

## **SECTION 2. EXCAVATIONS WITHIN PUBLIC RIGHTS-OF-WAY**

Excavations made in any public right-of-way are subject to the following standards. A copy of the Excavation Permit Application is provided in Appendix C.

### **2.1 Excavation Permits**

Permits shall be obtained from the County, and any such permit issued shall constitute an obligation that the permittee will perform said work in strict accordance with acceptable construction practices, applicable County standards and special provisions or conditions placed on the permit. Excavation permits will not be granted to persons who are under notice to repair defects under the permit conditions or warranty provisions of a previously issued permit.

A five (5) foot wide "free zone" is created adjacent to the right-of-way limits of fifty-four (54) foot wide and wider rights-of-way. Within this free zone, repairs to and normal maintenance of existing utility facilities along with service connections will require a permit at no cost.

### **2.2 Application Fee**

Any person or persons making application for permission to excavate within the public right-of-way shall pay the current fee, as set by Resolution of the Commissioners, for each excavation permit. Revenue from these fees shall be credited to the road fund to help defray the cost of inspections and administration. The application fees may be waived by the County for one-time excavations across gravel roads for the purpose of repairing or extending irrigation systems.

### **2.3 Permit Conditions**

Excavation permits issued by the County are subject to the following conditions:

1. Excavation permits shall be assigned an expiration date determined by the type and extent of work being done.
2. Once the permit has been issued, the County shall be notified a minimum of twenty-four (24) hours prior to the commencement of any work. Failure to notify county shall void permit.
3. An adequate Traffic Control Plan shall be submitted prior to starting work and is subject to review and approval by the County (see Section 7). The approved traffic control plan shall be strictly adhered to during construction. All necessary signs and devices for construction work zones shall conform to the standards set forth in the Manual on Uniform Traffic Control Devices published by the U.S. Department of Transportation, Federal Highway Administration.
4. The permittee must have a valid excavation permit on-site at all times during the excavation.
5. All necessary excavation, backfill, surface repair and cleanup shall be completed in a timely fashion and within fourteen (14) days of beginning work unless a time extension has been authorized in writing.

6. Public Utility Contractors will be allowed up to twenty (20) open excavation permits. General Utility Contractors will be allowed up to five (5) open excavation permits. All permits must be closed out and no permits shall be allowed if the permittee has exceeded their allowance. Exceptions to close-out conditions being met may be granted for any of the following situations:
  - (a) the only remaining item is revegetation of the disturbed area; or
  - (b) seasonal availability of asphalt for surface restoration; or
  - (c) adequate progress is being made toward substantial completion on all open permits.
7. No excavation shall extend over one half of the width of the public right-of-way at any one time nor shall construction activities block the existing traveled way unless specific written approval has been granted.
8. It shall be the sole responsibility of the permittee to notify all utilities of the excavation and be responsible for the location of all utility lines and their repair if damaged.

## **2.4 Water and Sewer Main Extensions**

Sewer and/or water main extensions require express approval by the Board of County Commissioners. The following conditions apply for proposed water and sewer main extensions:

1. For sewer and/or water main extensions the Commissioners will schedule the requested permit for hearing at a regular public meeting at least three (3) weeks after the request has been received. At the hearing the applicant shall present proof that notice of the hearing was published as required by Section 7-1-2121 MCA. This hearing maybe combined with the subdivision review hearing for County reviewed subdivisions and with an RSID hearing for County RSID's.
2. Notice of hearing, whether mailed or published, shall include the date and time of the hearing, a brief description of the project including, but not limited to, location of the right-of-way or rights-of-way for which the permit is sought, the area to be served by the proposed extension and a statement that any person may appear and speak on the issue.
3. In determining whether or not to grant a permit for the extension of a sewer and/or water line, the Commissioners will consider the impact on property owners fronting on the proposed extension; the impact on and concerns of persons in the area to be served by the proposed extension; the general impact on public health, welfare and safety of the proposed extension; the impact on the environment of the proposed extension; adopted plans and agreements; and other matters unique to the proposed extension. The Commissioners may grant or deny authorization for the use of County rights-of-way or may condition the use of the right-of-way on the agreement of the applicant to conditions which address the issues raised at the hearing.
4. Approval for the use of County rights-of-way for the installation of sewer and/or water main shall be applied for prior to applying for an excavation permit.
5. All other requirements of this policy shall apply to permits approved by the Commissioners after public hearing.

