

JACKSON TOWNSHIP BOARD OF TRUSTEES, STARK COUNTY, OHIO

RESOLUTION

RESOLUTION NO. 23-033

ADOPTED: 2.14.23

SUBJECT: Road Opening Regulations

The Board of Trustees of Jackson Township, Stark County, Ohio, met in regular session on the 14th day of February, 2023 with the following members present:

Todd J. Hawke
John E. Pizzino
Justin B. Hardesty

Trustee Hawke moved for the adoption of the following resolution:

WHEREAS, Ohio Revised Code (hereafter ORC) Section 504.04(A)(1) and (2) authorizes the Board of Trustees to exercise powers of local self-government in the Township and to adopt and enforce within the Township necessary resolutions which are necessary for the promotion of the public health, safety, and general welfare; and,

WHEREAS, ORC Section 504.05 authorizes the Jackson Township Board of Trustees to impose a civil fine up to \$1,000 for the violation of a resolution adopted under ORC Section 504.04 which can be graduated based on previous violations and ORC Section 504.06 requires the adoption of a citation form; and,

WHEREAS, often Jackson Township is not notified by utility companies as to the need to open cut a road in order to replace damaged utilities. As a result, the road-right-of way is not properly repaired following the repair to the utility service.

BE IT RESOLVED THAT, effective March 16, 2023, pursuant to Ohio Revised Code Sections 504.04 (A)(1) and (2), 504.05, 504.06, and 504.07 we hereby adopt the attached Road Opening Regulations and fines for violations thereof, and further adopt the attached citation form and request the Township Fiscal Officer to publish the attached notice.

BE IT FURTHER RESOLVED THAT, the Board of Trustees determines this Resolution is in the best interest of the public health, safety, and general welfare of the public, and that this Resolution is reasonable and consistent with constitutional limitations.

BE IT FURTHER RESOLVED THAT, signs shall be posted at the site consistent with the regulations approved and attached hereto.

BE IT FURTHER RESOLVED THAT, pursuant to ORC Section 504.10, we hereby dispense with the requirement that this resolution be read on two separate days and authorize the passage of this resolution upon its first reading.

Trustee Pizzino seconded the motion and upon roll call the vote resulted as follows:

Mr. Hawke	<u>Yes</u>
Mr. Pizzino	<u>YES</u>
Mr. Hardesty	<u>YES</u>

The foregoing is a true and correct counterpart of Resolution Number 23-033, duly adopted on February 14, 2023 and filed with me as the Township Fiscal Officer on February 15, 2023.



Randy Gonzalez, Fiscal Officer

The foregoing resolution is approved as to form:



Michael B. Vaccaro, Law Director

NOTICE

Notice is hereby given that the Board of Trustees of Jackson Township, Stark County, Ohio, by Resolution No. 23-???, adopted on February 14, 2023, effective March 16, 2023, has adopted the following legislation:

REGULATIONS GOVERNING ROAD OPENING REGULATIONS LEGISLATION

Notice is further given that a complete text of the above resolution of the Jackson Township Board of Trustees may be obtained or inspected at the Office of the Township Fiscal Officer, 5735 Wales Avenue NW, Jackson Township, Ohio from 8:00 a.m. to 4:30 p.m., Monday through Friday.

This advertisement is also posted on the state public notice web site (www.publicnoticesohio.com) established under section 125.182 of the Revised Code and on the Jackson Township web site (www.jacksontwp.com).

Randy Gonzalez, Fiscal Officer
BOARD OF TRUSTEES OF JACKSON TOWNSHIP, STARK COUNTY, OHIO

Published in The Massillon Independent February 20, 2023.

