

**COMMONWEALTH OF KENTUCKY
OLDHAM COUNTY
ORDINANCE NO. 19-620-24**

**AN ORDINANCE RELATING TO THE ESTABLISHMENT OF REGULATION FOR
ROAD ENCROACHMENT PERMITS FOR EXCAVATIONS AND/OR UTILITY
CONSTRUCTION WITHIN OLDHAM COUNTY.**

WHEREAS, Oldham County Fiscal Court has the authority pursuant to KRS 67.083(3)(t) to enact ordinances to provide for streets and roads, bridges, tunnels and related facilities; and

WHEREAS, the County Engineer is authorized in KRS 179.070 to have general charge of all county roads and see that all county roads are maintained as provided by law; and

WHEREAS, the Oldham County Engineering Department is authorized in Chapter 10.V of KOC-16-200-318 to develop standards for design of roadways and storm drainage.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE FISCAL COURT OF
THE COUNTY OF OLDHAM, COMMONWEALTH OF KENTUCKY:**

- Section 1 – Title, Authority, Purpose, and Jurisdiction
- Section 2 – Definitions
- Section 3 – Applicability
- Section 4 – Exemptions
- Section 5 – Ordinance Relationships and Conflicts
- Section 6 – Ordinance Administering Authorities of Oldham County
- Section 7 – Road Encroachment Permit Requirements
- Section 8 – Standards, Requirements, and Criteria
- Section 9 – Emergency Encroachment
- Section 10 – Permit Holder Requirements
- Section 11 – Surety, Surety Use, and Surety Releases
- Section 12 – Fees
- Section 13 – Enforcement
- Section 14 – Compatibility and Severability
- Section 15 – Effective Date

Section 1 - Title, Authority, Purpose, and Jurisdiction.

1. Title. This article shall be known as the "Oldham County Road Encroachment Permit for Excavations and Utility Construction Ordinance" of Oldham County, Kentucky, and may be so cited officially.
2. Authority. This ordinance is adopted pursuant to the statutory authority granted to Kentucky counties within Kentucky Revised Statutes (KRS) Chapter 67 and Chapter 100.
3. Purpose. In general, the purpose of this ordinance is to protect the health, safety, and welfare

of Oldham County citizens. This includes but is not limited to the following:

- a. Ensuring any excavations that abut upon a county road and/or occur within the county right-of-way comply with applicable engineering design and construction standards;
 - b. Ensuring all openings, cuts, or excavation in or under the surface of any street, alley, curb, sidewalk, shoulder, ditch, and public way within the county right-of-way comply with applicable engineering design and construction standards;
 - c. Ensuring that any utility (electric, gas, water, sanitary, fiber, cable, and telecommunications) that is placed in, under, or over the county right-of-way complies with applicable engineering and construction standards;
 - d. Ensuring all lane and/or road closures associated with excavations or utility construction (i.e., utility installation, maintenance, or removal) provide adequate and appropriate traffic management and signage.
 - e. Establishing procedures by which the requirements of this ordinance will be enforced.
4. Jurisdiction. The Oldham County Road Encroachment Permit for Excavations and Utility Construction Ordinance shall govern all unincorporated properties within the jurisdictional boundaries of Oldham County, and all incorporated areas within the boundaries of Oldham County in which the incorporated areas have passed a resolution.

Section 2 – Definitions.

1. County. An authorized representative or designee of the Oldham County Fiscal Court (government) including, but not limited to, the Oldham County Engineer or an authorized representative of the Oldham County Engineer (including an authorized contractor acting as a representative of the Oldham County Engineer).
2. Person. Any individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, interstate body, or other legal entity.

Section 3 – Applicability. This ordinance shall apply to any person that desires to conduct any of the following activities:

1. Install any new utility in, under, or over the county right-of-way.
2. Improve, modify, or conduct maintenance on any existing utility in, under, or over the county right-of-way.
3. Cut, bore, or excavate in or under the surface of any road, street, highway, alley, curb, sidewalk, shoulder, ditch, and/or public way within the county right-of-way.

4. Close any portion of a county road (i.e., lane closure, road closure) or obstruct any portion of the county right-of-way as a result of activities outlined in this section.

Section 4 - Exemptions. There are no exemptions for this ordinance.

Section 5 - Ordinance Relationships and Conflicts.

