



9.5.3. PROCEDURES AND CRITERIA FOR TSP, VSP AND SMALL WIRELESS WORK WITHIN THE RIGHT-OF-WAY PERMITS

Prior to commencement of a project within a County Highway Right-of-Way, a Right-of-Way permit application must be submitted and approved. Pursuant to MCL 247.184, "the consent of the Board of County Road Commissioners shall be obtained before the work [within a County Highway Right-of-Way] shall be commenced." No person, organization, or governmental unit shall undertake or conduct any of the following activities within a county road Right-of-Way without first obtaining a permit from the Tuscola County Road Commission ("TCRC"):

- Construct, reconstruct, relocate, or repair any facilities (sewer, water, gas, electric, drains, telephone, cable, fiber, wireless, guys/anchors, etc.)
- Perform any work (ditching, tree trimming, landscaping, etc.)

This document contains the procedures and criteria applicable to Telecommunications Service Provider (TSP), Video Service Provider (VSP) and Small Wireless Right-of-Way Permits. Failure to comply with the Board's written policy, applicable law, or any part of this document shall be just cause for either the temporary or permanent suspension of the permit, as well as the Permit Holder's other permits. Civil fines as provided by law will also be assessed against any "provider" as defined in MCL 224.19b(13)(b) who performs work within the Right-of-Way without obtaining the necessary permit, or who performs work within the Right-of-Way without maintaining the security required by MCL 224.19b(9) and as described in this document.

Video Service Provider and Telecommunications Service Provider Requirements:

- A.** Application must be accompanied by permit fee according to TCRC fee schedule (\$300 per permit or \$600 per permit if population is greater than 250,000) (capped at \$1,000 per project or \$2,000 per project if population is greater than 250,000).
 - a.** For purposes of determining the appropriate permit fee, the definition of "project" is "a proposal for work similar in nature and submitted by one applicant to be accomplished in one year along one road, but may include a **minor** amount of work by one applicant of a similar nature along contiguous road segments to be completed within one year."
- B.** In addition to the permit fee, Applicant is responsible for the Road Commission's necessary and actual costs applied in a reasonable manner for issuing the permit and for review of the proposed activity, inspection, and related expenses.
 - a.** Applicant shall submit a cash deposit with the Application in an amount determined by the Road Commission to be sufficient to cover these costs and expenses. Any unused portion of the deposit will be returned to Applicant upon closure of the Permit.
- C.** Applicant must submit a separate application for an annual routine or emergency maintenance and repair permit (\$300 per permit or \$600 per permit if population is greater than 250,000) (capped at \$1,000 per project or \$2,000 per project if population is greater than 250,000).
- D.** Applicant must provide proof of security (cash, bond or letter of credit) in the amount of \$20,000 (\$40,000 if population is greater than \$250,000).



- a. If a claim is made against the security at any time, for any reason, **ALL** permits issued to the Applicant throughout the County, whether or not related to the project against which the claim is made, are immediately suspended and will not be reinstated until additional security is provided in the statutory amount.
 - b. Failure to maintain the security required by statute and this policy will result in a \$5,000 civil fine, payable to the TCRC, for each instance of noncompliance associated with each individual permit held by the Applicant.
 - c. If the Applicant is both a governmental entity and a telecommunications or video service provider, the amount of the security shall be not less than would be required for the TCRC to restore the road, its appurtenances and the adjacent right-of-way to a condition reasonable equal to or better than that existing before the Applicant's activity.
- E. Applicant must provide proof of insurance in an amount not less than \$2 million per occurrence for bodily injury and, separately, not less than \$2 million per occurrence for property damage.
- F. Application must be accompanied by proof of Metro Act Permit from Township (if Metro Act applies to Applicant).
- G. Any video service or telecommunications provider who performs work within the right-of-way without first obtaining the permit required by MCL 224.19b shall be assessed a \$5,000 civil fine per violation, payable to the TCRC.

Small Cell Wireless Provider Requirements:

- H. Application must be accompanied by permit fee according to TCRC schedule, as follows:
 - a. One-time fee of \$200 per small cell facility **or** \$300 per small cell facility/utility pole combination
 - b. \$20/\$125 annual fee per pole or wireless support structure
- I. Application must be accompanied by proof of permit/franchise from affected Townships
- J. Application cannot contain request for more than 20 small cell facilities
 - a. The TCRC may approve or deny any portion of the total requested facilities, as appropriate.
- K. All work approved by permit must be completed within 1 year. After that, the permit is automatically void.
- L. The TCRC may request that any proposed facility be moved up to 75 feet in any direction.
- M. Applicant may be required to obtain additional standard Right-of-Way Permit(s) if proposed work will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic. All permit fees, security, insurance, cost reimbursement, etc., is as provided for standard Right-of-Way permit.
- N. Application must be accompanied by proof of insurance naming the TCRC as an additional insured.
- O. Applicant must agree to defend, hold harmless and indemnify the TCRC from any liability arising from the activity permitted or the presence of any facilities within the Right-of-Way.



- P.** Application must be accompanied by proof of security in the amount of \$1000 per small cell wireless facility.
- a.** If the Applicant has failed to maintain the required security or has defaulted on an existing bond, the TCRC will require a cash bond in the amount of \$1000 per small cell facility before any permit will be issued and work can occur.
- Q.** For any facilities to be collocated on authority poles, the Applicant will be assessed \$30.00 per year.
- a.** This fee increases every five years after March 12, 2019, the effective date of the Small Wireless Communications Facilities Deployment Act.
- R.** For any facilities to be collocated on non-authority poles, the Applicant will be assessed \$50.00 per year.
- a.** This fee increases every five years after March 12, 2019, the effective date of the Small Wireless Communications Facilities Deployment Act.

Annual Maintenance Permits for TSP, VSP and Small Wireless Utilities:

Routine maintenance activities, as defined by the TCRC, may be performed upon existing TSP, VSP and Small Wireless facilities through an Annual Maintenance Permit. Failure to comply with any of the following conditions will result in the cancellation of the Annual Maintenance Permit:

A. Conditions for Annual Maintenance Permit Activities

- Miss Dig is to be notified prior to any work. No work shall be allowed on an unmarked location.
- The TCRC shall be notified of all work in advance with the approximate location and date. Contractor shall follow TCRC "Permit Standards for All Utilities within the Right-of-Way". Emergency repairs may be made with notification given to the Road Commission as soon as possible, but no later than the next working day.
- Any work requiring pavement removal requires a separate permit. If emergency repairs are necessary underneath the pavement, notice to the Road Commission must be simultaneous to the commencement of the emergency work.
- Monthly reports shall be submitted to TCRC listing the location, date, and type of work for each activity performed. These reports shall be provided within seven (7) calendar days after the end of each month.

TCRC PERMITS

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