



Policy

A permanent Utility Permit is required from the Foster County Road Department whenever an Applicant desires to install a permanent utility along or across a County and/or township road, right of way, or a section line, whether improved or unimproved. The guidelines herein are provided in the interest of developing and preserving safe roadway operations and roadsides.

This policy shall apply to all public and private utilities, including but not limited to, electric power, communications, cable television, water, gas, oil, slurry, petroleum products, steam, sanitary sewers, wireless telecommunication, drainage, irrigation, and all other utilities that are similar to those contained within these policies.

General Requirements

General Conditions:

1. Except as otherwise permitted, permanent utility installation in the right of way shall not commence until an application for a permit has been made and such permit granted. Installation of said utility without a valid permit could result in additional fees, removal or abandonment of said utility, and future permit applications being denied.
 - a. See APPENDIX A
2. For the purpose of this policy the following are defined as:
 - a. Right of way shall mean the right of way as it exists on the date of execution of the permit and for Major Collectors shall also include that area within seventy-five feet of the center of the right of way over which the Board of Foster County Commission has control pursuant to NDCC 24-01-42.
 - b. An unimproved section line is a section line where no road exists at the time of Application. Two track or sodded trails do not constitute a roadway.
 - c. The clear zone is:
 - i. 15 feet from the edge of the roadway for roads with a speed limits of less than 45 mph.
 - ii. 20 feet from the edge of the roadway for roads with a speed limit of 45 mph or more.
 - iii. Unimproved section lines shall not have a clear zone, but the existing travelled way must not be impeded.
3. Safety is important when accommodating utilities within the right of way. Utility accommodation must not adversely affect roadway constructability, operations, maintenance, and safety.
4. The applicant shall be required to wear an ANSI/ISEA 107-2004 Class II high visibility garment while working within the right of way of an improved roadway.
5. All utility installations must be designed and located to avoid disturbing existing roadway drainage or drainage facilities.

6. Applicant must pay for all damage to the existing roadway caused by its activities, including but not limited to slumping in of tranches and collapse of pipe. Applicant is responsible for restoring and reclaiming any land used for utilities to its original condition.
7. Applicant shall be responsible to pay for all costs of moving, relocating, or reconstructing the utility should the County, in its sole discretion, deem it necessary or advisable.
8. The review and approval of a permit does not relieve the Applicant of the responsibility to comply with all Federal, State and local laws and regulations.
9. Permanent Utility Permits are valid for one year upon approval. After one year if the utility has not been installed, the Applicant must reapply for the permit. Fees are nonrefundable.

Location of utilities:

1. Utilities should be located to minimize the need for later adjustment, to accommodate future roadway improvements and to permit servicing such utilities with minimum interference to traffic.
2. The alignment of longitudinal installations must be parallel to the centerline and must be located as near to the right of way line as practical, so as to provide a safe encroachment for traffic operation and to preserve space for future roadway improvements. Where irregular shaped portions of the right of way extend beyond the normal right of way limits, variances in the distance from the right of way line may be permitted to maintain uniform alignment.
3. For longitudinal installations within the right of way, the Applicant must demonstrate that alternate locations are not available or cannot be implemented and is to provide documentation from adjacent landowner as to why the utility cannot be located outside of the right of way.
4. Utilities crossing a road or section line must be installed on a line generally perpendicular to the centerline alignment.

Traffic Control and Safety:

1. All utility construction and maintenance operations within the right of way must be completed as expeditiously as possible. Construction or maintenance operations must be planned with full regard to safety of the roadway users and utility personnel, and interference with traffic should be kept to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic will not be allowed during periods of peak traffic flow.
2. All traffic control devices used during the installation or maintenance of all utilities within the right of way must conform to the current edition of the "Manual on Uniform Traffic Control Devices", and to all current applicable standard drawings of the North Dakota Department of Transportation (NDDOT).
3. The Applicant must submit a traffic control plan with the Application. If Applicant is utilizing a NDDOT standard drawing, Applicant may reference said standard drawing on Permanent Utility Permit Application. Warning signs shall be required when utilities are being installed anywhere within the right of way. The Road Department in conjunction with their engineer may require any signs, devices, or flag persons deemed necessary to safely control traffic through or around the work zone.
4. If installation of a utility across a roadway necessitates temporary interruption of the flow of any traffic, work operations shall be confined to daylight hours and flag persons must be provided to stop the traffic approaching the work area from each direction.
5. While installing a utility within the right of way, no materials shall be stored, equipment parked, unattended excavation trenches left open, or excavation piles placed in the clear

