

Revised 01/2/18

## UTILITY PERMIT CONDITIONS

Applicant hereby agrees that the facility will be installed subject to the following conditions imposed upon the permittee herein:

1. The appropriate fee for the issuance of the permit shall be paid in advance unless other arrangements have been made.
2. The work shall be performed in accordance with all rules and regulations prescribed by the Outagamie County Highway Commissioner and by Outagamie County Zoning Code 54-350 and 54-351.
3. The permittee shall notify the Highway Commissioner or designee three (3) days prior to the commencement of work, and upon completion, by sending an email to [permits.highway@outagamie.org](mailto:permits.highway@outagamie.org) or by phone 920-832-5673 so a field inspection can be made by the County and the permittee representative.
4. The permit is issued pursuant to the authority granted under §86.16 Wis. Stat. and permittee is, in addition to the requirements set forth by the permit, subject to the requirements and conditions of §86.16 Wis. Stats.
5. NO PART OF THE PERMITTED WORK OPERATIONS SHALL BE COMMENCED UNTIL WARNING SIGNS, DEVICES AND METHODS ADEQUATE TO PROTECT THE PUBLIC ARE ESTABLISHED, IN PLACE AND FULLY FUNCTIONAL. WARNING SIGNS AND DEVICES SHALL CONFORM TO THE APPROPRIATE SIZES, DESIGNS AND ARRANGEMENTS SPECIFIED WITHIN THE "WISCONSIN DEPARTMENT OF TRANSPORTATION MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)", CURRENT EDITION. IT SHALL BE THE RESPONSIBILITY OF THE APPLICANT TO PROVIDE AND MAINTAIN AT LEAST THE QUANTITY OF SIGNS AND DEVICES THEREIN DESCRIBED, BUT TO ALSO SUPPLEMENT THOSE WITH SUCH ADDITIONAL SIGNS, DEVICES AND FLAGMEN AS ARE NECESSARY TO FUNCTIONALLY PROTECT PERSONS AND PROPERTY FROM INJURY OR DAMAGE AT ALL TIMES UNDER ALL CONDITIONS, INCLUDING CHANGED OR CHANGING CONDITIONS. WARNING SIGNS, DEVICES AND METHODS SHALL BE IN PLACE AND PROTECTIVELY FUNCTIONAL PRIOR TO THE COMMENCEMENT OF ANY OF THE PERMITTED WORKS WITHIN THE LIMITS OF THE HIGHWAY RIGHT OF WAY, AND SHALL PROTECT THE PUBLIC UNTIL ALL PERMIT-ASSOCIATED WORKS ARE COMPLETED.
6. The permittee shall assume any and all liabilities to the Township, County and State, as the case may be, for all damages which occur during the progress of the said work as the result thereof.
7. Vehicles, equipment and materials shall be so regulated by the applicant as to assure consistently safe conditions. Particular care shall be exercised at all times to assure a safe traffic environment at and near the site of the work. These requirements pertain while the work operations are in active progress, as well as during periods of work shutdown. Any discovered violation of the permit could result in an order by the highway authorities to stop further progress of the work, and might result in revocation of the permit and expulsion from the highway right of way.
8. The permittee is responsible to assure that the site of construction is secure against any hazard to the public, both when the site is attended and during off-hours, any holiday, and the hours of night.
9. The entire cost of installing and maintaining the facility in county highway right of way shall be borne by the permittee.
10. The permittee shall be allowed to bore under the roadway portion. Under no circumstances shall there be an

excavation made on the traveled portion of the roadway until special permission is obtained from the Outagamie County Highway Commissioner, or his designee.

11. The depth of the facility shall be installed a minimum of 30" below ground level, and in the event that there is settling or other damage, the permittee shall make the necessary repairs at its own expense in accordance with the instructions of the Outagamie County Highway Commissioner or his designee.
12. Any utility line authorized by the County for installation at a depth less than 30" shall be enclosed within a larger pipe, duct, conduit or casing sufficient to protect the carrier from external damage. The material for the enclosure shall be such as the owner regards as adequate for the stated purpose. Casing enclosures of water and sewer lines authorized for installation at less than 6 feet but not less than that shown on the drawing approved by the Highway Commissioner or designee, may be waived by the County if such lines will be adequately insulated to provide protection from freezing.