1. Compliance with the requirements outlined in this ordinance does not constitute compliance with the requirements of other federal, state, county, or city ordinances and regulations. It is the sole responsibility of each person that desires to conduct any of the activities outlined in section 3 of this ordinance to determine which federal, state, county, and city ordinances and regulations apply to their construction activities. It is also the sole responsibility of each person to ensure compliance with all federal, state, county, and city ordinances and regulations prior to conducting activities.
2. Where the requirements outlined in this ordinance are found to conflict with the requirements outlined in other applicable Oldham County ordinances and regulations, the more conservative (i.e., restrictive) requirement shall apply.

Section 6 - Ordinance Administering Authorities of Oldham County.

1. Request, Receipt, and Consideration of Information. The County shall have the right to request, receive, and consider information submitted by any person.
2. Permit Review. The County shall have the right to review, evaluate, return for revision, deny, and/or approve all information, plans, and calculations associated with this ordinance.
3. Right-of-Entry. The County shall have the right-of-entry to or upon the location in which the activities are to be conducted with or without notice. The County shall be provided access to all parts of the location subject to this ordinance for the purposes of assessment, inspection, and performance of other duties necessary to determine compliance with this ordinance.
4. Assessments, Inspection, Surveillance, and Monitoring. The County shall have the right to carry out all assessments, inspections, surveillance, and monitoring activities necessary to determine compliance with this ordinance and conditions outlined in approved plans and permits.
6. Standards and Specifications. Oldham County Fiscal Court shall have the right to adopt standards, regulations, requirements, and specifications related to any activities listed in this ordinance including, but not limited to, Best Management Practices (BMPs), plan review, inspections, construction design, and construction practices.
7. Fees. Oldham County Fiscal Court shall have the right to adopt a fee schedule, collect fees, and distribute fees for activities associated with the receipt, review, issuance, and oversight of permits outlined in this ordinance including, but not limited to, permit review, site assessments, and site inspections.

8. Enforcement. The County shall have the right to enforce compliance with the content of this ordinance and approved permits. Enforcement of the ordinance may include, but is not limited to, issuance of a Notice of Violation, issuance of a Stop Work Order, issuance of a citation, assessment of a civil penalty, and/or revocation of any permit approval granted under this ordinance.

Section 7 – Road Encroachment Permit Requirements.

1. Any person that desires to conduct any of the activities outlined in Section 3 of this ordinance shall obtain a “Road Encroachment Permit for Excavations and Utility Construction” from the County prior to conducting the activities within the Oldham County right-of-way.
2. Application for a road encroachment permit shall be made on the form prescribed by the County. The application shall be filled out in its entirety and shall contain all of the information required by the County for the type of activity being conducted. Depending on the scope-of-work, information required by the County may include, but not be limited to, the following: contact information and address of person applying for the permit, activity location, location of approximate property boundaries, location of county right-of-way, location of other existing utilities in the area, location of new utility, road construction details, restoration details for roads, restoration details for any ditches, culverts, or other stormwater facilities affected within the right-of-way, location of any erosion protection and sediment control best management practice (BMP) used for associated activities, and temporary traffic control plan and signage for lane and road closures.
3. All road encroachment permits shall expire within ninety (90) days, or as otherwise stated in the permit, unless extended by the County prior to expiration. After the specified expiration date, or extension date, if the activities have not been completed, a new encroachment permit application shall be submitted.
4. A road encroachment permit application fee shall be required for every application. This includes any re-application for expired permits.

Section 8 – Standards, Requirements, and Criteria. The following standards, requirements, and criteria shall be included, used, and/or satisfied within all applicable road encroachment permits and associated plans, and details.

1. Best Management Practices (BMPs). Unless otherwise noted in this ordinance, where temporary or permanent BMPs are planned or implemented, they shall comply with the requirements outlined in the latest edition of the "Kentucky Erosion Prevention and Sediment Control Field Guide" and the "Best Management Practices (BMP) Manual for Controlling Erosion, Sediment, and Pollutant Runoff from Construction Sites" as published by the Kentucky Transportation Center and Kentucky Division of Water. This shall also include related documents published and distributed by Oldham County with regards to Best Management Practices (BMPs). BMPs designed to other standards or requirements may be considered on a case-by-case basis by the County.

