

COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2021-58

By Jim Maxwell Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PAUL M. ANTCHAK, THOMAS P. ANTCHAK, DAVID J. ANTCHAK, FRANCES M. PITTS AND VICTORIA K. USCHOLD (GRANTORS), AND ACCEPTING AN EASEMENT PERMITTING THE CITY TO CONSTRUCT, RECONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE AND/OR REMOVE ANY SANITARY AND/OR STORM SEWERS ON THE EASEMENT, AND DECLARING AN EMERGENCY.

WHEREAS, the Grantors own certain property in the City, described as Permanent Parcel Numbers 361-07-061 and 361-07-062, situated in the City of Berea, County of Cuyahoga, State of Ohio, 44017, referred to as Parcel A & B in Lot Split Consolidation recorded as AFN 202008270332 of Cuyahoga County Map Records, and as further described in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Grantors plan to develop the parcels for residential use; and

WHEREAS, the Grantors, by and through their agents, will construct the sewer infrastructure at their cost; and

WHEREAS, the City will require an easement on the parcels in order to enter upon the property for the purpose of constructing, reconstructing, operating, maintaining, repairing, replacing and/or removing the sanitary and/or storm sewers on the property subject to the easement; and

WHEREAS, the easement will run along a line that is described particularly by meets and bounds in a legal description prepared and stamped by an Ohio Registered Surveyor in good standing, as set out in Exhibit B, attached hereto and incorporated by reference; and

WHEREAS, the line of easement is further shown in a map also prepared by the Registered Surveyor attached hereto as Exhibit C, and incorporated herein by reference; and

WHEREAS, the Ohio EPA issued a permit to the Grantors for the purpose of constructing the necessary infrastructure for sanitary and storm sewers, attached hereto as Exhibit D, and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That the Mayor of the City of Berea is hereby authorized to enter into an agreement on behalf of the City with Paul M. Antczak, Thomas P. Antczak, David J. Antczak, Frances M. Pitts and Victoria K. Uschold ("Grantors"), to accept a right-of-way easement, as more fully described on Exhibit E, which is attached hereto and incorporated herein by reference.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is essential to provide the City with an easement before the Grantors may begin developing and constructing the parcels for residential use. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

COUNCIL CHAMBER

City of Berea, Ohio

Ord No. 2021-58

By Maxwell Sponsored By Mayor Klean

PASSED: October 18, 2021

[Signature]
President of Council

ATTEST: [Signature]
Clerk of Council

APPROVED: October 19, 2021
[Signature]
Mayor

Approved as to Form:

[Signature]
Director of Law

Exhibit
"E"

**EASEMENT AGREEMENT FOR
STORM AND SANITARY SEWER**

This EASEMENT AGREEMENT (this "Agreement"), dated as of _____, 2021 (the "Effective Date"), is entered into between Paul M. Antczak, Thomas P. Antczak, David J. Antczak, Frances M. Pitts and Victoria K. Uschold with an address of Cross Street, Berea, OH 44017 ("Grantor"), and The City of Berea, with an address of 11 Berea Commons, Berea, OH 44017 ("Grantee").

1. **Grant.** Grantor grants to Grantee, Grantee's successors and assigns, a right of way and easement to construct, reconstruct, operate, access, maintain, repair, replace and/or remove any sanitary and/or storm sewers on the real estate owned by Grantor described as Parcels 361-07-061 and 361-07-062 situation in the City of Berea, County of Cuyahoga, State of Ohio, 44017, referred to as Parcel A & B in Lot Split Consolidation recorded as AFN 202008270332 of Cuyahoga County Map Records, and as further described in Exhibit A attached hereto (Exhibit A constituting the meets and bounds description of the real property in gross upon which the easement as specifically described below will be located, along with the permanent parcel number(s) for each parcel of land described). The right granted by this easement shall be deemed to run with the land.

2. **Description of Easement Area.** The easement will run along a line that is described particularly by meets and bounds in a legal description prepared and stamped by an Ohio Registered Surveyor in good standing, as set out in Exhibit B, attached hereto. Said line of easement is further shown in a map also prepared by the Registered Surveyor attached hereto as Exhibit C, which shall be referred to hereafter as the "Easement Area."

