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 **Parks, Biodiversity & Landscape Services,**

**Culture, Community, Leisure & Area Services, Block 4, Floor 0,**

**Civic Offices, Wood Quay, Dublin 8, Ireland**

Seirbhísí Páirceanna, Bithéagsúlachta agus Tírdhreacha,

Seirbhísí Cultúir, Pobail & Fóillíochta agus Ceantair, Bloc 4, Urlár 0

Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8, Éire

[www.dublincity.ie](http://www.dublincity.ie/)

# WAYLEAVE APPLICATION

**INTRODUCTION**

Wayleaves, which grant a right of way for utilities like pipelines or cables, in parks and public open spaces are considered a last resort unless it can be proven that there is an overriding strategic or public interest in doing so. This is due to several significant reasons:

1. Impact on Amenity and Recreation: Parks and public open spaces are essential for public recreation, relaxation, and community gathering. Introducing utility infrastructure can disrupt these activities, degrade the aesthetic appeal, and limit future use or development of the space.

2. Environmental and Ecological Damage: These spaces often contain valuable ecological habitats, mature trees, and sensitive ecosystems. Construction and maintenance of wayleaves can cause irreversible damage to flora and fauna, disrupt biodiversity, and impact drainage patterns.

3. Safety Concerns: The presence of certain utilities (e.g., high-pressure gas pipelines, high-voltage electricity cables) can introduce safety risks for the public using and staff working in the park.

4. Public Opposition: Communities are often deeply attached to their local parks and green spaces. Proposals for wayleaves in these areas frequently encounter strong public opposition due to concerns about loss of amenity, environmental damage, and precedent setting.

5. Loss of Public Land: Granting a wayleave effectively cedes a portion of public land for private (or semi-private) utility use, which can be seen as a loss of public asset.

6. Cost and Complexity: While it might seem simpler, working in public spaces often involves significant planning, consultation, mitigation measures, and compensation, which can make it more complex and costly than alternative routes.

Therefore, before considering a wayleave in a park or public open space, the following alternatives and considerations must be explored:

1. Brownfield Sites: Prioritising routes through industrial areas, existing utility corridors, or previously developed land.

2. Roads and Verges: Utilising existing road networks and their associated verges, where disruption to public amenity is often less significant.

3. Private Land: Exploring routes through private land, often with appropriate compensation to landowners.

4. Technological Alternatives: Investigating if new technologies could reduce the need for physical infrastructure in sensitive areas.

5. Route Optimisation: Rigorous design and optimisation of the utility route to minimise its footprint and impact, even if it adds to the overall length.

6. Multi-use Corridors: Where unavoidable, considering if the wayleave can be integrated with other infrastructure or public uses e.g., alongside a cycle path.

In essence, the "last resort" approach reflects a planning hierarchy that prioritises the protection and preservation of public green spaces for their intrinsic environmental, social, and recreational value.

# WAYLEAVE APPLICATION FORM

* MINIMUM **8 WEEKS ADVANCE NOTIFICATION** TO COMPLETE PROCESS

**CONDITIONS OF WAYLEAVE**

1. Applications must be made a minimum of 8 weeks prior to the proposed works commencing to allow for processing of applications.
2. The applicant must provide the selection methodology for their preferred wayleave route with thorough justification for using parkland/open space, route options and reasons for their unsuitability.
3. A Detailed Programme, Method Statement, Risk Assessment and Traffic (& Pedestrian) Management Plan, shall be submitted prior to and approved in writing by Dublin City Council Parks Services prior to commencement of site works.
4. The applicant shall provide a wayleave map to be approved by Dublin City Council Law Department.
5. The applicant shall provide construction details indicating route of the wayleave, depth of excavation, location of site compounds, location of inspection chambers, ancillary infrastructure and access routes to be submitted. Include machinery proposed, detail of site compound and protection measures
6. All works undertaken are to comply with the Safety, Health and Welfare at Work Act 2005 and subsequent regulations and the Safety, Health and Welfare at Work (Construction) Regulations 2006.
7. The applicant and their agents are responsible for the proper storage and removal of waste. On completion of the works all spoil and excess materials will be removed from site under appropriate license.
8. All tarmac/concrete pathways must be repaired to pre-construction levels and left in good condition.
9. The site and park environs shall be reinstated to an approved specification that meets the satisfaction of the District Parks Officer.
10. A Tree Survey, Arboriculture Impact Assessment in accordance with *BSI Standard Publication BS 5837:2012 Trees in relation to design, demolition and construction.*
11. An arborist should be retained to ensure Tree Protection in accordance with BS 5837:2012 is in place for the duration of the works.
12. All applications shall be accompanied with a Phase 1 Habitat Report based on an ecological walk over survey. This shall be provided by a specialist with the relevant experience/qualifications which are presented in the report. Where this report recommends further surveys are needed, these shall be undertaken prior to any works taking place. Please note that these additional surveys shall also be presented with the application. All surveys to be undertaken in the relevant season, time of day/night and in appropriate weather conditions, and recorded in the report(s).
13. The applicant or their agent shall at the time of application advise if is proposed to place welfare cabins/huts, heavy equipment or skips within the closed area and where they are to be placed. No non-goods vehicles shall be located within the site. Vehicles or plant not actively engaged in the work may not be kept on site.
14. Permission must also be sought in advance if you propose moving any statutory signage or Council equipment and this will be at the applicant’s expense.
15. The applicant shall indemnify Dublin City Council against all claims, proceedings, liabilities, losses or expenses of whatever nature, however arising in connection with the wayleave for the period and times during which the wayleave works are underway.
16. The applicant shall be responsible for ensuring and presenting satisfactory evidence to the Dublin City Council that all contractors engaged on site shall take out and produce public liability insurance to the sum of €6.5m million and Employer Liability Insurance to the sum of €13 million for any incident with an insurance company authorised by the Central Bank of Ireland to operate in the Republic of Ireland and the policies shall indemnify Dublin City Council for all matters arising from accessing and use of Dublin City Council lands.
17. The applicant or agent shall not carry out any alterations or development on the proposed wayleave area or erect signage, structure or mast without prior consent from Parks Officer.
18. The applicant or agent should ensure that the wayleave areas is not used in such a way to be a nuisance to the public or adjacent occupiers.
19. The applicant or their agent must contact the District Parks Officer for any site works prior to any future or repair works along the route.
20. The applicant or their agent shall be responsible for the repair or reconstruction of the site boundary wall, footpaths, roadway, underground or over ground cables or ducting which may be damaged resulting from the proposed works.
21. The wayleave levy, additional fees and bond must be made payable to Dublin City Council, Parks Biodiversity and Landscape Services in advance of any work commencing.

