

CEAO

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Superintendents & Mechanics  
Conference

Road Rights of Way  
And Obstructions

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# Introduction

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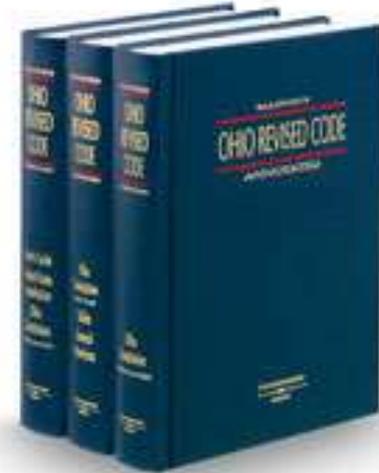
- Topics
  - Road Right-of-Way
  - Rights of others to R/W
  - Obstructions in the R/W
    - Road Drainage
    - Signs
    - Tree Trimming



# Authority

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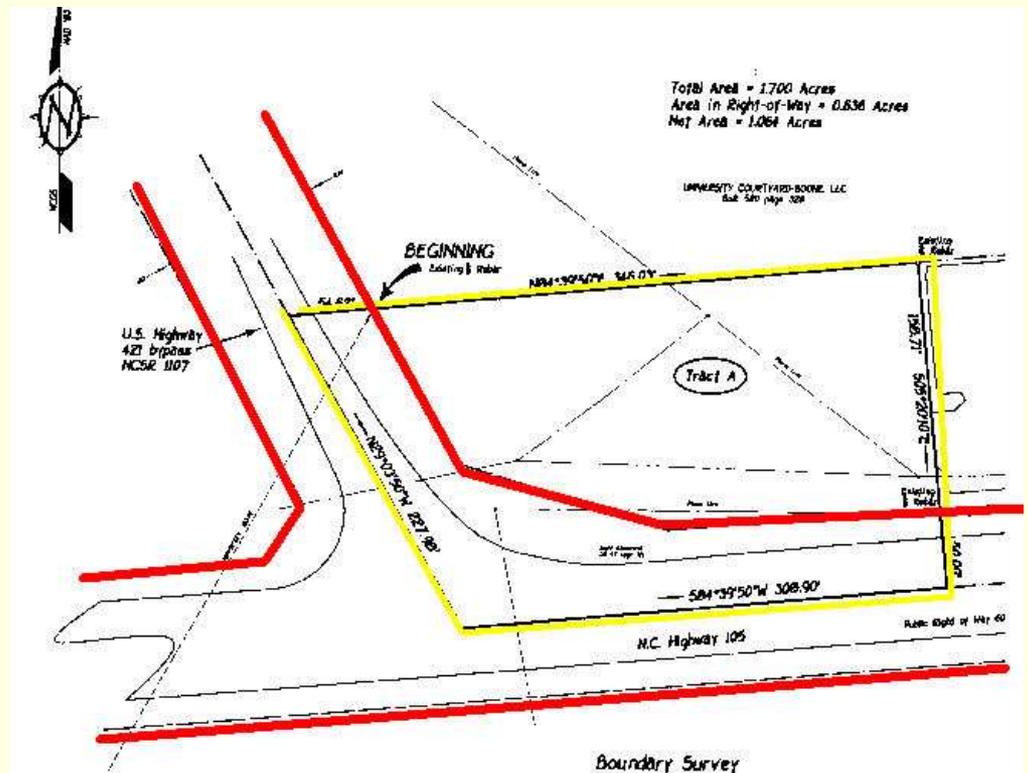
- Ohio Revised Code
  - Permissive
  - Enabling
- OMUTCD
  - Signs
  - Pavement Markings
- Shall, Should and May



# Road Right of Way

## Types of Right of Way

- Easement
  - Most Common
  - The right to use land owned by others for a specific purpose





# Road Right of Way

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- Unrecorded Rights of Way
  - no existing records
  - original records are lost or destroyed
  - original records do not specify dimensions
- Remedies for unrecorded rights of way
  - Statutory Hearing/Declaration Process
  - By donation
  - By Court proceedings
  - By Historical context