3. **Purpose and Limitations on Use of Easement.** This Easement is granted solely for the purposes of constructing, reconstructing, operating, maintaining, repairing, replacing and/or removing any sanitary and/or storm sewers on the Easement (collectively, the "Improvements"). Grantor may grant other easements over, along and across the Easement Area so long as such other easements do not interfere with Grantee's purposes and uses of the Easement. Grantee shall have no right to grant additional easements or sub-easements on, along or across the Easement Area. Grantor retains, reserves and shall continue to enjoy use of the surface of the Easement Area for any and all purposes that do not interfere with and prevent the use by Grantee of the Easement.

4. **Compliance with Laws and Ohio EPA Guidelines.** Grantee shall construct the Improvements in a workmanlike manner and in compliance with the applicable statutes,

ordinances, rules, and regulations of all governing public authorities as those statutes, ordinances, rules, and regulations are amended from time to time. Grantor and Grantee further agree to comply with all terms and conditions stated in the Ohio Environmental Protection Agency's (the "Ohio EPA's") site improvement plan, attached hereto as Exhibit D and incorporated herein.

5. Liability. Grantor grants this Easement to Grantee with the understanding that Grantee shall be strictly liable for all damages and losses caused by or arising out of the construction, maintenance, repair, replacement, or operation of any sewer or activities upon the Easement Area that may be asserted against Grantor (other than to the extent any such claims arise from the conduct of Grantor, Grantor's agents, contractors, employees, invitees, guests and permittees). Grantee agrees to defend, indemnify and hold harmless Grantor from and against any and all claims, liens, demands and causes of action for injury, including death, or damage to persons or property or fines or penalties or environmental matters arising out of, incidental to or resulting from the operations of or for Grantee or Grantee's servants, agents, employees, guests, licensees, invitees or independent contractors, and from and against all costs and expenses incurred by Grantor by reason of any such claim or claims, including attorneys' fees; and each assignee of this Easement, or any interest therein, agrees to indemnify and hold harmless Grantor in the same manner provided above. The provisions of this paragraph shall survive the termination or abandonment of this Easement provided that this Easement is not terminated due to Grantee failing to commence construction of a sewer within eighteen (18) months from the date that the Ohio EPA granted the site improvement plan (June 2, 2021).

6. Representations and Warranties. Grantor hereby represents and warrants to Grantee that: (a) it has the full right, power, title, and interest to make the within grant of Easement to Grantee; (b) such grant of Easement and any rights granted under this Agreement may be fully and thoroughly enjoyed and utilized by Grantee pursuant to the terms hereof; and (c) Grantee's easement rights hereunder shall not be defeated, impaired, and adversely affected by superior title.

7. Grantor's Use of Property. Grantor reserves the right to use the Easement Area in any manner and for any purpose that does not interfere with Grantee's Easement rights and its use of the Easement

8. Termination and Abandonment. If Grantee has not commenced construction of a sewer within eighteen (18) months from June 2, 2021, this Easement shall be deemed abandoned. If Grantor believes that the Easement has been abandoned, it shall provide written notice thereof to Grantee. Unless Grantee has responded within thirty (30) calendar days after such notice has been sent, providing evidence to counter the facts as presented by Grantor regarding abandonment, then Grantor may proceed to record an affidavit providing notice of abandonment and termination of this Easement with the recorder's office of the county where the Easement is located.

9. Assignments. This Easement shall inure to and be applicable to Grantor and Grantee and their respective heirs, representatives, successors and assigns. Grantee shall not assign this Easement without the prior written consent of Grantor, with Grantor's consent not to be unreasonably withheld or delayed, provided, however, that in the event of any assignment by Grantee or any successive Grantee, the assignor shall remain fully responsible for all

obligations, responsibilities and liabilities of Grantee under this Easement (including, but not limited to, requirements as to indemnity and insurance).

10. **Amendment.** This Agreement may not be modified, amended, or terminated except in a writing signed by each party hereto.

11. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO. EACH PARTY HERETO AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE TRIED AND LITIGATED IN STATE OR FEDERAL COURTS LOCATED IN CUYAHOGA COUNTY, OHIO, UNLESS SUCH ACTIONS OR PROCEEDINGS ARE REQUIRED TO BE BROUGHT IN ANOTHER COURT TO OBTAIN SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE EXTENT PERMITTED BY LAW, EACH PARTY HERETO IRREVOCABLY WAIVES ANY RIGHT ANY PARTY HERETO MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS, TO ASSERT THAT ANY PARTY HERETO IS NOT SUBJECT TO THE JURISDICTION OF THE AFORESAID COURTS, OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 11. SERVICE OF PROCESS, SUFFICIENT FOR PERSONAL JURISDICTION IN ANY ACTION AGAINST ANY PARTY HERETO, MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ANY SUCH PARTY'S ADDRESS INDICATED IN THE BEGINNING OF THIS AGREEMENT.