## **2.5 Survey Monumentation**

Reasonable effort shall be made to protect and avoid damage to existing survey monuments within the excavation area. Any survey monument in danger of disturbance shall be referenced by a professional land surveyor to facilitate the replacement of that monument should disturbance occur. Any survey monument which is disturbed shall be reset or replaced by a professional land surveyor, and it is the responsibility of the disturbing party to provide for those services.

## **2.6 Cutting of Surface Material**

When the excavation requires cutting a concrete or asphalt surface, the following conditions shall apply:

1. All concrete areas to be excavated, including curb and gutter, sidewalks, driveways and slabs shall be cut with a power driven saw to a minimum depth of twenty percent (20%) of its total thickness then broken square and removed. Cut limits will be a minimum of one (1) foot beyond the proposed excavation limits.
2. Asphaltic concrete surface shall be cut utilizing a power saw. On a case by case basis in older pavements, the County may allow the asphalt to be cut using a jackhammer with spade bit or with a cutting wheel mounted on power equipment. Square cutting shall produce a smooth vertical face at a minimum distance of one (1) foot beyond the area disturbed by excavation.
3. Cuts shall be rectangular and made parallel and perpendicular to the travelway of the road. The County reserves the right to extend the cut area to eliminate pavement "slivers" along the edge of the road or near appurtenances.

## **2.7 Excavation of Surface and Base Material**

All excavations shall follow current Occupational Safety and Health Administration (OSHA) guidelines and be accomplished so as to disturb a minimum of surface area, but provide adequate safety for workers and allow for acceptable compaction of backfill material. Undercutting of the surface, base, sub-base and sub-grade materials will not be allowed.

## **2.8 Backfilling**

When backfilling an excavation within a public right-of-way, the following conditions apply (see Standard Drawing MCSD-401 in Appendix A):

1. All backfill material shall be free from organic matter, refuse, frozen material, saturated material, pieces of concrete and asphalt, boulders or other materials not suitable for use as fill material.
2. Materials used for backfill shall be carefully placed in layers suitable to the equipment used for compaction, and each layer shall be brought to optimum moisture content ( $\pm 3\%$ )

and mechanically compacted to a minimum of ninety-five percent (95%) of ASTM D-698 standard proctor density.

3. Material containing a moisture content higher than that which will allow for acceptable compaction shall be removed, hauled away and replaced with suitable backfill material. If the native material can efficiently be mechanically processed on-site to meet the requirements of 2.8.2, it may be used as backfill material. If the proposed drying process cannot be completed within the time limit prescribed by the County (to be determined by site conditions, including consideration for public convenience and safety), the material shall be removed and replaced. Water flooding and/or compaction will not be allowed, unless specific written permission has been obtained prior to its use.
4. Backfill around the facility being placed or repaired shall be adequate to provide the necessary support and protection to ensure the public right-of-way is not reopened because of the lack of proper bedding material.
5. Suitable material removed from the excavation may be used for backfill from the top of the bedding material to sub-grade level.
6. From the top of the bedding material to sub-grade level, material containing stones up to eight (8) inches in the greatest dimension may be used.
7. Mechanically fractured washed rock between 3/8 inch and 2 inches may be used as backfill material where standard compaction techniques and equipment cannot be used, subject to prior approval by the County.
8. Flowable fill conforming to MPWSS specifications may be used, subject to prior approval by the County.
9. If a County inspector is unsatisfied with the materials, compaction techniques or efforts, work shall be stopped and an independent testing firm will verify compaction at the contractor's expense.