2. Excavations. Any excavation performed within Oldham County shall be in compliance with the provisions of KRS 367.4901 through 367.4917 (The Kentucky Underground Facility Damage Prevention Act) et seq, or as it may be amended.
3. Oldham County Engineering Requirements. Any additional engineering, design, or construction standards promulgated by Oldham County Fiscal Court. Additional Oldham County engineering requirements, other than those provided within this ordinance, shall be adopted by resolution.
4. Lane and Road Closure Requirements. Lane and road closures require appropriate traffic management and signage. In general, lane and road closures will only be allowed between 9 AM and 2 PM on weekdays to not interfere with school and rush-hour traffic. The County may approve alternative road closures (i.e., weekend closures, night closures) on a case-by-case basis. Road closures require notifications as set forth in this ordinance.

Section 9 – Emergency Encroachment.

1. In the event that any sewer, water, gas, or electrical structure in, under, or over any county right-of-way burst, break, or otherwise be in such a condition as to seriously endanger the public or property, the person that owns the sewer, water, gas, or electrical structure shall immediately take charge of and repair such trouble and shall immediately take all necessary precautions to make the location safe and secure. The person shall submit the required encroachment permit application within 72-hours following the initiation of repairs.

Section 10 – Permit Holder Responsibilities.

1. Conduct all encroachment activities in accordance with this ordinance; all engineering, design, and construction requirements adopted by Oldham County Fiscal Court; the approved permit; and any associated plans, details, and standards.
2. Remove material (i.e., dirt, mud, and debris) deposited upon a county road or in the county right-of-way daily.
3. Repair any damage done to or within the county's right-of-way, including, but not limited to, pavement, pavement markings, ditches, shoulders, sidewalks, and storm sewers, resulting from the permit holder's actions or those actions of the permit holders agents.
4. Notify the Oldham County Engineering Department and Oldham County Road Department three (3) days prior to commencing activities approved within the permit.
5. Notify Oldham County Dispatch twenty four (24) hours prior to the permitted closing of a lane or road within the county. Notify Oldham County Dispatch immediately upon re-opening a lane or road within the county.
6. Comply with all permit conditions of approval

Section 11 – Surety, Surety Use, and Surety Releases.

1. A road encroachment surety may be required by the County to be posted before activities may commence. Determination will be based on the extent of the scope of work. If required, the surety will cover 130% the cost of materials, construction, and installation of all construction related items within the county right-of-way.
2. An estimated surety amount shall be provided to the County by the project engineer, who shall be a Professional Engineer licensed in the Commonwealth of Kentucky.
3. The County will establish the final amount of surety based on the project engineer's estimated surety cost.
4. The surety shall be in a form acceptable to the County.
5. If any person, within the timeframe allowed by the County, fails to fulfill their responsibilities; has not taken action in accordance with this ordinance, the approved permit, or the conditions within the road encroachment permit; or fails to complete the activities as approved in the road encroachment permit, the County may use the surety posted to remedy any of the aforementioned deficiencies or damages to the right-of-way. The County shall notify the person in writing by certified mail prior to using the posted surety.

Section 12 - Fees. The fees associated with this ordinance are outlined in the Oldham County fee schedule. The fee schedule shall be adopted by resolution.

Section 13 - Enforcement.

1. General. Oldham County shall enforce compliance with this ordinance in accordance with the provisions outlined within this section.
2. Enforcement Mechanisms.
 - a. It is the intent of this ordinance that a process of collaborative compliance be pursued, when possible, prior to taking enforcement actions. When deemed necessary by the County, violations of this ordinance may be enforced through the below mechanisms. These enforcement mechanisms, when implemented in the order presented below, shall constitute the standard of practice for a progressive enforcement process.
 - 1) Notice of Violation. In instances where the County, based on observations or inspections, has reasonable cause to believe that a violation of this ordinance has occurred, the County may notify the person with a Notice of Violation (NOV) as outlined in Oldham County Ordinance KOC 19-150-01 et seq., or as it may be amended.
 - 2) Civil Penalties. In instances where the County, based on observations or inspections,

has reasonable cause to believe that a violation of this ordinance has occurred, the County may issue a citation and assess a civil penalty through the Oldham County Code Enforcement Board, as outlined in Oldham County Ordinance KOC 19-150-01 et seq., or as it may be amended.