12. **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

13. **Authority.** Both parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

14. **Further Cooperation.** Each of the signatories to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed intent and purpose of this agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

GRANTOR:

Paul M. Antczak

Date

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a notary public in and for said County and State, personally appeared **Paul M. Antczak**, who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

NOTARY PUBLIC

Thomas P. Antczak

Date

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a notary public in and for said County and State, personally appeared **Thomas P. Antczak**, who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

NOTARY PUBLIC

David J. Antczak

Date

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a notary public in and for said County and State, personally appeared **David J. Antczak**, who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

NOTARY PUBLIC

Frances M. Pitts

Date

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a notary public in and for said County and State, personally appeared **Frances M. Pitts** who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

NOTARY PUBLIC

Victoria K. Uschold

Date

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a notary public in and for said County and State, personally appeared **Victoria K. Uschold**, who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

NOTARY PUBLIC

GRANTEE:

THE CITY OF BEREA, OHIO

By: Cyril Kleem

Its: Mayor

10-19-21
Date

STATE OF OHIO)

) SS:
COUNTY OF Cuyahoga)

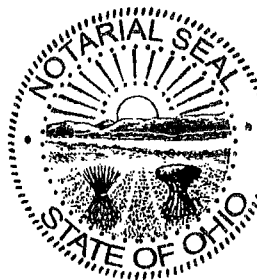
BEFORE ME, a notary public in and for said County and State, personally appeared Cyril Kleem, Mayor, who did sign the foregoing instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Berea, Ohio this 19 day of October, 2021.

Barbara L. Jones
NOTARY PUBLIC

PREPARED BY:

Cynthia M. Menta, Esq.
Gertsburg Licata Co., LPA
600 Granger Road
Suite 200
Cleveland, OH 44131



BARBARA L. JONES
Attorney at Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY A

HOFMANN - METZKER, INC.

REGISTERED PROFESSIONAL SURVEYORS
P. O. BOX 343 - 24 BEECH STREET
BEREA, OH 44017 (440) 234-7350

George A. Hofmann, P.S., President
Richard D. Metzker, P.S., Vice President

Antczak

DESCRIPTION

4-27-2020

Parcel A

Situated in City of Berea, County of Cuyahoga, State of Ohio, and known as being part of Sublots 22, 24, 26 and 28 in the Savage Allotment as shown by the map in Vol. 7, Page 25 of Cuyahoga County Records, of part of Original Middleburg Township, Section No. 23/24, and further bounded and described as follows;

Beginning at an Iron Pin Set at the intersection Northerly right of way line of Savage Street (50'), with the Westerly right of way line of Cross Street (49.5');

Thence North 57 degrees 30 minutes 13 seconds West along said Northerly right of way line, a distance of 263.98 feet to the Southwesterly corner of said subplot No. 28, (5/8" Iron pin found 0.21'E - 0.27'S);

Thence North 31 degrees 10 minutes 45 seconds East along the Westerly line of said Sublot No. 28, a distance of 81.14 feet to an Iron Pin Set;

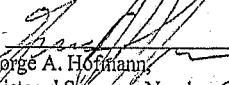
Thence South 57 degrees 27 minutes 25 seconds East, a distance of 263.98 feet to an Iron Pin Set on the Westerly right of way line of Cross street;

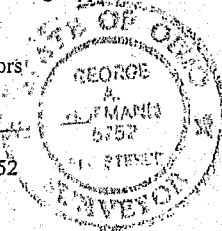
Thence South 31 degrees 10 minutes 45 seconds West, along said Westerly right of way line, a distance of 80.93 feet to the place of beginning and containg 21,385.5044 SF - 0.4909 Ac of land according to a survey by George A. Hofmann.

The course used in this description are based on the centerline of Cross Street bearing North 31 degrees 10 minutes 45 seconds East, and are used to indicate angles only.