There may be further conditions and covenants to be contained in the legal documents as deemed appropriate by Dublin City Council Law Department.

Statutory bodies will have standard legal forms which may be submitted with application.

Any breach of these conditions may result in the immediate withdrawal of the application.

**WAYLEAVE APPLICATION FORM (Fill in and sign)**

1. **Applicant:**
2. **Address:**
3. **Contact Name: 4. Email**
4. **Tel: Mobile:**
5. **Park/Open Space Address :**
6. **Proposed date of Works: From: To:**
7. **Chargeability Code (Dublin City Council applicants only) :**

**DECLARATION**

I hereby apply for approval for a wayleave and agree to be bound by the general conditions listed on page 2 & 3 above and any specific conditions imposed by Dublin City Council.

I agree to comply with the conditions of the wayleave and payment of requisite levy and fees.

I hereby undertake to maintain public liability insurance to the sum of €6.5m million and Employer Liability Insurance to the sum of €13 million for any incident with an insurance company authorised by the Central Bank of Ireland to operate in the Republic of Ireland and the policies shall indemnify Dublin City Council for all matters arising from accessing and use of Dublin City Council lands.

Signature of applicant: Date:

Print name (for signature above):

Print position held: Print company:

## If when we receive your application it does not contain all of the following 7 items, then we will put your application on hold and a new start date will be needed:

**Checklist**

1. A completed and signed application form □
2. Copy of insurance & copy of indemnity for Dublin City Council,

see condition 15 & 16, page 3 □

1. Map of Wayleave, substations, inspection chamber & ancillary infrastructure

See condition 4 on page 2 □

1. Selection Methodology for Preferred Route, see condition 2 on page 2 □
2. A Detailed Programme, Method Statement,

Traffic (& Pedestrian) Management Plan, Risk Assessment, see condition 3 on page 2. □

1. Phase 1 Habitat Report, see condition 12 on page 2 □
2. Construction design & details, see condition 5 on page 2 □

**Wayleave Levies**

### Wayleave levy

The wayleave levy is based on a rate of €150 per square metre for all applications irrespective of public open space classification. The level set will be at the discretion of the Senior Executive Parks Officer and/or a valuation by Dublin City Council Development Department.

 **Additional Fees and Bond**

1. A fee will be charged for substations, inspection chambers and ancillary over ground infrastructure. The rate set will be the discretion of the Area Senior Executive Parks Officer and/or a valuation by Dublin City Council Development Department.
2. A refundable bond 20% of wayleave levy and fees as a guarantees against damage to the site.
3. A fee will be charged for the loss of trees calculated by the arborist using CAVAT tree valuation.
4. A refundable bond for retained trees at 10% of CAVAT tree valuation.
5. There will be a penalty of €1,000 per week for overrun of agreed construction period.

Payment of invoice for the wayleave levy, additional fees and bond must be made payable to Dublin City Council, Parks Biodiversity and Landscape Services in advance of any work commencing.

# How the process works

**Checklist**

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2. Copy of insurance & copy of indemnity for Dublin City Council,

see condition 15 & 16, page 3 □

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Traffic (& Pedestrian) Management Plan, Risk Assessment, see condition 3 on page 2 □

1. Phase 1 Habitat Report, see condition 12 on page 2 □
2. Construction design & details, see condition 5 on page 2 □

The wayleave applications must be submitted to parks@dublincity.ie where they can be distributed to the relevant Senior Executive Parks Officer.

* If we don’t get all 7 items, your application will be put on hold and new dates required for 8 week process.

**ASSESSMENT –** The Senior Executive Parks Officer will assess the application and if approved a Manager’s Order will be drawn up setting out the terms and conditions of the licence and Wayleave and authorising the Law Agent to prepare the legal documents and arrange sealing of the relevant legal document.

The applicant will be responsible for all legal fees.

Wayleave works shall not progress until the legal documents are in place and the levy, fees and bond paid.

The legal documents will comprise of:-

1. The Licence (to permit the works to be carried out and to set out special terms and conditions).
2. Deed of Wayleave and Right of Way (to include covenants to be granted by the applicant, as Grantee, to Dublin City Council, the Grantor) granted by Dublin City Council to the applicant for access to the underground infrastructure/pipes.
3. Any other required legal documents and covenants as deemed appropriate by Dublin City Council Law Department.
4. The statutory bodies’ legal form/documents.