

**BOONE COUNTY**

**RIGHT OF WAY**

**WORK PERMITS**

**POLICY**

**SEPTEMBER 10, 2002**

## **RIGHT OF WAY WORK PERMITS**

**Applicability** - This policy shall be applicable to excavation work performed within county owned or maintained road right of way. The term “excavation” as used in this policy means work that results in the alteration or damage of the road surface, drainage ditches, curbs and gutters, or other drainage structures, traffic control devices or county maintained pedestrian walkways within the road right of way; excavation also includes actions which physically undermine the structural integrity of the road base or road drainage or traffic control devices or pedestrian walkways within the right of way. This policy does not apply to construction permits issued to developers or other persons who desire to construct new public roads or streets for which a plat is required under the subdivision regulations of Boone County and which are intended to be dedicated to public use and accepted for maintenance by Boone County. This policy also does not apply to construction of private roads or driveways when permitted or regulated under the zoning or subdivision regulations of the county except when they connect to a county maintained road which requires a Right of Way Access work permit as described in this policy.

**Permit Types** - There are four (4) categories of Right of Way Work Permits:

1. **General Work Permit** – A permit issued to utility service providers which are required to regularly perform excavation work within Boone County road right of way.
2. **Special Work Permit** – A permit issued to utility service providers that requires a specific on-site inspection for excavation work within Boone County road right of way.
3. **Individual Work Permit** – A permit issued to all other applicants to perform excavation work within Boone County road right of way.
4. **Right of Way Access Work Permit** – A permit issued to all applicants who wish to obtain access to, or improve an existing access, to a roadway maintained by Boone County.

**General Work Permit** – A General Work Permit shall be issued to utility service providers that are required to regularly perform excavation work within Boone County road right of way.

General Work Permits shall be applicable and inapplicable to excavation work as follows:

1. They shall be applicable to all excavation work within ROW a minimum of 2’ behind flow line of ditch on property side and the ditch is not located more than 10 feet from the edge of the roadway surface.
2. They shall be applicable to all excavation work within ROW which is a minimum of 4’ from edge of road surface when there are no ditches.
3. They shall be applicable to bores and pushes if # 1 & # 2 above are satisfied unless the bore or push undermines or damages the structural integrity of the road, road surface, or drainage ditches.

4. They shall be inapplicable to excavation work within the ROW of county maintained curb & guttered roadways; this excavation work shall always require a Special Work Permit.

General Work Permits may be issued and maintained in accordance with the following procedures, and subject to the following terms and conditions, to which the utility service providers, which receive such permits must agree as a condition to obtaining the Permits:

1. Each utility service provider requesting a General Work Permit must enter into a written General Work Permit Agreement with County as shown on the attached form agreement.
2. Each utility service provider must submit a list of all scheduled work orders to BCPW for work within Boone County maintained ROW regardless of whether work involves excavation within the ROW on a weekly basis with location, explanation of work, whether work involves excavation, and estimated number of days required to complete project. BCPW and utility service providers shall agree upon a reporting methodology which is mutually acceptable as a condition to issuance of a General Work Permit.
3. Any additional Work Orders must be added during the period submitted for the general purpose of maintaining a current list or data base of all work within Boone County maintained ROW.
4. If any excavation work being performed under a General Work Permit changes in scope and no longer meets the criteria for work under General Work Permit, an application for a Special Work Permit must be filed with BCPW as soon as reasonably practicable after the change in scope has been identified.
5. BCPW will spot check excavation work qualifying for a General Work Permit in an equitable manner for all utility service providers operating under General Work Permits. The initial goal is to check approximately 50% of all excavation work. The frequency of spot checks may be reduced under a uniform policy adopted by the Director of BCPW applicable to all utility service providers which abide by the terms and conditions of the General Work Permit Agreement for 6 consecutive months or more.
6. Fees shall be charged on account for each utility for the actual time logged for inspection, mileage and administrative/management time necessary to administer the permit process. (See Fee Schedule, Appendix A, for individual charge out rates and Billing information.)
7. Utility service providers must consistently comply with the terms and conditions of the General Work Permit Agreement; BCPW will document noncompliance and notify the utility service provider of any violation or pattern of violations warranting corrective action or which may result in suspension or termination of a General Work Permit. General Work Permits may be denied, suspended or revoked for the reasons and in accordance with the procedures outlined in section 2.9.3.3 of chapter II of the Roadway regulations.
8. Utility service providers, by applying for and obtaining a General Work Permit, shall be deemed to have agreed, and shall have agreed, as a condition to the issuance of such Permit by the County, that if the Utility service provider performs excavation work of any kind, inside or outside of the R.O.W., and such excavation work (whether or not subject to these Permit Regulations) or any components of such excavation work, or any disturbance of the land caused thereby, results in any damages being done to the road surface or the drainage ditches, curbs, gutters, or other drainage structures, traffic control devices or county maintained pedestrian walkways within the road right of way, or the

