

**RAVALLI COUNTY, MONTANA
ROAD EXCAVATION RULES
RESOLUTION NO. 1272**

WHEREAS, Section 7-14-2102, MCA, provides that the Board of County Commissioners may in its discretion do whatever is necessary in the best interest of county roads; and

WHEREAS, Section 7-14-2139 requires any person contemplating excavation across a public highway to obtain a written permit from the Board of Commissioners, Road Supervisor or County Surveyor before beginning construction or excavation; and

WHEREAS, Sections 7-13-2101 thru 2103 provide that the County Commissioners shall have the authority to grant the right to construct and maintain utilities within any public road within the County so long as the utilities are compatible with the use and maintenance of the road and the road is promptly restored to its former condition of usefulness; and

WHEREAS, the Ravalli County Road Department is in a continual process of ditching, widening, realigning and hard surfacing the many miles of county roads; and

WHEREAS, Ravalli County and its taxpayers cannot and should not be responsible for damage done by its employees to utility facilities while the employees are in the normal course of road and bridge construction and maintenance; and

WHEREAS, it is deemed beneficial to achieve maximum public use of street and road right-of-way consistent with the laws of the State of Montana, while providing maximum public safety, preserving the existing roadway investment, and minimizing future conflicts between roadway uses and utility facilities.

THEREFORE BE IT RESOLVED that the following rules pertaining to excavation, backfill, utility placement and encroachments within Ravalli County street and road right-of-ways are hereby adopted:

A. Excavation Permits. Any person or persons desiring to excavate, cut into, or in any way disturb the existing material within any public right-of-way under the jurisdiction of Ravalli County shall first apply for and be granted a permit from the County Road Department. This shall include underground utilities, above ground poles, guy wires, deadmen, pedestals, transformers, fences, shrubs, etc. Any such permit issued shall constitute an obligation that the permittee will perform any work within the public right-of-way in strict conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604. Encroachment permits will not be granted to persons who are under notice to repair defects under the "permit conditions" or "warranty" provisions of this resolution.

B. Application Fee. Any person or persons making application for permission to excavate within any public right-of-way shall pay a fee of \$150.00 for the excavation permit. Revenue from these fees shall be credited to the Road Fund to help defray the cost of inspections and administration.

C. Permit Conditions. The following conditions apply to all excavation permits which may be granted in Ravalli County.

1. Term

Permits shall be in effect for thirty (30) days from the date they are granted by the Ravalli County Road Department, unless sooner revoked as herein provided. Permit terms may be extended by the Road Department upon request and showing of good cause by the permittee.

2. Revocation Each excavation permit may be revoked by the County without giving prior notice in the event a permittee or their agents violate any of the conditions or terms set forth herein.

3. Commencement of Work No work shall be commenced until the permittee notifies the Road Department when the permittee proposes to commence work.

4. Changes in Highway If County highway changes, improvements, or relocations necessitate changes in structures or installations installed under an excavation permit, permittee shall make necessary changes without expense, obligation, or liability to the County. For purposes of this resolution, the term "highway" shall include all County roads and/or streets.

5. County Saved Harmless From Claims In accepting an excavation permit the permittee and its successors or assigns, agree to protect the County and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or person, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of any public right-of-way, and in case any suit or action is brought against the County and arising out of, or by reason of, any of the above causes, the permittee and its successors or assigns, will, upon notice to permittee or its successors or assigns of the commencement of such action, defend the same at its sole cost and expense and satisfy any Judgement which may be rendered against the County in any suit or action. Provided, however, that the County may also, at its option and expense, have its own counsel participate in the defense of any such action.

6. Workzone Safety and Protection of Traffic All work performed under an excavation permit shall be done in accordance with the requirements of all road construction industry standards, including but not limited to the provisions of the most

recent publication of the "Manual on Uniform Traffic Control Devices". A copy of these standards may be viewed at the Ravalli County Road Department upon request. The Permittee shall be responsible for maintaining proper and adequate work zone signing for the project.

