

CHAPTER 400. PERMIT TYPES AND APPLICATIONS

SECTION 406. MISCELLANEOUS PERMITS

406.5. Right-of-Way Use Permit

A. Intent and Purpose

It is the intent and purpose of this section to provide a safe, efficient, and economical method of approving of construction activity; temporary use or closure of the right-of-way; and the removal, placement, installation, or location of structures, facilities, or landscaping in or above County owned rights-of-way.

The Right-of-Way Use Permit is used to:

1. Evaluate in detail the proposed plans for use of the right-of-way;
2. Ensure that, if approved, use of the right-of-way is performed in a safe manner that is consistent with the requirements of this Code and the health, safety, and welfare of Pasco County and its citizens; and
3. Ensure that the right-of-way is restored after use.

B. Applicability

This section shall apply to all construction activity; temporary use or closure of the right-of-way, such as for a sporting event; and the removal, placement, installation, or location of structures, facilities, or landscaping in or above (overhead facilities or structures) County owned rights-of-way.

C. Exemptions

The following activities, structures, facilities, and landscaping are exempt from the requirements of a Right-of-Way Use Permit:

1. Mailboxes installed in accordance with United States Postal Service regulations and Florida Department of Transportation (FDOT) design standards, including those published in the "Manual on Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways."
2. Landscaping installed at residential dwelling units that does or will not exceed eighteen (18) inches in height at maturity.
3. Ground covering installed at residential dwelling units provided the covering is of permeable material. Stones, boulders, and hardscape materials are not exempt.

4. Use of the right-of-way for moving oversize or overweight loads provided the user has obtained a permit and meets the requirements in Section 106-4 of the Pasco County Code of Ordinances.
5. Installations or work performed by the County and installations and work performed on benches and transit shelters owned by the County.
6. Utilities, cable, and phone lines installed in accordance with the terms of a "Blanket Permit" approved by the County Administrator or designee. The following activities, however, are not exempt, cannot be undertaken pursuant to a "Blanket Permit," and require a separate, site specific Right-of-Way Use Permit:
 - a. Any and all activity in a collector or arterial roadway.
 - b. Excavation, directional drill, jack and bore, or any other activity within five feet horizontal to an edge of pavement, there under, or within a 2:1 (H:V) control line measured from the surface at edge of pavement.

D. Application Requirements

Applications for Rights-of-Way Use Permits shall include:

1. Applicant Information
 - a. Name, Address, E-mail of Applicant
 - b. Engineer of Record, If Any
 - c. Application Fee
2. General Information
 - a. Road Name
 - b. Road Location
 - c. Publicly or Privately Maintained Road
 - d. Road Type: Collector, Arterial, Residential
3. Narrative. A description of the overall proposed activities including the scope, the location, and the nature of the proposed work. The narrative shall include an estimated duration of any construction activity during which the right-of-way will be affected.
4. Detailed Drawing(s): The application shall include a detailed drawing(s) showing the details and location of the proposed use, including:

- a. Location map. An aerial or survey shall be required for proposed uses involving the installation or removal of structures.
- b. Proposed work to be done in the right-of-way (to scale or accurately dimensioned).
- c. Location of any proposed open cuts shall be clearly marked on the plans.
- d. Location of any tree(s) five (5) inches dbh that is/are proposed for removal from the right-of-way.
- e. Location requirements for bus stop benches:
 - (1) The location of a proposed bench must be at an official stop approved by the County Administrator or designee for the purpose of loading and unloading passengers on an official bus route as designated by the County Administrator or designee.
 - (2) Benches without advertising shall only be allowed within the right-of-way at approved bus stops without a transit shelter. Bus stops with transit shelters may have additional benches not containing advertising. The County Administrator or designee will maintain a list of approved bus stops.
 - (3) Obstruction of the clear-sight triangle or recovery zone is prohibited.
 - (4) FDOT requirements must be observed.
 - (5) The bench with advertising shall be located as close as possible to the bus stop sign.
 - (6) Benches may not be positioned more than thirty (30) degrees off parallel to the public right-of-way.
 - (7) Only one (1) bench shall be permitted at each approved bus stop, except as provided in (2) above.
 - (8) No bench shall protrude into or hang over a sidewalk.
 - (9) Benches are not permitted on limited access highways.