zone or travelled way. All equipment not in use shall be parked at the outer limits of the right of way. Heavy equipment, particularly tracked equipment, should not be loaded, unloaded, or operated within the travelled way. Rubber tracked or rubber-tired heavy equipment equal to or less than 20,000 lbs GVW may operate within the travelled way when conducting work within the permitted area.

Access:

1. To the greatest extent practical, vehicles and other work equipment used to install, maintain, or remove utilities within the right of way must use established access points, service roads, driveways and approaches to enter or leave the outer portion of the right of way for the performance of any necessary installation, maintenance or removal operations. Vehicles and other work equipment shall not use the through-traffic lanes or shoulder of the roadway for work operations. Exceptions to this will apply in emergencies affecting the health and welfare of the public or for emergency restoration of an essential utility service.
2. If there is no existing access, a temporary approach permit shall be submitted along with the utility permit application.

Wetlands, Erosion Control, Drainage:

1. *Wetlands:* The installation of privately-owned lines or conduits on the right of way for the purpose of draining adjacent wetlands onto the right of way is prohibited.
2. *Erosion and Sediment Control:* Erosion control measures must be implemented in order to prevent sediment runoff into waterways, lakes, wetlands, etc. Appropriate erosion control devices must be placed before work starts. The surface area disturbed by utility installations or relocations must be kept to a minimum.
 - a. Within 30 days after installation, maintenance, or removal of utilities within the right of way, all scars must be removed and the disturbed areas restored to their original condition and reseeded or resodded as specified in the permit. Do not place seed on frozen ground or between July 15th and August 10th. If seed is unable to be placed due to seasonal limitations, ensure that seeding occurs as soon as the seasonal limitations are completed. Seed mix shall be per the NDDOT Standard Specifications for Road and Bridge Construction, unless specified by another governmental entity. The Applicant shall be responsible for restoring vegetative growth on all disturbed areas.
 - b. The track out of mud or debris onto public roadways should be limited. Applicant is to clean the roadway as necessary, without damaging the road. If Applicant is asked to clean the roadway by the County, the roadway should be cleaned out within twenty-four (24) hours of being notified.
3. *Drainage:* Care should be taken in utility installations to avoid disturbing existing roadway or private drainage facilities.

Application Submittals:

1. The following documents shall be submitted with the Utility Permit Application:
 - a. North Dakota State Contractors License Number
 - b. Certificate of insurance with Foster County listed as the Certificate Holder
 - c. Landowner permission forms
 - d. Organized township Permission forms, if applicable

- e. Map of the entire project. Map is to include the facility locations and distances off of the centerline of the road and/or section line, including pipe, appurtenances, types of crossing, etc.
- f. Bore profile of all crossings to include depth of bore, beginning and ending location of bore, and centerline of road and/or section line.
- g. Temporary Traffic Control Plan, if not referencing NDDOT standard drawing.

Underground Utility Installation

General:

1. For all crossings, the angle of intersection between the utility crossing and the roadway shall be as near to 90 degrees as practical, but in no case shall it be less than 60 degrees.
2. Trenches or pits opened within the right of way, and outside of the traveled way, must be backfilled with the same material originally in place and compacted to a density equal to that of the adjacent undisturbed soil. The backfill must be mechanically tamped in layers not exceeding six (6) inches in compacted thickness. Consolidation of the backfill by saturation or ponding is prohibited. The stockpiled topsoil must be evenly and smoothly replaced over the areas disturbed by the trenches or pits.
3. Excavated material shall not be placed on the through-traffic lanes, shoulders, inslopes, or within the clear-zone limits of the highway. Any unused excavated material must be removed from the right of way, or deposited on the right of way at a location approved by the county.
4. If the existing roadway pavement or gravel structure is removed or damaged during installation of a utility, the pavement structure must be replaced with the same type, quality, and section of material originally in place and restored to the original grade.