Distances are given in feet and decimal parts thereof
Iron Pins Set are 5/8" rebar - 30" long capped 6752/7477

HOFMANN-METZKER, INC.
Registered Professional Surveyors

By: 
George A. Hofmann,
Registered Surveyor Number 6752



LEGAL DESCRIPTION OF PROPERTY B

HOFMANN - METZKER, INC.

REGISTERED PROFESSIONAL SURVEYORS
P. O. BOX 343 - 24 BEECH STREET
BEREA, OH 44017 (440) 234-7350

George A. Hofmann, P.S., President
Richard D. Metzker, P.S., Vice President

Antczak

DESCRIPTION

4-27-2020

Parcel B

Situated in City of Berea, County of Cuyahoga, State of Ohio, and known as being part of Sublots 22, 24, 26 and 28 in the Savage Allotment as shown by the map in Vol. 7, Page 25 of Cuyahoga County Records, of part of Original Middleburg Township, Section No. 23/24, and further bounded and described as follows;

Beginning at an Iron Pin Set at the intersection Northerly right of way line of Savage Street (50'), with the Westerly right of way line of Cross Street (49.5');

Thence North 31 degrees 10 minutes 45 seconds East along said Westerly right of way line, a distance of 80.93 feet to an Iron Pin Set at the Principal place of beginning;

Thence North 57 degrees 27 minutes 25 seconds West, a distance of 263.98 feet to an Iron Pin Set on the Westerly line of said subplot No. 28;

Thence North 31 degrees 10 minutes 45 seconds East along said Westerly line; a distance of 81.14 feet to an Iron Pin Set at the Northwestern corner of said subplot No. 28;

Thence South 57 degrees 24 minutes 36 seconds East along the Northerly line of sublots No. 28, 26, 24, and 22, a distance of 263.99 feet to an Iron Pin set on the Westerly right of way line of Cross street;

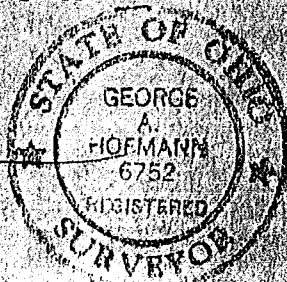
Thence South 31 degrees 10 minutes 45 seconds West, along said Westerly right of way line, a distance of 80.93 feet to the place of beginning and containing 21,385.4841 SF - 0.4909 Ac of land according to a survey by George A. Hofmann.

The course used in this description are based on the centerline of Cross Street bearing North 31 degrees 10 minutes 45 seconds East, and are used to indicate angles only.

Distances are given in feet and decimal parts thereof
Iron Pins Set are 5/8" rebar - 30" long capped 6752/7477

HOFMANN-METZKER, INC.
Registered Professional Surveyors

By: 
George A. Hofmann
Registered Surveyor Number 6752



HOFMANN - METZKER, INC.

REGISTERED PROFESSIONAL SURVEYORS
P. O. BOX 343 - 24 BEECH STREET
BEREA, OH 44017 (440) 234-7350

George A. Hofmann, P.S., President
Richard D. Metzker, P.S., Vice President

Antczak

DESCRIPTION EXHIBIT A (20' EASEMENT)

3-30-2021

Situated in City of Berea, County of Cuyahoga, State of Ohio, and known as being part of Parcel A & B in a Lot Split Consolidation recorded in AFN 202008270332 of Cuyahoga County Map Records of part of Original Middleburg Township, Section No. 23/24, and further bounded and described as follows;

Beginning at an Iron Pin Set at the intersection Northerly right of way line of Savage Street (50'), with the Westerly right of way line of Cross Street (49.5');

Thence North 57 degrees 30 minutes 13 seconds West along said Northerly right of way line, a distance of 263.98 feet to the Southwesterly corner of said subplot Parcel "A", Iron pin found 0.21'E - 0.27'S), said point being the PRINCIPAL PLACE OF BEGINNING OF A 20' WIDE EASEMENT;

Thence North 31 degrees 10 minutes 45 seconds East along the Westerly line of said Parcel "A & B" a distance of 96.13 to a point;

Thence South 57 degrees 27 minutes 25 seconds East, a distance of 20.01' to a point;

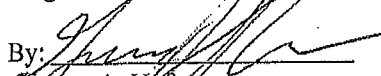
Thence South 31 degrees 10 minutes 45 seconds West, a distance of 96.13 feet to a point on said Northerly right of way line of Savage Street;

Thence North 57 degrees 30 minutes 13 seconds West along said Northerly right of way line, a distance of 20.01' to the PRINCIPAL PLACE OF BEGINNING.