REGULATIONS GOVERNING ROAD OPENING REGULATIONS

JACKSON TOWNSHIP LIMITED SELF-GOVERNMENT RESOLUTION NO. _____

\$500 fine for the first violation
\$1,000 fine for each subsequent violation

You are hereby cited for a violation of a Jackson Township, Stark County, Ohio resolution as follows:

Location of Violation _____ Date _____

Time _____ Officer _____ Viol. No. _____

Violation description _____

Resolution Number and Section _____ Fine: \$ _____

Name _____

Address _____

You are required to answer this violation citation within (14) days after service of the citation. The following answers can be made:

1. AN ADMISSION THAT YOU COMMITTED THE VIOLATION, BY PAYMENT OF THE FINE ARISING FROM THE VIOLATION, PAYABLE TO THE FISCAL OFFICER OF JACKSON TOWNSHIP.
2. A DENIAL THAT YOU COMMITTED THE VIOLATION. IF THE VIOLATION IS DENIED, YOU WILL BE AFFORDED A HEARING IN MASSILLON MUNICIPAL COURT.

Fines can be paid by mailing this citation along with a MONEY ORDER or CERTIFIED CHECK payable to the Jackson Township Fiscal Officer, 7383 Fulton Drive, N.W., Massillon, Ohio 44646 Phone: 330-832-5886. If you deny the violation, please circle No. 2 above and mail this violation citation to the above address. Citations may also be answered or paid in cash at the Office of the Township Fiscal Officer located at the above address during the hours of 8:00 a.m. - 4:30 p.m., Monday through Friday.

If the fine is not paid within (14) days of the service of this summons or you deny the violation, a hearing upon the violation will be scheduled in Massillon Municipal Court of which you will be notified. Attached ORC Section 504.07 describes the citation procedures and the procedures for any hearing conducted in Massillon Municipal Court.

I hereby affirm the facts contained herein.

Issuing Officer

SERVICE OF CITATION

The foregoing citation was served on _____ by:
(Date)

Certified mail, return receipt requested, addressed to the person named above at the address shown (affix return receipt).

Personal service by the undersigned on the person named.

Residence service by the undersigned, by leaving a copy of the citation at the usual place of residence of the person named above, at the address shown, with some person of suitable age and discretion residing therein.

Other: _____

Issuing Officer/Fiscal Officer

FISCAL OFFICER'S CERTIFICATE OF ACTION ON CITATION

The person named in the foregoing citation:

Appeared before me on _____
(Date)

By mail addressed to me received on _____
(Date)

And

paid the fine.

denied the violation.

OR

Failed to answer the citation.

Failed to pay the fine within fourteen days after service of the citation.

Randy Gonzalez
Fiscal Officer
Jackson Township Board of Trustees

R.C. § 504.07

504.07 Citation proceedings

(A)(1) A person who is served with a citation pursuant to division (B) of section 504.06 of the Revised Code shall answer the charge by personal appearance before, or by mail addressed to, the township fiscal officer, who shall immediately notify the township law director. An answer shall be made within fourteen days after the citation is served upon the person and shall be in one of the following forms:

(a) An admission that the person committed the violation, by payment of any fine arising from the violation. Payment of a fine pursuant to division (A)(1)(a) of this section shall be payable to the fiscal officer of the township and deposited by the fiscal officer into the township general fund.

(b) A denial that the person committed the violation.

(2) Whenever a person pays a fine pursuant to division (A)(1)(a) of this section or whenever a person answers by denying the violation or does not submit payment of the fine within the time required by division (A)(1) of this section, the township fiscal officer shall notify the court having jurisdiction over the violation.

(B) If a person answers by denying the violation or does not submit payment of the fine within the time required by division (A)(1) of this section, the court having jurisdiction over the violation shall, upon receiving the notification required by division (A)(2) of this section, schedule a hearing on the violation and send notice of the date and time of the hearing to the person charged with the violation and to the township law director. If the person charged with the violation fails to appear for the scheduled hearing, the court may hold the person in contempt, or issue a summons or a warrant for the person's arrest pursuant to Criminal Rule 4. If the court issues a summons and the person charged with the violation fails to appear, the court may enter a default judgment against the person and require the person to pay the fine arising from the violation.

(C) The court shall hold the scheduled hearing in accordance with the Rules of Civil Procedure and the rules of the court, and shall determine whether the township has established, by a preponderance of the evidence, that the person committed the violation. If the court determines that the person committed the violation, it shall enter a judgment against the person requiring the person to pay the fine arising from the violation.