7. **Highway Drainage** If the work done under this permit interferes in any way with the drainage of the highway affected, the permittee shall, at its own expense, make such provisions as the County may direct to repair and rectify said drainage.
8. **Rubbish and Debris** Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadsides left in a neat and presentable condition satisfactory to the County Road Department.
9. **Removal of Installations or Structures** Any installations or structures allowed by excavation permit must be removed by the permittee upon direction of the Road Supervisor if/when any such projects become incompatible with the use of the roadway.
10. **Maintenance at Expense of Permittee** Permittee shall maintain, at its sole expense, the installations and structures for which this permit is granted, in a condition satisfactory to the County.
11. **County Not Liable for Damage to Installations** In accepting an excavation permit the permittee agrees that any damage or injury done to any installations or structures within a public right-of-way by a contractor working for the County, or by any County employee engaged in construction, alteration, repair, maintenance or improvement of the County street or road, shall be at the sole expense of the permittee.
12. **County to be Reimbursed for Repairing Roadway** In the event the permittee fails to repair the roadway in a timely manner or an emergency arises as a result of the installation requiring the County to make repairs, the permittee agrees to promptly reimburse the County for any expenses incurred. All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.
13. **Specific Conditions:** The following conditions and specifications shall be strictly adhered to by permittees and their agents in all applicable situations. Should there be any inconsistency between these conditions and standards set forth in the Montana Public Works Standard Specifications, including all addenda thereto, then the more stringent construction standards shall apply.
 - (a) Underground cables, wires and pipes shall be buried a minimum of 24 inches

below the surface of the road and/or the bottom of the borrow ditch.

(b) Culverts for irrigation or runoff water shall have a minimum of 12 inches of cover or 1/3 the diameter of the culvert, whichever is larger. In some instances it may be necessary for the permittee to raise the road surface in order to obtain the required cover.

(c) All underground cables, wires and pipes shall be placed 12 inches below the bottom of existing culverts whenever a crossing or skirting is necessary.

(d) Unless otherwise specifically authorized by the Road Department, no utilities shall be placed within 22 feet of the road centerline.

(e) All utility lines (including but not limited to power and telephone lines), pressurized water lines, and sewer lines which pass under any portion of a roadway surface shall be installed within a protective conduit approved by the Road Department.

A diagram of a typical road section may be obtained from the Road Department upon request.

D. Cutting and/or Removal of Surface Improvements All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.

E. Excavation of Surface and Base Material All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.

F. Backfilling All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.

G. Surface Replacement All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.

H. Concrete Replacement All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604.

I. Structures, Fences and Beautification Individuals and Utility Companies may apply for an excavation permit for structures, fences or beautification projects. These permits may be granted provided they are now compatible with the use of the roadway and will be for the foreseeable future. No excavation permits will be issued for signs. Any structure, fences, or beautification projects allowed by excavation permit must be removed by the permittee upon direction of the Road Supervisor if/when any such projects become incompatible with the use of the roadway.

J. Warranty All work and materials used for construction pursuant to an excavation permit shall be warranted by the permittee for a period of one (1) year following final approval. Should there be any settlement from any portion of the work or defect in materials or workmanship, it shall be the permittee's responsibility to repair and restore the right-of-way. All excavation, reconstruction and repair work performed on roads in Ravalli County shall be done in conformance with the standards set forth in the most recent publication of the Montana Public Works Standard Specifications, including all addenda. A copy of these standards may be viewed at the Ravalli County Road Department upon request, or may be purchased from the Montana Contractors Association Incorporated, P.O. Box, 4519, Helena MT, 59604. In the event the permittee fails to repair the roadway in a timely manner or an emergency arises as a result of the installation requiring the County to make repairs, the permittee agrees to promptly reimburse the County for any expenses incurred.

K. Bonding and Insurance Ravalli County will require applicants for excavation permits, and their subcontractors, to be covered by a Surety Bond and Liability Insurance when working within a public right-of-way. The bonding and insurance requirements may be waived by the County Road Department for one-time excavations across gravel roads for the purpose of repairing or extending irrigation systems, provided that the excavator has in effect a valid homeowners, ranch, or farm general liability insurance policy which would apply to provide coverage for any liability resulting from the excavation work.