The course used in this description are based on the centerline of Cross Street bearing North 31 degrees 10 minutes 45 seconds East, and are used to indicate angles only.

Distances are given in feet and decimal parts thereof

HOFMANN-METZKER, INC.
Registered Professional Surveyors

By: 
George A. Hofmann,
Registered Surveyor Number 6752

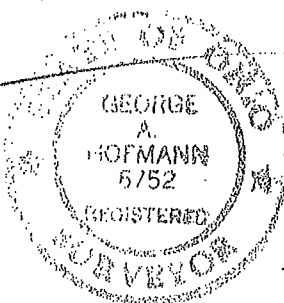


EXHIBIT "C"

MAP MADE TO ACCOMPANY EASEMENT

EXHIBIT B

EXHIBIT "D"

OHIO EPA APPROVAL OF SITE IMPROVEMENT PLAN

Ohio Environmental Protection Agency

6/2/2021

Permit to Install

Application No: 1415484

Applicant Name: Paul Antczak
Address: 3476 Erhart Road
City: Litchfield
State Zip: OH 44253

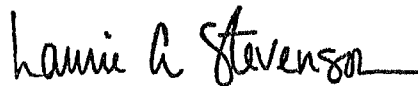
Person to Contact: Paul Antczak
Telephone: 440-537-3599

Description of Proposed Source: Site Improvement Plans for Antczak Family - SSX, Berea,
Cuyahoga

Issuance Date: June 02, 2021
Effective Date: June 02, 2021

The above named entity is hereby granted a permit to install for the above described source pursuant to Chapter 3745-42 of the Ohio Administrative Code. Issuance of this permit does not constitute expressed or implied approval or agreement that, if constructed or modified in accordance with the plans included in the application, the above described source of environmental pollutants will operate in compliance with applicable state and federal laws and regulations. Issuance of this permit does not constitute expressed or implied assurance that, if constructed or modified in accordance with those plans and specifications, the above described source of pollutants will be granted the necessary operating permits. This permit is granted subject to the following conditions attached hereto.

Ohio Environmental Protection Agency



Laurie A. Stevenson
Director
P.O. Box 1049
50 West Town Street, Suite 700
Columbus, OH 43216-1049

This permit shall expire if construction has not been initiated by the applicant within eighteen months of the effective date of this permit. By accepting this permit, the applicant acknowledges that this eighteen month period shall not be considered or construed as extending or having any effect whatsoever on any compliance schedule or deadline set forth in any administrative or court order issued to or binding upon the permit applicant, and the applicant shall abide by such compliance schedules or deadlines to avoid the initiation of additional legal action by the Ohio EPA.

The director of the Ohio Environmental Protection Agency, or his authorized representatives, may enter upon the premises of the above named applicant during construction and operation at any reasonable time for the purpose of making inspections, conducting tests, examining records, or reports pertaining to the construction, modification, or installation of the above described source of environmental pollutants.

Issuance of this permit does not relieve you of the duty of complying with all applicable federal, state, and local laws, ordinances, and regulations.

Any well, well point, pit or other device installed for the purpose of lowering the ground water level to facilitate construction of this project shall be properly abandoned in accordance with the provisions of Section 3745-9-10 of the Ohio Administrative Code or in accordance with the provisions of this plan or as directed by the Director or his representative. For more information please contact: Division of Drinking and Ground Water - Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio 43215 (614) 644-2752.

Any person installing any well, well point, pit or other device used for the purpose of removing ground water from an aquifer shall complete and file a Well Log and Drilling Report form with the Ohio Department of Natural Resources, Division of Water, within 30 days of the well completion in accordance with the Ohio Revised code Section 1521.01 and 1521.05. In addition, any such facility that has a capacity to withdraw waters of the state in an amount greater than 100,000 gallons per day from all sources shall be registered by the owner with the chief of the Division of Water, Ohio Department of Natural Resources, within three months after the facility is completed in accordance with Section 1521.16 of the Ohio Revised Code. For copies of the necessary well log, drilling report, or registration forms, please contact:

Ohio Department of Natural Resources
2045 Morse Road Bldg. E
Columbus, OH 43229-6693
(614) 265-6717

1. The proposed wastewater disposal system shall be constructed in strict accordance with the plans and application approved by the director of the Ohio Environmental Protection Agency. There shall be no deviation from these plans without the prior express, written approval of the agency. Any deviations from these plans or the above conditions may lead to such sanctions and penalties as provided for under Ohio law. Approval of these plans and issuance of this permit does not constitute an assurance by the Ohio Environmental Protection Agency that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources are inadequate or cannot meet applicable standards.