Locations:

1. Longitudinal installations within the right of way must be located as close as practical to the right of way line unless the location is in a future construction area. In the event of conflict with known or future construction, the County will consider the use of an existing ditch bottom, provided all other provisions of this policy are satisfied.
2. Except for buried crossings, underground utilities will not be allowed in the clear zone.

Cover:

1. All crossings of existing roads shall be bored to a minimum depth of five (5) feet below original ground or ditch elevations.
2. Longitudinal installations within the right of way shall have a minimum of three (3) feet of cover from the top of the casing pipe or uncased carrier pipe to the existing ground surface.
3. Pipelines carrying liquids subject to freezing must be installed below the frost line.

Casings for crossings:

1. *Pipelines:*
 - a. Pipelines are to be cased or utilize extra wall thickness, as depicted on the submitted bore profile. Crossing utilizing extra wall thickness should have a minimum of one grade higher of pipe than the remainder of the line. To all extents practical, pipe joints should not be located under the roadway.
 - b. Casings and pipe must be designated to support the load of the road and the live loads imposed on the road.

- c. Casing or extra wall thickness must extend a minimum of two (2) feet beyond the toe of the inslope of the road or beyond the clear zone limits, whichever is further from the road edge.
 - d. If vents are required, they must be located at the right of way line.
2. *Electrical Power and Communication lines:*
- a. Underground electric power and communication wires and cables are to be installed across the road within protective conduit.
 - b. Conduit must extend a minimum of two (2) feet beyond the toe of the inslope of the road or beyond the clear zone limits, whichever is further from the road edge

Installation:

- 1. Open trenching across a County, Township, or improved section line road will be considered on a case-by-case basis when boring under the roadbed is impractical or extremely costly.
- 2. Open trenching across an unimproved section line is permitted.

Overhead and above ground utility installation

General:

- 1. It is the policy of the County to restrict the installation of poles, guys, pedestals, manholes, and other above-ground utilities within the right of way in order to preserve a safe roadside environment.

Location:

- 1. The minimum vertical clearance of overhead utilities within the right of way must be 18 feet.
- 2. Overhead and above ground utilities may be installed on and along the right of way, provided that the lines are located at, or as near practical to, the right of way line.
- 3. Guys and push back braces must not extend into the right of way beyond the midpoint of the backslope and shall not be located within the clear zone.
- 4. At no time will an overhead or above ground utility be located within the clear zone.

FEES

The permanent utility fee schedule is as follows:

- For each road or improved section line crossing \$100.00
- For a longitudinal utility along a road or improved section line \$200.00/mile
- For unimproved section lines \$1,000.00/mile
- Unauthorized longitudinal utility \$1,000.00/crossing
- Unauthorized above ground utility \$1,000.00/occurrence

Failure to comply with any permit or application will result in a revoked permit and create an immediate hold on any work on the project. Operating without applicable approval and permits will result in a fine of \$500/day until the permit is reinstated.

Adopted date June 12th, 2025

APPENDIX A

FOR OFFICIAL USE ONLY

Determination of additional applicable permits/policies/applications

- Easement
- Foster County Haul Road Agreement
- Foster County Right of Way Permit
- Foster County Road Policy
- Foster County Utility Permit
- Foster County Load Restriction/Soft Road Policy
- Foster County Ordinance – Planning and Zoning
- Foster County Planning and Zoning – Does there need to be a conditional use permit and/or public hearing for the above project.
- Gravel Pit (surcharge, hauling information)
- Certificate of Insurance
- Foster County Claims Department/Bond Policy

Commissioner Meeting discussion: _____

Date information provided to project holder: _____