If the court determines that the township has not established, by a preponderance of the evidence, that the person committed the violation, the court shall enter judgment against the township whose resolution allegedly was violated, shall dismiss the charge of the violation against the person, and shall assess costs against the township.

(D) Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the clerk of the court that entered the judgment, within ten days after the date of entry. All money paid in satisfaction of a judgment or default judgment shall be

disbursed by the clerk as required by law, and the clerk shall enter the fact of payment of the money and its disbursement in the records of the court. If payment of a judgment or default judgment is not made within this time period, execution may be levied, and such other measures may be taken for its collection as are authorized for the collection of an unpaid money judgment in a civil action rendered in that court. The municipal or county court shall assess costs against the judgment debtor, to be paid upon satisfaction of the judgment.

(E) Any person against whom a judgment or default judgment is entered pursuant to this section and any township against which a judgment is entered pursuant to this section may appeal the judgment or default judgment to the court of appeals within whose territorial jurisdiction the resolution allegedly was violated. An appeal shall be made by filing a notice of appeal with the trial court and with the court of appeals within thirty days after the entry of judgment by the trial court and by the payment of reasonable costs as the court requires. Upon the filing of an appeal, the court shall schedule a hearing date and notify the parties of the date, time, and place of the hearing. The hearing shall be held by the court in accordance with the rules of the court. Service of a notice of appeal under this division does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the trial court, in the amount of the judgment, plus court costs, at or before service of the notice of appeal.

Notwithstanding any other provision of law, the judgment on appeal of the court of appeals is final.

NOTICE TO COURT OF VIOLATION OF TOWNSHIP RESOLUTION

To Massillon Law Director:

Please be notified that the person named in the enclosed citation, within fourteen days after service of the citation:

- Paid the specified fine.
- Answered and denied the citation.
- Failed to answer the citation.
- Failed to pay the specified fine.

A copy of the township resolution described in the citation is attached.

The court is requested to commence proceedings on the citation pursuant to [Ohio Revised Code Section 504.07](#).

Date

Randy Gonzalez
Fiscal Officer
Jackson Township Board of Trustees

cc: Massillon Clerk of Courts

**APPLICATION FOR A PERMIT
TO EXCAVATE WITHIN TOWNSHIP ROADS OR
ROAD RIGHT OF WAYS**

Permit No. _____
Receipt No. _____
Fee: _____



ROAD OPENING PERMIT
 Jackson Township Public Works Department
 Highway Division
 5735 Wales Avenue NW - Massillon OH 44646 - Stark County
 330-832-4016

Application is hereby made on _____ by Contractor: _____
 For Owner: _____
 Address: _____ Email Address: _____
 City: _____ State: _____ Zip: _____
 On-Site contact: _____ Phone #: _____

PERMIT TO EXCAVATE
 Fees - (Price includes plan review and inspections.)

- \$150 – Excavation parallel to the roadway
- \$250 – Open roadway cut, requiring traffic control and pavement replacement
- Infrastructure projects, including boring, within right of way to be determined based on project size, length, and impact to traveling public.
- \$40/L.F. – Performance Bond

Inspection fees to be determined based on project, size, and length of project once plans are submitted to the Highway Division. Final approval to be determined by Highway Superintendent. A Performance Bond may be required after scope of project is determined, along with a non-refundable permit. The bond must be posted before project commences. Cost to be determined by Highway Superintendent.

OUPS must be notified 48 hours prior. 1-800-362-2764

Location of work:
 Address: _____
 The purpose of this excavation is _____.
 Work will commence on or about _____ and will be completed on or about _____. If this application is approved and a permit issued, the applicant agrees to comply with all the terms, conditions, and restrictions attached hereto as "addendum", mended or supplemented above in accordance with the detailed plans submitted and attached to this application.