Any portion of any underground facility authorized for installation at less than that shown on the drawing approved by the Highway Commissioner or designee may be guarded by an underground warning tape, provided by the owner and installed no less than one foot above the carrier, conduit or pipe. Warning tapes shall provide warning, be durable, and shall identify the character of the carrier facility below.

13. Any non-metallic pipe, cable or other kind of utility line which lacks a continuous and integral metallic component capable of detection by locating instruments, shall be accompanied in its location by a continuous detectable metallic tracer wire or a metallic tape desirably at the same depth as the carrier and on the same alignment.
14. Any dirt, or debris resulting from the installation and/or maintenance of said facility in highway right of way shall be removed as soon as possible by the permittee. Any condition creating a hazardous safety hazard shall be rectified immediately.
15. Any turfed area of the right of way disturbed by the permitted works and operations shall be restored with fine-graded topsoil having a depth of not less than 4 inches, and re-seeded with perennial grass or sodded.
16. An erosion control plan shall be required for those utility operations which are significant in scope, which are adjacent to environmentally sensitive areas, and/or are required by another agency. The utility shall submit the plan for approval with the original permit application but not less than 5 working days prior to the beginning of the work. The plan shall detail the sequence of the work, the type and amount of permanent and temporary erosion control devices to be used, the methods to be used to maintain the devices and the name of the person responsible for the work.

If work by a utility is resulting in erosion to a sensitive area, and the utility is unable or unwilling to take corrective actions in a time frame acceptable to the Outagamie County Highway Commissioner or designee, the work will be done by others at the direction of the County. The cost of such work will be the responsibility of the utility.

The utility shall be responsible for providing erosion control measures to protect all restored areas upon completion of the utility construction until replacement vegetation achieves at least 70% of vegetative cover.

17. If the applicant subcontracts for any part of the work under the permit, it will be the responsibility of the subcontractor to obtain a temporary occupancy in right of way construction permit and the subcontractor may be responsible for furnishing a surety bond in the amount of 10% of the amount of the contract or in no case less than \$1,000.00 and a certificate of liability insurance along with a traffic control plan.
18. The applicant shall provide the contractor and all subcontractors of the permitted work with a copy of the permit and is responsible to assure the latter's familiarity with all details and requirements thereof. Such permit copy shall be in the keeping of the said contractor at the work site, and shall be provided for examination by county inspection personnel upon request. The applicant shall be responsible to the county for any failure to comply with any part of the permit.

19. When the work is completed, any disturbed areas shall be restored to its original condition. In case the permittee hereunder or any contractor or subcontractor fails to restore the associated disturbed area(s) to its original condition, the Outagamie County Highway Commissioner or designee shall have the right to complete the work in a satisfactory manner, and the permittee shall be liable for damages under the conditions of the permit for the amount of expense necessary to complete restoration or repair defective restoration.
20. It shall be the responsibility of the applicant to determine the location of, and protect or cause to be protected from any damage, any facilities already in place in the area to be influenced by the permitted work. All notifications of others are likewise a responsibility of the applicant.
21. The permit does not transfer any land; nor give, grant or convey any land right, right in land, nor easement.
22. The applicant shall save and hold the County, its officers, employees, agents, and all private and governmental contractors and subcontractors with the County, harmless from and against all liability, damage, loss, expense, claims, demands and actions of any nature whatsoever (including any by Applicant itself) which arise out of or are connected with, or are claimed to arise out of or be connected with any of the work done by the applicant, or the construction or maintenance of facilities by the applicant, pursuant to the permit or any other permit issued by the County for location of property, lines or facilities on highway right of way, (1) while the applicant is performing its work, or (2) while any of the applicant's property, equipment, or personnel, are in or about such place or the vicinity thereof, or (3) while any property constructed, placed or operated by or on behalf of applicant remains on the County's property or right of way pursuant to the permit or any other permit issued by the County for location of property, lines or facilities on highway right of way; including without limiting the generality of the foregoing, all liability, damages, loss, expense, claims, demands and actions on account of personal injury, death or property loss to the County, its officers, employees, agents, contractors, subcontractors or frequenters; to the applicant, its employees, agents, contractors, subcontractors or frequenters; or to any other persons, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, worker's compensation), contractual, tort, or other liability of the County, the applicant, or any other persons, and whether or not caused or claimed to have been caused by active or inactive negligence or other breach of duty by the County, its officers, employees, agents, contractors, subcontractors or frequenters; applicant, its employees, agents, contractors, subcontractors or frequenters; or any other person. Without limiting the generality of the foregoing, the liability, damage, loss, expense, claims, demands and actions indemnified against shall include all liability, damage, loss, expense, claims, demands and actions for damage to any property, lines or facilities placed by or on behalf of the applicant pursuant to the permit or any other permit issued by the County for location of property, lines or facilities on highway right of way in the past or present, or that are located on any highway or County property or right of way with or without a permit issued by the County, for any loss of data, information, or material; for trade-mark, copyright or patent infringement; for unfair competition or infringement of any other so-called "intangible" property right; for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatever. The applicant shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