structural integrity of the road base or road drainage, then the utility service provider shall, upon notice from the County, promptly repair and restore such damage, at its expense, and in a good and workmanlike manner, and to the reasonable satisfaction of the Director of Public Works, and, if it fails to do so, then the County may repair and restore such damage and charge the utility service provider for the cost of same, and may suspend or revoke the utility service provider's General Work Permit in accordance with the procedures outlined in Section 2.9.3.3 of Chapter II of the Roadway Regulations."

**Special Work Permit** – A Special Work Permit shall be issued to General Work Permit holder for excavation work which does not qualify for General Work Permit coverage.

Special Work Permits shall be applicable and inapplicable to excavation work within the ROW as follows:

1. A Special Work Permit shall be applicable to all work within the ROW of curb & guttered streets that are maintained by Boone County.
2. A Special Work Permit shall be applicable to all open cut excavations within R.O.W. when:
  - a. Excavation work within R.O.W. is less than 2 feet behind the flow line of the ditch, on the property side, and the ditch is not located more than 10 feet from the edge of the roadway surface.
  - b. Excavation work within R.O.W. is less than 4 feet from the edge of the road surface, where there are no ditches and no curb and gutter for the road surface.
3. Excavation work occurring at multiple locations on the same road requiring a Special Work Permit will be permitted under one (1) permit as long as all work is within scope of the same project and is approved in advance by BCPW.

Special Work Permits may be issued and maintained in accordance with the following procedures for utility service providers possessing a current General Work Permit:

1. Each utility service provider must apply for Special Work Permit from BCPW in advance in accordance with the Boone County roadway regulations.
2. Fees shall be charged on account for each utility service provider for the actual time logged for inspection, mileage and administrative/management time necessary to facilitate the permit process. (See Fee Schedule, Appendix A for individual charge out rates and Billing information.)
3. Each Special Work Permit shall have a minimum of one (1) inspection and as many as required to ensure compliance with the roadway regulations.
4. A utility service provider is required to request an inspection with a minimum of 24 hours notice is required for all inspections under this permit.
5. BCPW will not delay a utility service provider from proceeding with work if a required inspection can not be made as requested if provided with a minimum of 24 hours notice of the need for an inspection. If given 24 hours advance notice for an inspection, BCPW will authorize utility service providers to proceed with work if the inspection not be

provided at the time needed and will make arrangements for the next inspection, should one be required, or perform the inspection after completion.

6. Utility service providers must consistently comply with the terms and conditions of the Special Work Permit; BCPW will document noncompliance and notify the utility service provider of any violation or pattern of violations warranting corrective action or which may result in suspension or termination of a Special Work Permit except a permit may be suspended summarily when necessary to protect public safety. Special Work Permits may be denied, suspended or revoked for the reasons and in accordance with the procedures outlined in section 2.9.3.3 of chapter II of the Roadway regulations.

**Individual Work Permit** – An Individual Work Permit shall be required for all applicants who plan to perform excavation work within County maintained road ROW who do not qualify for or have not been issued a General Work Permit and which does not qualify for a Right of Way Access Work Permit.