Utility

<input type="checkbox"/> Gas	<input type="checkbox"/> Electric	<input type="checkbox"/> Phone	<input type="checkbox"/> Cable
<input type="checkbox"/> Fiber Optic	<input type="checkbox"/> Water	<input type="checkbox"/> Sewer	<input type="checkbox"/> Other _____

Signature _____ Signature _____
 Builder/Contractor Owner/Resident

Authorized Permit Official _____ Date _____

Approved Rejected



PERMIT TO EXCAVATE WITHIN TOWNSHIP ROADS OR ROAD RIGHT OF WAYS

Please provide a sketch of the project (including location and routes):

*****FOR RESIDENTIAL USE ONLY*****

A large, empty rectangular box with a thin black border, intended for the applicant to provide a sketch of the project, including its location and routes.

Contractor/Utility Owner Engineered Plans attached



**TERMS, CONDITIONS AND RESTRICTIONS
THAT APPLY TO THE ISSUANCE OF A PERMIT
FOR EXCAVATIONS IN ANY JACKSON TOWNSHIP ROAD**

This permit is issued under the authority of a resolution adopted on February 14, 2023, by the Board of Trustees of Jackson Township, Stark County, Ohio, requiring that any person, firm, or corporation making any excavation in any Jackson Township road within jurisdiction shall obtain a permit prior to the commencement of such excavation and any work performed as to such excavation shall be done in accordance with Section 5571.16 of the Ohio Revised Code and the conditions which are set forth below and are incorporated within the terms of the permit as issued. These conditions are binding upon the person, firm, or corporation, their heirs, successors and assigns upon the granting of the permit authorized by the Board of Trustees of Jackson Township.

1. The applicant for a permit, when required by the Jackson Township Highway Superintendent, shall submit detailed plans indicating the location, size, type and duration of the excavation contemplated.
2. The applicant shall deposit with the Fiscal Officer of the Board of Trustees of Jackson Township the sum of Forty Dollars (\$40) per linear foot for each foot of road to be excavated. Deposit shall be in the form of a certified check or the attached Performance Bond, payable to the Board of Trustees of Jackson Township. Said deposit or bond shall be conditioned upon the restoration of the Township road, road structures, and ditches to the condition prevailing at the time of the excavation and in accordance with the attached specifications for said restoration. Said deposit shall be refunded for bond shall be released within one (1) year after the restoration of the Township road upon the certification of the Jackson Township Highway Superintendent that the Township road, road structures, and ditches have been restored to the condition prevailing at the time of the issuance of the permit. Should the person, firm, or corporation to whom a permit has been issued fail to restore said Township road, road structures, and ditches as provided herein within thirty (30) days of the issuance of the permit or the opening of the excavation, whichever date is later, then the deposit or bond shall be forfeited to the Board of Trustees of Jackson Township and the said Board shall take legal action to enforce said bond.
3. The applicant shall provide proper barricades, signs, lights, and other warning devices at his own expense to protect the public using the highway during the period of the excavation and the restoration of the township road, road structures and ditches.
4. The applicant shall restore the township road to the condition prevailing at the time of the issuance of the permit. All road structures and ditches shall also be replaced or restored to their former conditions. In the event the road, road structures, and ditches are not thus restored, the applicant shall be liable for the cost of such replacement and restoration to the Jackson Township Trustees. Debris from the excavation shall be removed from the vicinity of the excavation.
5. The applicant shall provide suitable ingress and egress during the period of the excavation and resurfacing to the adjoining and adjacent property owners to their lands or lots.
6. The applicant shall provide forty-eight (48) hour advance notice to the Jackson Township Highway Department of the commencement of excavation. The contractor shall then notify the Jackson Township Fire and Police Departments through the Red Center non-emergency number 330-832-1553 of the commencement of excavation.
7. The applicant, as a condition of this permit, agrees to save Jackson Township harmless and to indemnify the same from any and all liability or damage arising to the persons or property from the issuance of this permit and the work performed thereunder for the excavation, refilling and resurfacing of the township road, road



TERMS, CONDITIONS AND RESTRICTIONS – continued

structures and ditches. The applicant, upon request, shall furnish evidence that he has available liability insurance in the amounts of:

- Two-Hundred Thousand Dollars (\$200,000) Bodily Injury
- Ten Thousand Dollars/Twenty-five Thousand Dollars (\$10,000/\$25,000) Property Damage against liability or damage to persons or property arising from the excavation in the Jackson Township road.