# County and Township R/W

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- For Construction, Re-construction and Maintenance of Public Roads
- Construction of ditches, pipes, tiles, culverts and bridges to drain public roads
- Keep the right of way free from Obstruction
- Placement of traffic control devices
- Others may use by permit

# Types of Obstructions

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- Trees, Brush and Vegetation
- Objects that create crash hazards
- Objects that obscure drivers and pedestrian vision
- Impediments to drainage
- Unauthorized and misplaced signs
- Any unauthorized object that restricts the public use of or public interest in the right of way

# Obstructions in the Road Right of Way

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- Examples cited in Township authority:
  - *fence,*
  - *post,*
  - *pole,*
  - *athletic or recreational apparatus,*
  - *rock, or berm,*
  - *any vegetation,*
  - *or any other object ... interfering with or obstructing the township road*



# Obstructions in the Road Right of Way

## ■ Mailboxes

- Monument Mailboxes
- Damage to Mailboxes
- Policy for replacement



# Obstructions – Trees and Brush

- Trees and Brush removal
  - proximity to pavement - safety
  - block sight distance
  - block signage
  - interfere with maintenance
  - interfere with construction



# Removal of Obstructions

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- **5547.03 Removal of structures constituting obstructions or interference.**
- All persons, partnerships, and corporations using or occupying any part of a highway, bridge, or culvert shall remove obstructions in highway by order of the county commissioners.
- If, in the opinion of the engineer, such persons, partnerships, or companies [corporations] have obstructed any such highway, bridges, or culverts, the board shall notify such person, partnership, or corporation directing the removal or relocation of the obstruction

# Removal of Obstructions

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- If they do not within five days proceed to so remove or relocate and complete the removal or relocation within a reasonable time, the board may do so by employing the necessary labor.
- The cost shall be certified to the proper officials to be placed on the tax duplicate against the property of such person, partnership, or corporation, to be collected as other taxes.

# Obstructions – Trees and Brush

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- 5543.14 grants specific authority for removing trees, brush and vegetation
  - ... *the county engineer may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the county roads of, as is necessary in the engineer's judgment to facilitate the right of the public to improvement and maintenance of, and uninterrupted travel on, county roads.*
  - ... *not required to compensate the abutting landowner for trimming or removing such trees, shrubs, and other vegetation as is necessary to facilitate these rights.*

# Tree and Brush Cutting

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- Methods and Procedure
  - By hand
  - Mower or brush hog
  - Boom Mower
  - Advanced Notification
  - Schedule / Deadline
  - Disposition of Wood can depend on type of right of way



# Obstructions in the Road Right of Way

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- Blocked Culverts or Drainage Obstructions
  - Can be removed under ORC **5547.03**
  - Must be for a public necessity
  - Not for an isolated private drainage problem



# Road Drainage

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- Road ditches are considered part to the road and subject to the various road improvement statutes