## **2.9 Surface Replacement**

After an excavation has been backfilled, the following conditions shall apply for surface replacement:

1. Where excavation and construction work take place on unimproved surfaces outside of the roadway template, the area shall be returned to its original condition immediately after the work is complete. This will include topsoil replacement, reseeding to natural grass and returning drain ditches to grade.
2. Where excavation and construction work take place on asphalt surfaced roads, it is desirable to replace the pavement section to its original or better condition after excavation work. To accomplish this goal, the following conditions shall be met:
  - (a) There shall be a minimum of eight (8) inches of three (3) inch minus crushed sub-base and four (4) inches of three-quarter (3/4) inch minus crushed base gravel placed on the prepared sub-grade material. All sub-grade, sub-base and base materials shall be brought to optimum moisture content ( $\pm 3\%$ ) and compacted to a minimum of ninety-five percent (95%) of the standard proctor density as determined by ASTM D-698, or otherwise directed by the County.
    1. Depending on conditions and road classification, the County may require geogrid,

- geotextile fabric, increased aggregate sections or an increased asphalt section, in either single elements or any combination thereof.
- (b) The square cut edges of all exposed asphalt shall have a tack coat applied prior to placement of a minimum of three (3) inches of hot mix asphaltic concrete compacted to 93% of the Rice density, or otherwise directed by the county.
  - (c) Asphaltic concrete shall be placed in such a manner leaving no noticeable bump or depression after the replacement is complete.
  - (d) Asphaltic cold mix or a concrete slurry mix may be used as a temporary surface patch. This temporary repair shall be removed and replaced with compacted hot mix asphaltic concrete as soon as weather conditions and hot-mix asphalt availability allow.
  - (e) If the finished surface replacement does not meet reasonable expectations of the approved plans or excavation permit, the County retains the right to require seal coating to restore original surface conditions.
3. Where excavation and construction work take place on gravel surfaced roads, the gravel surface replacement shall comply with Section 2.9.2(a).

## **2.10 Concrete Replacement**

All concrete areas excavated, including curb and gutter, sidewalks, driveways, and slabs shall be replaced to the same dimension, shape and grade as original condition or to current standards, as directed by the County. Concrete shall be locally available ready-mix concrete with a 28 day compressive strength of 4,000 psi unless otherwise approved by the County.

## **2.11 Cleanup**

All materials, debris, and items relating to the excavation or construction work shall be removed from the site and if required, pavement surfaces shall be swept. In all respects the site and surrounding area shall be in an equal or better condition than prior to the work being accomplished.

## **2.12 Warranty**

All work and materials used under this permit shall be warranted for a period of two (2) years following acceptance. Should there be any settlement from any portion of the work or defect in materials or workmanship it shall be promptly corrected at no cost to the County. The County assumes no responsibility for permittee's work or damage to adjacent private property. The County requires the repair or construction to be equal or better than existing conditions and must meet minimum County standards.

## **2.13 Bonding and Insurance**

The County requires that all applicants for excavation permits be covered by a Surety Bond and Liability Insurance when working within the public right-of-way. Public utility companies may

file evidence of public liability coverage or evidence of a net worth in excess of the limits established in this section with the Public Works Department.

Prior to starting work within the public right-of-way, the permittee shall file or have in effect a Surety Bond in the following amounts:

1. Not less than fifty thousand dollars (\$50,000) for Public Utility Companies.
2. Not less than twenty thousand dollars (\$20,000) for General Contractors.
3. 125% of the contract amount for engineered projects.

The bond shall be conditioned upon the proper installation or repair of the facility, proper backfill of the excavation and proper restoration of the surface in accordance with these standards. Said bond shall remain in full force for the duration of the warranty period. The bond amount may be reduced by the County for one-time excavations.