8. No person shall make an excavation in any township road in violation of any resolution adopted pursuant to this section; except that, in the case of an emergency requiring immediate action to protect the public health, safety, and welfare, an excavation may be made without first obtaining a permit if such application is made at the earliest possible opportunity.
9. The fee for the issuance of a permit shall be per the Permit Fee Schedule.
10. Whoever violates Section 5571.16 of the Revised Code shall be fined not more than Two Hundred Dollars (\$200) or imprisoned not more than thirty (30) days, or both. Ohio Revised Code Section 5571.99.
11. The permit may be revoked and the performance bond forfeited by the township at any time for non-performance or compliance with any of the provisions of the resolution.
12. The contractor shall be responsible for obtaining all required permits for construction. He shall be responsible for any damage to the street or roadway associated structures and shall make repairs as necessary to the satisfaction of the Jackson Township Highway Superintendent. The contractor shall also be responsible for the installation and maintenance of adequate signs and warning devices to inform and protect the public. The contractor shall be responsible for the maintenance of traffic throughout the construction period. All work performed by township employees to maintain road cuts and road right-of-way excavations due to contractor/homeowner negligence will be at the expense of the contractor/owner.
13. The length of open trenches shall be kept to a minimum and shall be protected by signs, barricades and lights as necessary and in conformance with the requirements of the Ohio Manual of Uniform Traffic Control Devices (MUTCD).
14. The function of existing traffic control devices shall be retained at all times, including traffic signal loops. Existing signs that must be relocated laterally shall be placed in accordance with the Ohio MUTCD and such signs shall not be moved without the approval of the Township Highway Superintendent. The contractor shall restore relocated signs to the position and condition, which existed prior to construction and pavement markings.
15. No “off the road” equipment with steel tires, treads, cleats or stabilizing pads will be permitted on the pavement without proper planking.
16. The traveled portion of the road shall be kept free of debris and cleaned of mud at all times. The permit holder agrees to remove any mud or debris from township roads, which have resulted from work done under the permit. In the event that the permit holder does not comply with the above, the township will attempt to notify the permit holder, but when necessary to protect the public safety, the obstruction will be removed and the cost of such removal will be charged against the bond. Repeated problems may also result in the revocation of the permit.



TERMS, CONDITIONS AND RESTRICTIONS – continued

17. The proper flow of storm water drainage must be maintained in the road right of way.
18. Road plates are not permitted on township roads longer than 48 hours between November 1st and March 31st. Temporary concrete cap or H.P. asphalt mix will be required until a permanent pavement repair is completed.
19. Asphalt Replacement – after review of plans, a determination will be made based on age, location, length, and width of excavated area if the contractor/homeowner will be required to mill surface course and use a mechanical paver for the placement of base material and surface course.
20. Private utilities may typically provide alternative bedding material as approved by the Jackson Township Highway Superintendent.
21. The Township Highway Superintendent reserves the right to refuse any alternate backfill material regardless of approval of similar material on a previous project.
22. **Whoever violates this Legislation shall be issued a civil citation in the amount of five hundred dollars (\$500.00) on the first offense and a civil citation in the amount of one thousand dollars (\$1,000.00) for each subsequent offense under this section. All fines collected for violation of this Resolution shall be paid into the General Fund.**

By signing below, I hereby acknowledge that I have completely read and fully understand the Jackson Township Road Opening Permit's terms, conditions and restrictions:

Print Name

Signature

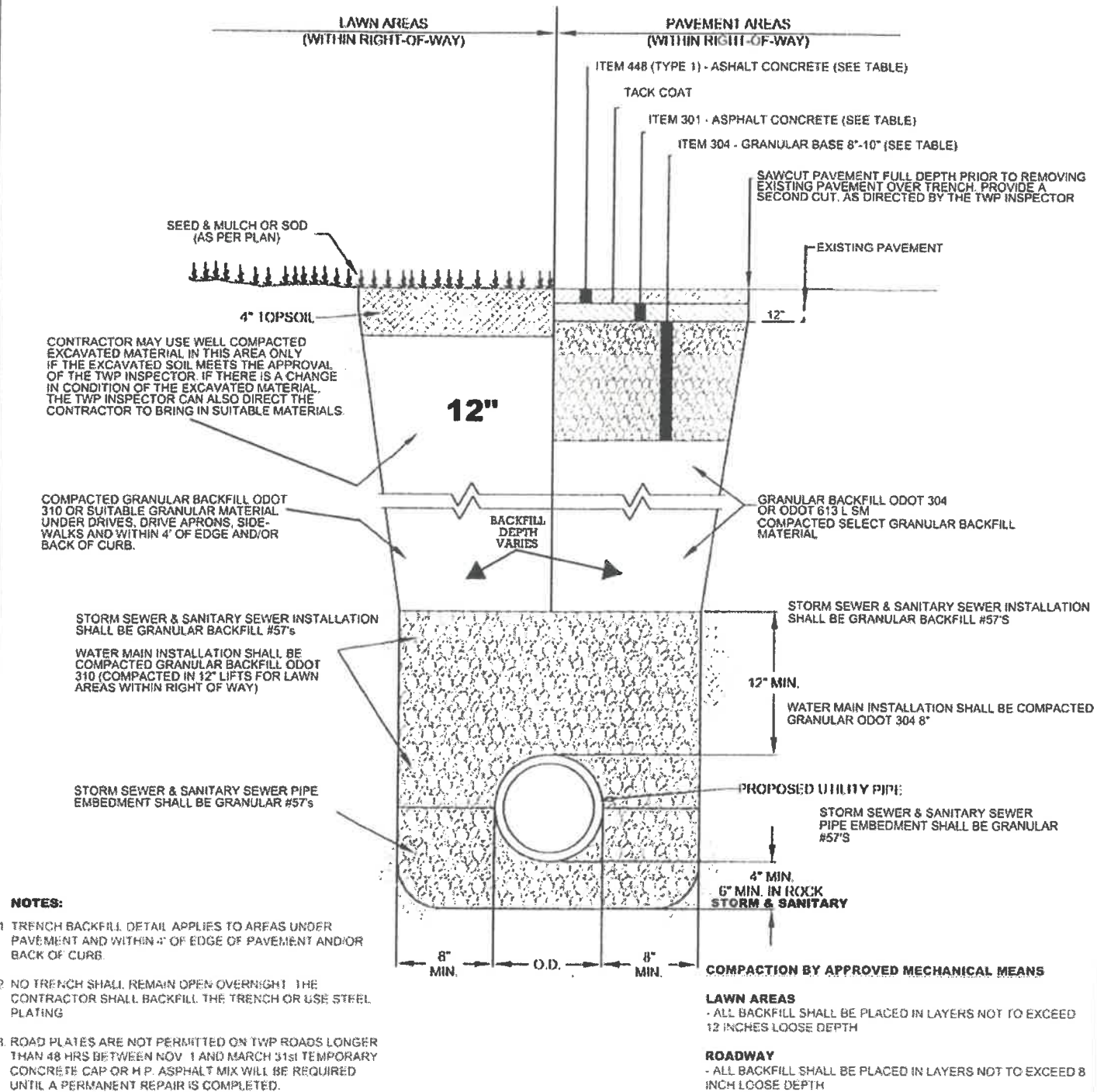
Date



TABLE 1: PAVEMENT DESIGN STANDARDS

ASPHALT SURFACE ON AGGREGATE BASE		
ITEM NO.	MAJOR ROADWAYS	MINOR ROADWAY
448	1 ½"	1 ½"
301	6"	4 ½"
304	10"	8"

❖ ANY ROAD EDGE AND CENTERLINE DAMAGED TO STRIPING WILL NEED REPAIRED



**JACKSON TOWNSHIP
PUBLIC WORKS DEPARTMENT
5735 WALES AVENUE NW
MASSILLON, OH 44646
(330) 832-4016**

TITLE OF DRAWING:

**UTILITY TRENCH-DETAIL
(WITHIN RIGHT-OF-WAY)**