# Road Drainage

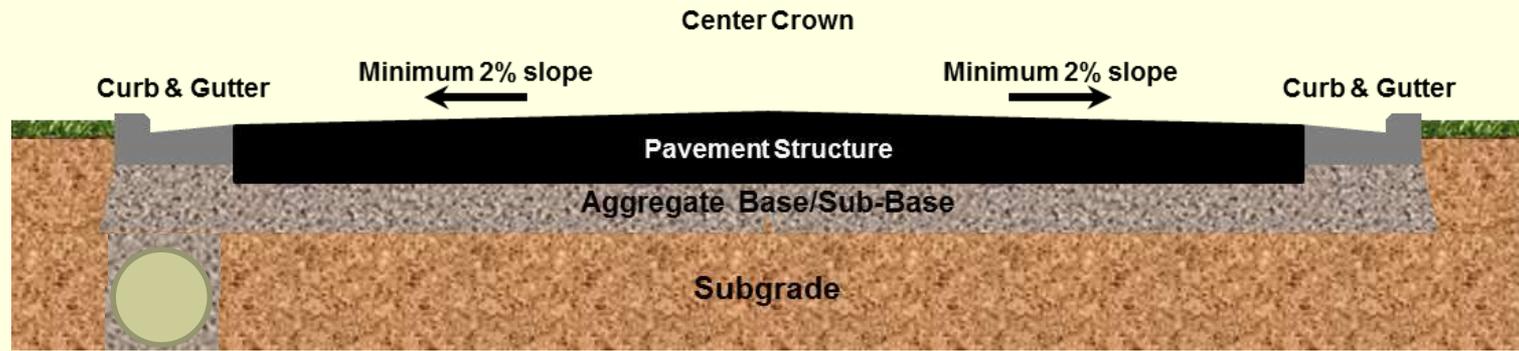
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- Roadway Drainage
  - Surface Drainage – Ditches
  - Subsurface Drainage – Storm Sewers and tile



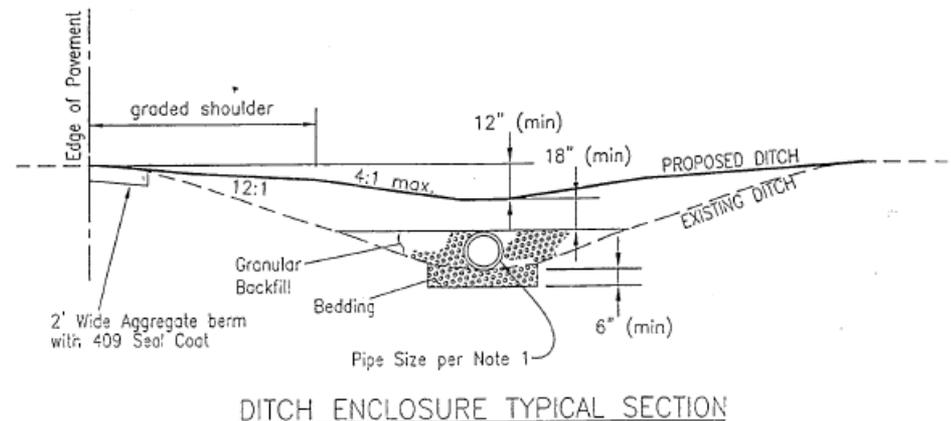
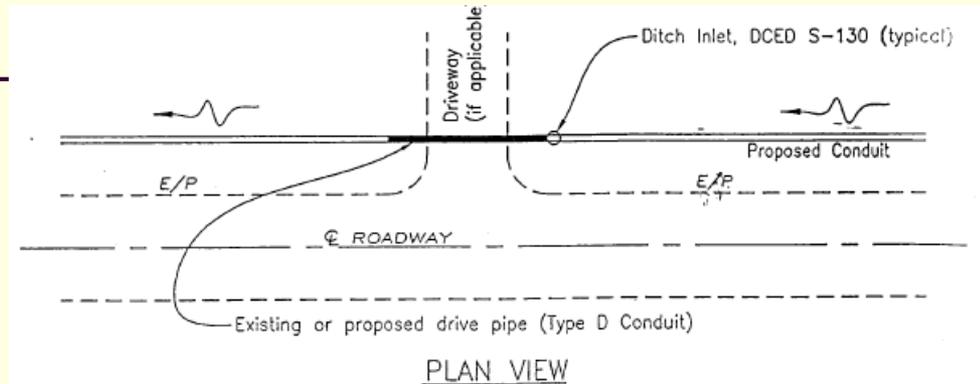
# Road Drainage

## ■ Why is Drainage Important?



# Road Drainage

## ■ Enclosing ditches



### NOTES:

1. Pipe shall be a minimum of 12" diameter and shall in no case be smaller than existing driveway pipes in the ditch line.
2. Pipe material shall be corrugated polyethelene smooth lined pipe (perforated).
3. Pipe shall be bedded and backfilled as shown with #8 or #57 aggregate.
4. A ditch of 12" minimum depth shall be graded over the pipe with 18" of cover. If the existing ditch is not deep enough to provide for the proposed installation, then the ditch enclosure will not be approved.
5. The owner shall notify the County or Township 24 hours prior to commencing work and shall not cover the pipe until inspection and approval by the County/Township.

