits are not required of:

1. City staff and people working under contract for City projects.
2. Work covered under an approved Private Construction of Public Infrastructure construction permit.
3. Work covered under an approved building permit.
4. A permit is not required for maintenance of the landscape area located between the curb and sidewalk; however, any trees planted in this area must comply with the requirements of the Land Use Development Code.

Utility companies and related franchises are required to obtain a right-of-way permit in order to work either above or below the ground within the City right-of-way. The applicant may also be required to provide a traffic control plan.

Drawings: If the activity requires a drawing(s) the applicant shall provide the following format for graphic presentation.

A vicinity map showing the applicant's project site and adjoining properties to a distance of 100 feet beyond the project site and provide illustration of the existing and proposed physical elements of the site.

The map should contain the following features.

- Existing and proposed ground contours [1-foot contours] including cross-sections when required;
- Areas subject to soil importation and or excavation [a grading permit may also be required];
- Proposed protection and erosion controls and their placements;
- Proposed on-site construction elements;
- North arrow;
- Reference to work areas by providing accurate dimensions to a known intersection center point, lot corner, or a known City manhole if an intersection center point is not available;
- Accurate location of curbs, sidewalks, and driveways within the proposed work zone.

Engineering report: The activity may require an engineering report for proper evaluation. If a report is needed the following reviews are likely to be required.

- Soil analysis
- Riparian areas and greenway identifications
- Geology: water courses including drainages and floodways

Special Use: Special use conditions apply to non-conforming use or a conditional use for a specific use of land. The engineering or temporary work performed in the City's right-of-way may require a special use permit.

Permit Application

Where do you intend to access right-of-way?

Please provide an address, street name, intersection location or physical feature(s) that provide accurate site or activity information. If the right-of-way area needed is extensive, please provide a general description accompanied by a location map featuring an accurate dimensional scale.

Project Description: Please provide a description of the project (attach more sheets if more space is needed).

Timeframe of activity or work: _____

Owner

Name: _____

Mailing Address: _____

Phone Number: _____ Email Address: _____

Applicant

Name: _____

Mailing Address: _____

Phone Number: _____ Email Address: _____

Contractor

Name: _____

Mailing Address: _____

Phone Number: _____ Email Address: _____

Contractor License Number: _____

Applicant's Signature: _____ **Date:** _____

Type of Permit:

Access

Encroachment

Impactive

Traffic control Plan:

Will the activity, access or encroachment influence traffic flow or driver visibility?

Yes

No

If yes, City staff may determine there is a need for a traffic control plan.

Fees:

The following fees apply:

Access and Encroachment Permit Fee: \$ 30.00

Impactive Permit Fee \$100.00