- f. Construction and design requirements for bus stop benches:
- (1) Shall not exceed seventy-four (74) inches in length, twenty-eight (28) inches in depth, and forty-four (44) inches in height from the ground to the top of the back panel.
 - (2) Shall be constructed of sturdy materials.
 - (3) Shall be placed on a concrete pad if required by the County Administrator or designee.
 - (4) The sign face area on a bench shall be limited to the backboard area and copy shall not appear elsewhere on a bench.
 - (5) That portion of the backboard facing the street shall display the street address of the closest parcel in clearly painted block numbers a minimum of 2¾ inches in height.
 - (6) There shall be no display of fluorescent colors, reflective materials or paints, or any other features prohibited by this Code, Section 406.1.
- g. Traffic Signing and Marking Plans where applicable
- (1) Signing and marking plans shall be prepared in accordance with the current versions of the Federal Manual on Uniform Traffic Control Devices and FDOT standards.
 - (2) Signing and marking plans shall be provided on separate sheets of the plan set.
 - (3) Signing and marking notes shall be placed on the signing and marking plan sheets. The current versions of the following notes shall be used. For County maintained roads, Pasco County standard traffic control devices notes are required. For privately maintained streets, Pasco County private street notes are required. In the streets are a combination of publicly and privately maintained, both set of notes shall be required.
 - (4) Plans shall be scaled at no less than one (1) inch to fifty (50) feet.
 - (5) Centerline curve radius data for all turns and curves shall be placed on the signing and marking plans to verify proper warning signs.

- (6) A quantity sheet or tabulation of quantities shall be included
- (7) All signs shall be identified by the Federal Manual on Uniform Traffic Control Devices designation number; for example, a stop sign is R1-1. A graphic of the sign shall be included.
- (8) All pavement markings shall be identified by size and color.
- (9) All street names shall be shown on the plans by size and colors.
- (10) If the streets are a combination of publicly and privately maintained, each street shall be identified as publicly or privately maintained.

5. Other Required Approvals

The following approvals also may be required to be obtained in addition to a Right-of-Way Use Permit:

- a. Uses where dewatering into the right-of-way is proposed must be accompanied by a plan to insure there is no sediment transfer and that pumped water is uncontaminated, and which is approved by the County Administrator or designee.
- b. Any proposed work requiring interruption of vehicular or pedestrian traffic shall require a maintenance of traffic plan approved by the County Administrator or designee.
- c. Proposed work requiring a road closure shall require Board of County Commissioners (BCC) approval.
- d. License and Maintenance Agreements in an approved form may be required for installation of signage, landscaping, irrigation or other facilities or structures within the right-of-way.
- e. Tree location survey and tree plan for projects larger than one (1) single-family dwelling.
- f. Traffic Impact Study and substandard Roadway Analysis or, if completed, the applicable approval statement.
- g. Access management application or, if completed, the applicable approval statement.
- h. An indemnity agreement in an approved form may be required.

- i. An insurance policy in an approved form may be required.
- j. For each bench to be installed within the County right-of-way or on a State road in the unincorporated areas of the County, the following additional approvals are required:
 - (1) Applicant/permittee must be an individual, firm, partnership, corporation, or combination thereof that has a current valid contract, in a form approved by the County Attorney, signed by the BCC, to provide benches at authorized bus stops.
 - (2) Obtain from the County Administrator or designee an exclusive identification number for display on the bench. Identification numbers will not be given for benches placed prior to obtaining the required Right-of-Way Use Permit.

E. Application Processing

- 1. An application for a Right-of-Way Use Permit shall be reviewed by all appropriate review agencies as determined by the County Administrator or designee.
- 2. The County Administrator or designee shall evaluate the request for a Right-of-Way Use Permit and shall:
 - a. Approve the application as proposed;
 - b. Approve the application with conditions; or
 - c. Deny the application.

The approval of a Right-of-Way Use Permit may be subject to specific conditions deemed necessary by the County Administrator or designee and appropriate for the fulfillment of the purposes of this Code. The Conditions of Approval shall be stated on the face of the permit or may be incorporated by reference into any document which shall be attached to the permit.

F. Terms of Permit and Effect of Permit Approval

- 1. The permittee is liable for any damage that results from the permit holder's operations and the County shall be relieved of all responsibility from damage of any nature arising from the permit.
- 2. The permit is a license for permissive use only and use of or installation of facilities in the right-of-way pursuant to the permit does not operate to create or to vest any property right in the permittee.

3. Whenever the County decides to further utilize or perform maintenance in the right-of-way or when an approved route or bus stop is deleted by the County, any installations authorized by the permit shall be removed from the right-of-way or relocated within the right-of-way upon notice by the County Administrator or designee. Removal or relocation shall be at the expense of the holder of the permit, unless one of the specific exceptions in Section 337.403, Florida Statutes applies. Failure to timely relocate the installations will relieve the County of all liability for damage to the facilities, and/or the County may remove or relocate the installations and charge the holder of the permit for all costs incurred in removing or relocating the installations.