2. If the construction area for this project is one acre or more, or is part of a larger development that is one acre or more, the applicant must submit a Notice of Intent (NOI) for coverage under the general construction stormwater permit to Ohio EPA at least 21 days prior to the start of construction of this project.

3. For projects involving construction or placement of fill in a stream or wetland, the applicant shall contact the appropriate district of the U.S. Army Corps of Engineers for a determination regarding potential impacts to water of the state as well as the requirements for obtaining, if necessary, certification. The applicant shall acquire a Section 404 permit and 401 water quality certification, if needed, before impacting any waters of the state as part of this project.
4. The City of Berea shall be responsible for proper operation and maintenance of the sewerage system.
5. For parallel installation, a minimum horizontal separation of 10 feet between gravity sanitary sewers and any existing or proposed potable water mains shall be maintained. The distance shall be measured edge to edge.
6. Where gravity sewer lines cross existing or proposed water mains, the gravity sewer lines shall be laid below the water mains to provide a separation of at least 18 inches between the invert of the water main and the crown of the gravity sewer. The lines shall be laid so that the gravity sewer line joints are as far as possible from the water main joints.
7. The operation of the sewerage system shall be under the responsible charge of a certified operator having the proper certificate issued under Chapter 3745-7-05 of the Ohio Administrative Code.
8. This permit to install applies only to the wastewater disposal system listed above. The installation of drinking water supplies, air contaminant sources, or solid waste disposal facilities will require the submittal of a separate application to the director.
9. Roof drains, foundation drains, and other clean water connections to the sanitary sewer shall be prohibited by enforcement of legally adopted rules by the authority regulating the use of sanitary sewers.
10. Sewer and manhole construction joints shall conform to standards of the Ohio Environmental Protection Agency.
11. When flexible pipe (PVC, ABS, HDPE, etc.) is used it must be tested for maximum deflection of 5 percent after the final backfill has been in place no less than 30 days to permit stabilization of the soil-pipe system. Pipe with a stiffness of 200 p.s.i. or greater need not be tested for deflection if all pipe between manholes is less than 12 feet below final grade.

The rigid ball or mandrel used for the deflection test shall have a diameter not less than 95 percent of the base inside diameter or average inside diameter of the pipe depending on which is specified in the ASTM specification, including the appendix, to which the pipe is manufactured. The test shall be performed without mechanical pulling devices.

All pipe, flexible and rigid, shall be subject to a leakage test. The leakage exfiltration/infiltration test shall be a hydrostatic or air test. The hydrostatic leakage test shall not exceed 100 gallons per inch of pipe diameter per mile per day for any section of the system. If an air test is used, the test shall conform to the test procedure outlined in the ASTM standards for the material of pipe used.

The leakage and deflection test shall be conducted under the supervision of a professional engineer. A representative of the professional engineer may supervise the deflection and leakage tests, but the professional engineer must sign off on the results of the deflection and leakage tests. Results of the deflection and leakage tests shall be kept on file at least 180 days by the entity responsible for the sewerage system, and shall be available upon request by the Ohio Environmental Protection Agency. Any lines which fail the deflection or leakage test must be repaired and retested until they meet the requirements which have been set forth within this condition.

12. All gravity sanitary sewers which are located in well field areas shall comply with and be tested as specified in Ohio Environmental Protection Agency Guideline, Gravity Sewers in Well Field Areas, February 1983.

13. The permit to install is not an authorization to discharge pollutants to waters of the state. Pursuant to Chapter 6111 of the Ohio Revised Code, the applicant shall apply for a permit to discharge (NPDES) 180 days prior to any discharge of pollutants to waters of the state.

14. Fugitive dust generated by this sewer construction project shall be controlled as specified in OAC 3745-17-08 (B).