Full Comprehensive General Liability Insurance coverage shall be in effect for the duration of the work. This coverage shall provide for both bodily injury and property damage as follows:

1. Bodily injury portion shall include coverage for injury, sickness or disease and death arising directly or indirectly out of or in connection with the performance of work under this permit and shall provide for a limit of not less than one hundred thousand dollars (\$100,000.00) for all damages arising in bodily injury, sickness or disease or death of one person and a total limit of three hundred thousand dollars (\$300,000.00) dollars for damages arising out of bodily injury, sickness or disease and death of two or more persons in any one occurrence.
2. Property Damage portion will provide for a limit of not less than that listed below for all damages arising out of damage to or destruction of property of others arising directly or indirectly out of or in connection with the performance of work under this permit in any one occurrence including explosion, collapse and underground exposure.
  - (a) Automobile - \$100,000.00
  - (b) Other than automobile - \$100,000.00 each occurrence, \$300,000.00 aggregate
3. Indemnity portion shall hold harmless, indemnify and defend Missoula County, the Public Works Director, and each of their employees and agents from any and all liability claims, losses or damage arising or alleged to arise from the performance of the work under this permit. The bonding and insurance requirements may be waived by the County for one-time excavations across gravel roads for the propose of repairing or extending irrigation systems provided that the excavator has in effect a valid homeowners, ranch or farm general liability insurance policy.

#### **2.14 Assessment for Opening Pavement**

A charge of five dollars (\$5.00) per square foot separate from the excavation permit must be paid by the permittee for each square foot of pavement less than two (2) years old to be removed. Revenue from this assessment shall be credited to the road fund. This charge may be waived at

the discretion of the County, whenever the pavement to be opened is the result of the need to repair broken or leaking water and sewer lines or other special circumstances.

### **2.15 Public Utility Companies**

1. Any public utility owning or operating a system of distribution lines for electric power, natural or artificial gas, telephone, fiber optics, cable television, sewer or water service shall apply for and be granted a permit for each excavation or project. The current fee, as set by Resolution of the Commissioners, shall be charged per excavation or project. The County will bill monthly for such excavation permits.
2. Utility companies shall be governed by the full provisions of these standards. It is recognized that continual maintenance of utility facilities is necessary and that reasonable operation in making excavations to restore or maintain service will be allowed under emergency conditions. The County shall be notified as soon as practical in these cases.
3. Utility facilities shall be located to minimize conflicts and avoid the need for future adjustments. Where right-of-way width and terrain features permit, all utilities shall be located outside of the roadway cross section and at or near public right-of-way limits. Hardship cases may necessitate placement of the facility within the roadway cross section, but ample justification must be provided. New facilities or a major revision of existing facilities will require review in regard to location by the County to avoid potential conflict prior to the permit being granted for placement.
4. The County reserves the right to require the utility to change the location or to remove any structures, lines or pipes at any time in order for the County to perform any needed work on or in the right-of-way. Any change, relocation or removal shall be made at the sole expense of the utility. An excavation permit shall be required for the completion of any such work as directed by the County, but the associated fee will be waived.

### **2.16 Rural Special Improvement Districts (RSID's)**

Work performed under a Rural Special Improvement District (RSID) contract awarded by the County is subject to a use of right-of-way hearing pursuant to Section 2.9.4 of these standards for sewer and water main extensions. RSID work shall conform to the approved contract plans and specifications. This provision does not include utility construction repair or relocation associated with the RSID construction and performed by persons other than the RSID Contractor.

### **2.17 Penalties**

Noncompliance with these standards shall be subject to the following penalties.

1. First offense of an unauthorized excavation shall not be penalized.
2. Second offense of an unauthorized excavation will result in a penalty of two times (2x) the amount of the excavation permit.
3. All further offenses shall result in a \$500 penalty per occurrence.