If maintenance of the drainage system is involved then the permit holder must relocate underground installations within fifteen (15) days of notification by the County administrator or designee.

4. The permittee shall have up to 180 days to complete the work authorized by the permit and to complete all required restoration, unless a different time period is authorized by the County on the face of the permit or an extension has been requested for good cause shown. Upon expiration of a permit, the permit is void and further use of the right-of-way requires a new Right-of-Way Use Permit application.
5. In the event the proposed use and the restoration of the right-of-way is not completed upon the expiration date of the permit, the County may remove or complete such work and charge the holder of the permit for all costs incurred in removing or completing the work.
6. When an approved bus stop or route is deleted, benches shall be removed by the permittee.

G. Prior to Construction Activity

1. Permittee shall notify all other utility and underground users in the area covered by the permit, so that those users may safeguard their interests.
2. Permittee shall notify the County Administrator or designee at least forty-eight (48) hours prior to the start of any construction activity.
3. Permittees shall observe all State "One Call - Call Before You Dig" requirements.

H. Activity Pursuant to Permit

1. Construction and Operations
 - a. A copy of the permit and all incorporated conditions shall be kept readily available at the site of the work at all times.

- b. All work shall be done in keeping with the standards of the County and to the satisfaction of the County Administrator or designee.
- c. Permittee shall notify the County Administrator or designee within forty-eight (48) hours after concluding all activities required by or authorized by the permit.
- d. Permittee shall allow inspection of all materials and equipment by the County Administrator or designee at any time. Permittee and agents/employees, including field personnel on site, shall provide all information and identification requested by the County Administrator or designee.
- e. During construction, all safety regulations of the Florida Department of Transportation (FDOT) shall be observed. The permittee may take such safety measures, including the placing and display of caution signs, as it deems necessary to observe all required safety regulations in the conduct of activities under the permit.
- f. Permittee shall perform all testing required by County Administrator or designee. Testing shall adhere to the most current version of the Pasco County Engineering Services Department Design Standards and *Pasco County Engineering Services Department Testing Specifications for the Construction of Roads, Storm Drainage, and Utilities*.
- g. All underground cable or phone lines shall be installed or located at least thirty (30) inches below grade. All lines, cable or phone lines, under the roadway shall be installed or located at least thirty-six (36) inches deep, unless a different depth is approved in writing by the County Administrator or designee. Installation of cable or phone lines under the right-of-way is limited to jack and bore or directional bore; no open cuts shall be performed unless approved in writing by the County Administrator or designee.
- h. All underground utility installations other than cable or phone lines shall be installed or located at the depth specified or approved by the County Administrator or designee. Installation of utilities under the right-of-way is limited to jack and bore or directional bore; no open cuts shall be performed unless approved in writing by the County Administrator or designee.
- i. All boxes and stations must be clearly marked and located within twelve (12) inches of the rear of the right-of-way.
- j. All other underground crossing installations not mentioned hereinabove shall be laid at such depth as may be specified by

the County Administrator or designee, unless otherwise authorized. Installation of utilities under County roads shall be limited to jack and bore or directional bore.

- k. All activity performed in the County's right-of-way pursuant to a Right-of-Way Use Permit shall conform to the approved permit, the approved drawings, and the conditions, if any, of the permit. Deviations from approved drawing or other aspects of the permit or conditions that are required as a result of physical site conditions discovered after the start of the work shall be described in writing by the County within twenty-four (24) hours after discovery of the condition and, to the extent possible, before further activity is performed under the permit. Upon written submission of a description of the circumstances requiring a deviation from the approved drawings/permit/conditions, the County Administrator or designee may amend the permit to authorize the deviation if the deviation otherwise meets the standards of this Code.
- l. No track type equipment will be allowed on any asphalt or concrete surface.
- m. Required erosion and sediment control devices shall be in place at all times during construction and shall be removed only after final stabilization has been established. The requirements of this Code, Section 902, shall be observed.
- n. No illicit discharge shall occur as a result of activity performed pursuant to the permit.
- o. No dewatering into a County right-of-way shall occur without prior written approval from the County Administrator or designee as a part of the approved permit. Where dewatering has been approved, no sediment transfer may occur during any dewatering into the County's right-of-way, and pumped water must be uncontaminated. No direct pumping into inlets is allowed, and there must be a visible zone of at least five (5) feet from the dewatering discharge hose to the structure receiving the water. There shall be no dewatering into the County's right-of-way from any petroleum site, whether contaminated or not.
- p. Interruption of vehicular or pedestrian traffic or obstruction of a traffic lane shall not occur, except pursuant to the terms of an approved maintenance of traffic plan approved by the County Administrator or designee.
- q. Roads shall not be closed without prior BCC approval.
- r. Provision for safe pedestrian traffic must be maintained at all times.