Individual Work Permits shall be issued in accordance with the following terms and conditions:

1. An application for Permit must be filed with and approved by BCPW in accordance with the construction permit requirements of the Boone County Roadway Regulations.
2. The applicant must submit a \$150.00 deposit with application; a larger deposit may be required if warranted by the scope of the work and number of inspection required. Any unused balance of deposit will be reimbursed or credited to the applicant upon completion and approval of the work authorized by the permit. Unpaid balances shall be billed for any additional work as required over the deposit. No Individual Work Permit will be approved and closed out, nor will any new permit be issued, if the applicant has any unpaid balance.
3. Fees shall be charged against deposit according to the actual time logged for inspection, mileage and administrative/management time necessary to administer the permit process (See Fee Schedule, Appendix A, for individual charge out rates and Billing information.)
4. Individual Work Permits shall require a minimum of one (1) inspection and as many as required to ensure compliance with the roadway regulations.
5. An applicant must provide BCPW with minimum of 24 hours notice of the need for an inspection under this permit.
6. Individual Work Permit holders must comply with the terms and conditions of the Individual Work Permit; BCPW will document noncompliance and notify the permittee of any violation or pattern of violations warranting corrective action or which may result in suspension or termination of a Individual Work Permit except a permit may be suspended summarily when necessary to protect public safety. Individual Work Permits may be denied, suspended or revoked for the reasons and in accordance with the procedures outlined in section 2.9.3.3 of chapter II of the Roadway regulations.

**Right of Way Access Work Permit** – A Right of Way Access Work Permit shall be required for all applicants who plan to perform excavation work within County maintained road ROW and which creates a new access point onto county maintained ROW, or which will physically affect access onto county maintained ROW as a result of driveway widening,

surface upgrades and related ditching. (Sealing or patching of existing hard surfaced driveways or adding additional gravel does not require a permit)

Right of Way Access Work Permits shall be issued in accordance with the following terms and conditions:

1. A completed application for Right of Way Access Work Permit shall be submitted to the Boone County Planning & Building Inspection Office along with \$60.00 permit fee.
2. Sidewalks shall be inspected as part of the Right of Way Access Work Permit where applicable and any such inspection shall be included with the application fee.
3. Applications will be faxed to BCPW from Planning & Building on a daily basis.
4. BCPW will attempt to contact owner and issue Permit within 48 hours after receiving application.
5. A minimum of 24 hours notice is required for all inspections under this permit.
6. Right of Way Access Work Permit holders must comply with the terms and conditions of the Right of Way Access Work Permit; BCPW will document noncompliance and notify the permittee of any violation or pattern of violations warranting corrective action or which may result in suspension or termination of a Right of Way Access Work Permit except a permit may be suspended summarily when necessary to protect public safety. Right of Way Access Work Permits may be denied, suspended or revoked for the reasons and in accordance with the procedures outlined in section 2.9.3.3 of chapter II of the Roadway regulations.
7. Right of Way Access Work Permit holders shall furnish and install all materials at their own expense except that BCPW will replace storm drainage pipes as necessary in the discretion of BCPW. Right of Way Access Work Permit holders are responsible for other driveway or private road maintenance.

**Permit Fee Dispute Resolution** - Any permit applicant or holder disputing the imposition or amount of fees charged under this policy who desires resolution of the dispute shall submit a written statement of the dispute to the director of BCPW in sufficient detail for the director to understand the specific nature of and reasons for the dispute. The submission of such a statement does not relieve the permit holder or applicant from the obligation to pay such fee unless the director for good cause shown suspends the payment obligation until the dispute is resolved under this dispute resolution process. The director or the director's designee in his absence shall review and investigate the dispute as necessary in order to rule upon the dispute; the director's ruling shall be in writing and provided to the permit applicant or holder within 10 business days of submission. A permit applicant or holder may further appeal the director's decision to the county commission by filing a written request for review and public hearing of the dispute within 3 business days of receipt of the director's ruling; failure to file such a request for review with the commission within this time frame shall constitute a complete waiver of the right to commission review. Upon receipt of a request for review the county commission shall schedule a public hearing on the dispute as soon as reasonably practicable at which time the commission shall review the permit applicant or holders statement of dispute, director's ruling, and shall hear and consider such additional evidence or testimony as it deems necessary and proper under the circumstances to render a decision. The commission shall render a final decision within 30 days of the hearing unless an extension of time for decision is warranted for