# Road Drainage

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- No authorization to:
  - Improve drainage from private property adjacent to the road
  - Make drainage improvements beyond those related to a public road
  - Intervene in private property drainage problems or disputes



# Obstructions Outside of the R/W

- **5543.12 County engineer right of entry.**
- The county engineer when authorized by the board of county commissioners or board of township trustees, may enter immediately:
- (A) Upon any adjacent lands for the purpose of opening an existing ditch or drain, or for digging a new ditch or drain for the free passage of drainage of highways;



# Obstructions Outside of the R/W

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- Upon any lands adjacent to highways, to remove any fence or other obstruction which causes snow to drift upon such highway and erect snow fences or other devices upon such lands to prevent the drifting of snow in or upon the highway.

# Obstructions Outside of the R/W

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- When lands are entered upon under section 5543.12 of the Revised Code, the county engineer shall agree with the owners of such lands, subject to the approval of the board of county commissioners as to the amount of compensation and damages
- If no agreement can be reached, proceed per eminent domain law through court

# Driveways

- **5543.16 Construction and repair of approaches and driveways - cost.**
- The owners of land shall construct and keep in repair all approaches or driveways from the public roads, under the direction of the county engineer (permit authority)
  - Permits usually specify:
    - Pipe size and Material
    - Construction details
    - Location – Sight Distance,
    - Safety



# Road Right of Way Permits

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- Public Utilities
  - Permits Required
    - County Commissioners shall approve permits on county and township roads
    - Township may approve permits on Township roads
    - Differences between Easements and Fee Simple right of way is important
    - Fees?



# Road Right of Way

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- Utility permits can specify:
  - Horizontal Location
    - Offset from pavement,
    - Ditches
    - Structures
  - Vertical Location
    - Depth - underground
    - Overhead clearance
    - Impact on subsurface drainage



# Road Right of Way

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- Utility Relocation

- Can be required due to

- a. Safety
- b. Construction
- c. Maintenance

- Relocation at the cost of the Utility Company, for those located in the road right of way

- Relocation at the public agency cost, for those located outside of the road right of way



# Recourse Without a Permit

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- **5589.10** No person shall dig up, remove, excavate, or place any earth or mud upon any portion of any public highway or build a fence upon the same without authority to do so. Each day that such person continues to dig up, remove, or excavate any portion of the public highway constitutes a separate offense.

# Recourse Without a Permit

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- No person, firm, or corporation shall construct a walk or dig a ditch across a public highway outside any municipal corporation without the consent of... the county engineer in the case of a county road ...
- Whoever violates section 5589.07 or 5589.10 of the Revised Code is guilty of a misdemeanor of the fourth degree.

# Road Signs and Pavement Markings

- Shall be installed in accordance with the Ohio Uniform Manual of Traffic Control Devices (OMUTCD)
  - Shall – required
  - Should -recommended
  - May-permitted or allowed
- Available at:  
[www.dot.state.oh.us](http://www.dot.state.oh.us)



# Road Signs and Pavement Markings

- Required Signs - **Shall**
  - Regulatory Signs
    - Stop
    - Speed Limits (when reduced)
  - Warning Signs
    - Stop Ahead (with exception)
    - Curve w/ recommended speed plaques (sometimes)



R1-1



R2-1



W3-1



W1-5



W13-1P

# Advertising Signs

- ...no person shall place within the limits of the right-of-way any sign, poster, or advertisement within the right-of-way of any public highway outside of municipal corporations .....or any object determined to obscure sight distance.
  - Real Estate Signs?
  - Political Signs?



# Questions?

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