- s. Open cuts shall not be performed without prior written approval from the County Administrator or designee.
- t. Work pursuant to a permit must be performed during daylight hours (sunrise to sunset), unless specifically authorized by the County Administrator or designee.
- u. Each bus bench shall display the name and business telephone number of the permittee and the identification number of the bench on the rear of the backboard.

2. Restoration and Maintenance Standards

- a. The County right-of-way, including sidewalks, curbs and gutters, landscaping, and any aesthetic enhancement thereto, and any adjacent private property affected during activity performed pursuant to a Right-of-Way Use Permit, or for which a Right-of-Way Use Permit was required, must be restored within fifteen (15) days of the completion of activity authorized by the permit, unless a different time period is specified in writing by the County Administrator or designee. Any sidewalks removed or damaged must be replaced within three (3) days after the removal or damage.
- b. The County right-of-way, including sidewalks, curbs and gutters, landscaping, and any aesthetic enhancement thereto, and any adjacent private property affected during activity performed pursuant to a Right-of-Way Use Permit, or for which a Right-of-Way Use Permit was required, must be restored to their original conditions, unless a different standard for restoration is specified in writing by the County Administrator or designee.
 - (1) Restorations shall adhere to the most current version of the Pasco County Engineering Services Department Design Standards and *Pasco County Engineering Services Department Testing Specifications for the Construction of Roads, Storm Drainage, and Utilities*.
 - (2) Disturbed areas must be properly stabilized, including grading, compacting, and sodding.
 - (3) Roadway connections that have been replaced must meet current Americans with Disabilities Act standards per FDOT Index 304, or most current edition.
- c. Permittee shall inform the County Administrator or designee within forty-eight (48) hours after completion of required restorations.

- d. Restorations shall be maintained for one (1) year after completion, unless a longer time period is required by this Code.
- e. The permittee shall maintain each bench in a good state of repair and appearance in perpetuity. The area surrounding each bench shall be kept free of debris, high grass, weeds, and other rubbish for a radius of seven (7) feet from the center of the bench.

I. Bond Requirement

The holder shall post cash, or a Surety Performance Guarantee and Maintenance Guarantee, with the County Clerk and Comptroller. The required amounts for each shall be based on cost estimates for each prepared by the permittee's engineer and approved by the County Administrator or designee. The sums approved by the County Administrator or designee shall ensure the proper and necessary restoration and maintenance of any property affected by activities under the permit to guarantee performance of the terms and conditions of the permittee's obligations, and to guarantee maintenance of property affected by activity performed under the permit for a period of thirty-six months following completion of the activity authorized and required by the permit. In the event a Surety Bond is posted, the said Surety Bond shall be made payable to the County and shall obligate the surety to hold the County harmless and pay the County any costs expended by the County in the event the holder of the permit should fail to meet any of its obligations. The Surety Bond shall also indemnify the County for all court costs and reasonable attorney fees in the event legal action is required to collect on the said Surety Bond. Security posted shall not be refunded, terminated, or released until the expiration of the full required maintenance period and completion of all work authorized or required by the permit.

J. Prohibitions

Unless exempt under this section, no construction activity; temporary use, or closure of the right-of-way; or removal, placement, installation, or location of structures, facilities, or landscaping in County-owned rights-of-way shall be performed except within the scope of an approved Right-of-Way Use Permit.

K. Suspension, Modification, or Revocation of Permit

Failure to comply with the terms and conditions of the permit, or County, State, or Federal statutes, rules, or regulations governing use of the right of way may constitute grounds for suspension, modification, or revocation of the Right-of-Way Use Permit. Upon a determination of noncompliance, the County Administrator or designee may take one (1) or more of the following steps:

1. Order appropriate corrective action.

2. Modify the existing conditions or impose additional, more stringent conditions on the permit.
3. Suspend the permit until appropriate, corrective action is taken or additional or modified conditions are complied with. Any Right-of-Way Use Permit shall be subject to suspension or revocation in whole or in part upon a finding of noncompliance with the terms of the said permit, this Code, or applicable statutes, rules, and regulations. While a permit or any part of a permit is suspended, no operations authorized by the suspended portion of the Permit shall be carried out. A suspension may be terminated in whole or in part upon a finding that the noncompliance has been corrected.
4. Revoke the permit.

Enforcement/Violations

In addition to suspension, modification, or revocation of the Right-of-Way Use Permit, violation of this section may be addressed through any of the enforcement methods in this Code, Section 108.