Any transfer, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the County's property or right of way pursuant to the permit shall not release Applicant from any of the indemnification requirements of the permit, unless the County is notified of such transfer in writing. Any acceptance by any other person or entity, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the County's property or right of way pursuant to the permit, shall include acceptance of all of the indemnification requirements of the permit by the other person or entity receiving ownership or control.

Notwithstanding the foregoing, a private contractor or subcontractor with the County under Ch. 84, Stats., that fails to comply with secs. 66.047 and 182.0175, Stats. (1985-86), remains subject to the payment to the Applicant of the actual cost of repair of intentional or negligent damage by the contractor or subcontractor to any property, lines or facilities placed by or on behalf of the Applicant pursuant to the permit or any other permit issued by the County for location of property, lines or facilities on highway right of way, and remains subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the contractor or subcontractor.

Notwithstanding the foregoing, if the County, or its officers, employees and agents, fail to comply with secs. 66.047 and 182.0175, Stats. (1985-86), the County, or its officers, employees and agents, remain subject to the payment to the Applicant of the actual cost of repair of willful and intentional damage by the County, or its officers, employees and agents, to any property, lines or facilities placed by or on behalf of the Applicant pursuant to the permit or any other permit issued by the County for location of property, lines or facilities on highway right of way, and remain subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the County, its officers, employees and agents.

No indemnification of private contractors or subcontractors with the County under Ch. 84, Stats., shall apply in the event of willful and intentional damage by such private contractors or subcontractors to the property, lines and facilities of the Applicant located on the highway right of way pursuant to the permit or any other permit issued by the County for the location of property, lines or facilities on highway right of way.

23. The permit authorizes only the described works of and for the applicant indicated on the permit. It does not grant authority for any other facility(ies), either by present installation or future installation.
24. Construction methods and restoration shall be in accordance with applicable portions of the Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction, current edition.
25. Permitted facilities shall be located as defined within the permit or associated approved permit documents. Any part of the facility found to be otherwise located shall be subject to correction by and at the cost of the applicant to such extent as the highway authority may specify. Any facility or part thereof which is located other than as the permit defines occupies such location solely at the risk of the applicant. Accordingly, if the same is undetected or is suffered to remain in variance to the permit, the applicant agrees to hold the county, its employees, agents and officers harmless and free of any cost, claim or liability associated with any accidental damage to such facility which might result from a highway construction, maintenance, traffic control, or right of way management function.
26. No guard pole(s) shall be set within the limits of the highway right of way, except any which are described and referenced on the drawings included in the permit and authorized as a part thereof.
27. The applicant, and/or contractor or subcontractor hereunder shall comply with all other rules and regulations the Highway Commissioner considers proper. **FAILURE TO COMPLY WITH REGULATIONS PROVIDED IN THE PERMIT, WILL MAKE THE PERMIT NULL AND VOID.**

In consideration of granting the foregoing permit, the permittee, its successors and assignees, agree that, in the event the said county trunk highway is reconstructed, repaired, changed or widened in any manner and it becomes necessary as a result that the facility must be raised, lowered or moved to some other location, the permittee, its successors and assignees, agree to do all things necessary with the said service as may be required by the Highway Commissioner so as to facilitate these changes, and at no expense to Outagamie County.