

## Proposed new 942 Appendix A Paragraph 26

### 26. Easement Permits and Inspection Fees

(a) Owners of land subject to drainage easements of the County of Summit or the District shall remove all obstructions within the bounds of such easements which have been placed there either by themselves or their agents, or with their consent, and not under a franchise or permit legally granted. Naturally occurring obstructions such as plant or tree growth must be removed by the owner or may be removed by the Engineer. By obtaining the consent and approval of the Engineer, obstructions placed or occurring within the bounds of such easements may be permitted to remain upon the conditions prescribed in this Section 26.

(b) The County Engineer (or designee) may, upon formal application being made to the Engineer, grant a permit to any property owner (permittee) to use or occupy such portion of any stormwater easement owned, controlled, or under the jurisdiction of the District or the County of Summit as will not interfere with the operation and maintenance of the stormwater system. Property owners may apply for permits for existing encroachments, but the Engineer may deny such permits and require the removal of the encroachment if the encroachment is determined to interfere with the operation or maintenance of the drainage facility. Easements contemplated by this section include, but are not limited to, drainage easements obtained by the District or the County under Chapters 942, 943, and 1105 of the Codified Ordinances of the County of Summit, and Title 61 of the Ohio Revised Code. Such permits, or modifications of previously issued permits, when granted, shall be upon the following conditions:

(1) The occupancy of such easements shall be in the location and upon such specifications as prescribed by the Engineer.

(2) Such location shall be changed as ordered by the Engineer when the Engineer deems such change necessary for the proper operation and maintenance of the stormwater facility, or in connection with the construction, reconstruction, improvement, relocation, maintenance, or repair of the stormwater facility.

(3) The property owner shall maintain all structures and other objects permitted in the easement in a proper manner, promptly repair all damages to the easement and the stormwater facility on account thereof, and, in the event of failure to so repair such easement, pay to the District or the Engineer all costs and expenses which may be expended by the Engineer in repairing any damage to its facilities. Permits may be revoked by the Engineer at any time for noncompliance with the conditions imposed.

(4) The permit shall be revocable at the discretion of the Engineer upon a finding that the encroachment interferes with the operation or maintenance of the drainage facility, or that the property owner failed to maintain the permitted encroachments, and, upon termination of the permit, the property owner shall remove such encroachment(s) at the property owner's expense within sixty (60) days

of notification by the Engineer, without damage to the property of the District or the Engineer. Should the permittee fail to remove the encroachments and restore the area to the satisfaction of the County within this time period, the County may remove and restore the area and charge all related costs to the permittee.

(5) The property owner/applicant shall pay all County costs related to reviewing the application. The County's cost may include, but is not limited to, actual personnel costs, including overhead and related charges as established by the Engineer for plan review purposes, and any third-party or out-of-pocket costs necessary to evaluate the application. The applicant shall deposit \$500 with the application; said deposit may be increased if deemed necessary by the Engineer based on the estimated cost to evaluate the application. Unused deposit amounts shall be refunded to the applicant.

(6) Issued permits shall be recorded with the Summit County Fiscal Office in sufficient detail to identify the permitted encroachment and any limitations placed thereon. The cost of recording shall be charged to the property owner. The permit shall run with the land and be subject to any conditions stated in this Part 26 and in the permit. The Engineer may release the recorded permit upon (1) revocation of the permit as provided in these regulations, or (2) notice from the property owner to the Engineer that the encroachment has been completely removed from the County's easement. In either circumstance, the Engineer shall verify that the encroachment has been removed before releasing the recorded permit.

(7) Encroachments in County drainage easements, whether permitted or not, are installed at the property owner's risk. The County or its contractors shall not be responsible for damage to structures or personal property located within the County's drainage easements.

(c) The Engineer shall promulgate application forms for permits under this regulation. Applications to modify a previously issued permit shall follow the same process as a new application.

(d) Except as otherwise provided for herein, permit and inspection fees specified in Chapter 942 of the Codified Ordinances of the County of Summit shall be based upon the actual cost of the service provided.

## **29. PENALTY**

Whomever violates any provision of these Rules and Regulations shall be fined not more than five hundred dollars (\$500.00) and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Such penalty shall be in addition to any costs charged for work by the County required to correct non-compliance

with orders issued hereunder, ~~such charges which may be collected by lien upon the affected property.~~ When any of these charges are not paid when due, the County may proceed to collect these charges by any method authorized by Section 6117.02(D) of the Ohio Revised Code, including, but not limited to, certifying the unpaid charges, together with any penalties, to the Summit County Fiscal Officer, who shall place them upon the real property tax list and duplicate against the property to which the charges apply.

No penalties shall be charged until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period shall result in assessment of a civil penalty or other enforcement action.