good cause, which shall be stated upon the commission's record. If a permit applicant or holder seeking commission review of the director's ruling shall desire to preserve the option to seek judicial review of the commission's decision on the dispute, then the permit applicant or holder seeking commission review notify the commission of this fact at the time of hearing and request the commission to issue written findings of fact and conclusions of law along with its decision. Any further review or appeal after the commission's decision shall be as provided by law unless permit applicant or holder seeking and the commission agree to an alternative dispute resolution process.

**Boone County Work** - Any utility service provider performing utility relocation work or other work involving excavation within the ROW at the request of or under contract with BCPW shall be required to obtain a ROW work permit and shall be subject to inspections as provided for in this policy and in accordance with the Boone County Roadway Regulations, but no permit or inspection fees shall be chargeable to the utility performing such work.

## APPENDIX A

### FEE SCHEDULE

The following schedule is based on the Boone County hourly billable rates for each position that may be involved with the permit process.

POSITION	BILLABLE RATE
Administrative Staff	\$ 16.50
Inspectors	\$ 19.00
R.O.W. Agent	\$ 19.00
Surveyor	\$ 28.25
Project Manager	\$ 31.00
Project Engineer	\$ 32.00
Maintenance Supervisors	\$ 30.50
Design Manager	\$ 38.00
Maintenance Manager	\$ 33.00
Director	\$ 53.00
<ul style="list-style-type: none"> <li>• A 5% flat fee will be charged on top of the Public Works cost for <u>all permits</u> (except Right of Way Access permits) to cover the administrative fees for the downtown services. (Auditor &amp; Treasurer)</li> </ul>	
<ul style="list-style-type: none"> <li>• All invoices are due upon receipt of invoice. Accounts not paid within 30 days of Invoice date are subject to 3% per month late charge.</li> </ul>	
<ul style="list-style-type: none"> <li>• This fee schedule <u>does not apply</u> to Right of Way Access Permits.</li> </ul>	
<ul style="list-style-type: none"> <li>• Mileage shall be charged at the standard government rate.</li> </ul>	

**Billing** – Utilities who have General Work Permits and Special Work Permits shall be billed on a monthly or quarterly basis depending on how the account is set up.



**APPENDIX B**  
**BOONE COUNTY, MISSOURI**  
**APPLICATION FOR GENERAL RIGHT OF WAY WORK PERMIT**

The undersigned submits the following application and information for issuance of general right of way work permit:

1. Name and Billing Address for the applicant Company/Government Agency:

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2. Field Work Contact Information: The following person(s) are designated company/government agency representative(s) for purposes of coordinating or reporting work within the right of way performed by or on behalf of the applicant:

Names: \_\_\_\_\_

Mailing and Email

Addresses: \_\_\_\_\_

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Telephone/Cellular

Phones: \_\_\_\_\_

3. In consideration of the issuance of a general right of way work permit, the applicant agrees to abide by the following terms and conditions:

§ Abide by the attached written policies concerning general work permits as well as all applicable Boone County Roadway Regulations.

§ Pay all invoices for inspection services within 30 days of the date of invoice.

4. The applicant understands and agrees that a general right of way work permit may be suspended or terminated in the discretion of the Director of Public Works in the event that applicant fails to abide by the attached written policies applicable to general work permits, or the Boone County Roadway Regulations, or the applicant fails to pay inspection fees when due.

5. The undersigned by signing this application represents and warrants to the Director of Boone County Public Works that he or she is duly authorized to complete and sign this application on behalf of the company or agency listed and to bind the company or agency to the terms and conditions contained within this application.

Company/Government Agency Representative: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_