- 3) Stop Work Order. In instances where the County, based on observations or inspections, has reasonable cause to believe that a significant violation of this ordinance has occurred, the County may issue the person a Stop Work Order (SWO).
- 4) Use of Surety. See Section 11 of this ordinance regarding the use of the surety.
- 5) Removal and Restoration Order. In addition to any of the enforcement actions provided in this section, the County has the authority to order the removal of any non-permitted excavation or utility construction and restore the county right-of-way to its previous condition. Any encroachment not so removed and restored shall be subject to removal and restoration by Oldham County. Oldham County has the right to recover costs incurred by Oldham County in connection with this enforcement action. Oldham County shall file a lien on the person's property for all costs and fees incurred by Oldham County in connection with non-recovered removal and restoration costs.
- 6) Proceedings in Law. If the enforcement mechanisms described in this Section prove to be unsuccessful in reaching compliance or there is a blatant disregard for the requirements or there is an immediate adverse impact to adjacent private or public property, the County may proceed with all procedures afforded it under the laws of the Commonwealth of Kentucky.

c. The County is not restricted to progressing through each mechanism level if, in the County's opinion, the activities, or lack thereof, of a person warrants a more stringent enforcement mechanism.

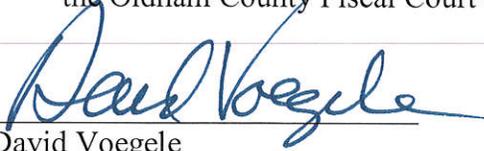
Section 14 - Compatibility and Severability.

1. Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.
2. If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

Section 15 - Effective Date.

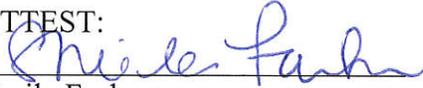
1. All sections of this ordinance shall take effect upon passage.

2. Adopted by the Oldham County Fiscal Court, Oldham County, Kentucky at a regular meeting on the 4th day of February, 2020 and on the same occasion signed in open session by the County Judge/Executive as evidence of approval, attested under seal by the Oldham County Fiscal Court Clerk, and declared to be in full force and effect.



David Voegelé
Oldham County Judge-Executive

ATTEST:



Sheila Faehr
Oldham County Fiscal Court Clerk

COMMONWEALTH OF KENTUCKY

OLDHAM COUNTY FISCAL COURT

RESOLUTION NO: 03-01-07-20

WHEREAS, Oldham County Fiscal Court adopted ORDINANCE NO. KOC 19-620-24 relating to the permitting of road encroachments for excavation and utility construction within Oldham County.

NOW, THEREFORE, BE IT RESOLVED that Oldham County Fiscal Court hereby sets the engineering, design, and construction standards for Oldham County as outlined in Chapter 300 of the Commonwealth of Kentucky Transportation Cabinet, Permits Manual, May 2019, as outlined in Chapter 401-3, 401-4, and 401-5 of the Commonwealth of Kentucky Transportation Cabinet, Utilities and Rails Manual, March 2019, and as depicted in the Commonwealth of Kentucky Transportation Cabinet, District 5, Pavement Restoration Detail. Where the aforementioned Commonwealth of Kentucky Transportation Cabinet standards reference the Chief Design Engineer, or others, for approving exceptions or alternatives; said approval authority shall be the Oldham County Engineer.

Approved and adopted at a regular meeting of the Oldham County Fiscal Court on the 4th day of February, 2020.



David Voegele
Oldham County Judge-Executive

Attest:



Sheila Faehr
Oldham County Fiscal Court Clerk

COMMONWEALTH OF KENTUCKY

OLDHAM COUNTY FISCAL COURT

RESOLUTION NO: 04-01-07-20

WHEREAS, Oldham County Fiscal Court adopted ORDINANCE NO. KOC 19-620-24 relating to the permitting of road encroachments for excavation and utility construction within Oldham County.

NOW, THEREFORE, BE IT RESOLVED that Oldham County Fiscal Court hereby sets a fee for the application of a road encroachment permit for excavations and utility construction. The fee is to be \$100.00 payable to Oldham County Fiscal Court.

Approved and adopted at a regular meeting of the Oldham County Fiscal Court on the 4th day of February, 2020.



David Voegle
Oldham County Judge-Executive

Attest:



Sheila Faehr
Oldham County Fiscal Court Clerk