Prior to the issuance of a permit for work within a public right-of-way, the work of each permittee and each subcontractor acting on behalf of a permittee shall be secured with a Surety Bond provided to the Road Department. The amount of the bond shall be either: (a) \$20,000 when a separate bond is provided for each permit application or excavation project, or (b) a single surety bond per calendar year in the amount of \$50,000 which will apply to any permits applied for or work conducted in that calendar year by the person or entity providing the annual surety bond. The bond shall be conditioned upon the proper installation or repair of the facility, proper

backfill of the excavation, proper restoration of the surface, and adherence to all provisions of this resolution. Said bond shall remain in full force and effect for the duration of the warranty period as set forth in paragraph J, above.

Full Comprehensive General Liability Insurance coverage shall be in effect for the duration of the work. Both the excavation permittee and any subcontractors engaging in construction work on behalf of a permittee must be insured to the limits set forth herein. Certificate of liability insurance must be provided to the Road Department prior to issuance of an excavation permit, and must indicate that Ravalli County is named as additional insured, and if a single policy of the permittee is to cover the work of the permittee's subcontractors, the Certificate shall also name as additional insured each subcontractor performing work under the excavation permit. The liability coverage shall apply to bodily injury and property damage, and contain indemnification clause, as follows:

(a) 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 million (\$1,000,000) dollars for all damages arising out of bodily injury, sickness or disease to or death of one person, and a total limit of not less than one million (\$1,000,000) dollars for damages arising out of bodily injury, sickness or disease and death of two or more persons in any one occurrence.

(b) Property Damage portion will provide for a limit of not less than that listed below for all damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of work under this permit and in any one occurrence including explosion, collapse and underground exposure.

1. Automobile \$300,000
2. Other than automobile \$300,000 each occurrence, \$1,000,000 aggregate.

(c) Indemnity portion shall hold harmless, indemnify and defend Ravalli County, the County Commissioners, the County Road Supervisor, 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 performed relevant to an excavation permit. Provided, however, that the County may also, at its option and expense, have its own counsel participate in the defense of any such action.

L. Public Utility Companies Any public utility owning or operating a system of distribution lines for electric power, natural or artificial gas, telephone, sewer, or water service shall apply for and be granted a permit prior to each excavation or project for each road. The usual permit fee shall be charged per excavation permit, and the Road Department may at its option require payment of the fee at the time of the application for each permit, or group fees for multiple excavation permits together in periodic billings to the utility company applicant.

Utility companies shall be governed by the full provisions of this resolution, with the following exception: Emergency repairs to utility facilities made without first obtaining an excavation permit will not be considered to be a violation of this resolution if (1) exigent circumstances exist that would make it a practical impossibility to obtain an excavation permit prior to the commencement of the repair work, and (2) notice is given to the Road Department prior to the commencement of the repair work through a discussion with the Road Supervisor or an employee of the Road Department acting temporarily as Road Supervisor, or by message through the Ravalli County 911 Center, and (3) an excavation permit application, complete with any and all fees and documentation required as provided herein, is submitted to the Road Department no later than the second business day following commencement of the repair work.

Utility facilities shall be located to minimize conflicts and avoid the need for future relocations. 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 to and approved by the Road Department. New facilities or major revision of existing facilities will require review in regard to location by the County Road Department to avoid potential conflict prior to a permit being granted for placement.

M. Rural Special Improvement Districts (RSID's) Work performed under a Rural Special Improvement District (RSID) contract awarded by Ravalli County is excluded from the provisions of this resolution. RSID work shall conform to the approved contract plans and specifications for the individual district. This provision does not include utility construction, repair or relocation associated with the RSID construction or performed by persons other than the RSID Contractor.

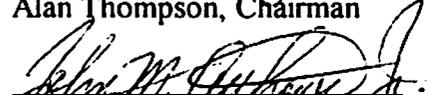
N. Penalty Noncompliance with this resolution shall constitute a violation of §7-14-2139, MCA, and may be prosecuted as a criminal offense.

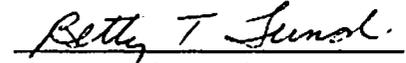
O. Be It Further Resolved to rescind Resolution 794 dated August 5, 1996, Resolution No. 26 dated March 5, 1970, and Resolution No. 30 dated September 25, 1970 (CJ 12 Pg 61).

Dated this 8th day of May, 2002

Board of Ravalli County Commissioners:


Alan Thompson, Chairman


John M. Atthowe Jr., Member


Betty Lund, Member

Attest. Clerk & Recorder