

RESOLUTION NO. 982F

WHEREAS, Section 7-14-2101, et seq, M.C.A., provides that the Board of County Commissioners may layout, maintain, control and manage County roads within the County and may in its discretion do whatever is necessary in the best interest of County roads, including providing for the removal of obstructions and encroachments;

WHEREAS, Section 7-14-2101(2)(a), M.C.A., provides that unless the context requires otherwise, the term county road means any public highway opened, established, constructed or maintained by a county;

WHEREAS, Sections 61-1-201 and 61-1-202, M.C.A., define public highway to include the entire width between the boundary lines of every publicly maintained way;

WHEREAS, the safety of the traveling public is being negatively impacted by increased population growth resulting in increased construction of approaches and utility encroachments onto county roads; and

WHEREAS, it is necessary and appropriate to regulate and approve all encroachments on county roads and to assess an appropriate fee for the additional expense to the taxpayers of processing permit applications; and

WHEREAS, the Board approved the Flathead County Road Encroachment Policy on February 27, 1995; and

WHEREAS, the Board passed Resolution 982A on July 24, 1995, and Resolution on 982B on May 28, 1996, and Resolution 982C on November 14, 1996, and Resolution 982D on May 11, 1998, and Resolution 982E on May 13, 2004, now deems it necessary to amend Resolution 982E.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the following encroachment permit fee schedule shall be in effect in Flathead County:

<u>Encroachment Type</u>	<u>Fee</u>
<u>Approach</u>	
<u>Agricultural</u> (Access to fields under agricultural use) Non-refundable application fee.	\$100.00
<u>Driveway</u> (Single family dwelling) Non-refundable application fee.	\$100.00
<u>Shared Driveway</u> (Two lot approach, excluding subdivisions) Non-refundable application fee.	\$150.00
<u>Minor Subdivision</u> (Five or fewer lots for single or multiple family dwellings, including apartment buildings, condos, mobile home parks, etc.) Non-refundable application fee.	\$300.00 per approach+ \$30.00/lot
<u>Major Subdivision</u> (Six or more lots for single or multiple family dwellings, including apartment buildings, condos, mobile home parks, etc.) Non-refundable application fee.	\$650.00 per approach+ \$30.00/lot

Utility

In lieu of the fees listed herein, each utility company named under "Utility Company Exemption" may pay a flat yearly fee in the amount of \$6,500.00 due and payable on July 1 of each year.

Ditchline Encroachment

Non-refundable application fee	\$100.00
PLUS	
Refundable bond held for two years to insure proper grading and reseeding	
See note.	\$2,500.00 gravel road \$5,000.00 paved road

Gravel Road Encroachment

Non-refundable application fee	\$100.00
PLUS	
Refundable bond held for two years to insure proper grading and reseeding	
See note.	\$2,500.00

Paved Road Encroachment

Non-refundable application fee	\$100.00
PLUS	
Refundable bond held for two years to insure proper grading and reseeding	
See note.	\$5,000.00

Pushing of Utility Beneath Roadway

Non-refundable application fee	\$100.00
PLUS	
Refundable bond held for two years to insure proper grading and reseeding	
See note.	\$2,500.00 gravel road \$5,000.00 paved road

Definition of Encroachment

An encroachment is any activity within the designated road right-of-way, including, but not limited to trenching, boring pushing, placement of poles and repair of broken lines or replacement of power poles where any of the above is required.

These encroachments will be done to County specification sheets which is attached to the permit.

Tree trimming within the right-of-way and repair of guy wires or repairs that do not require trenching, boring, pushing, or other right-of-way disturbance are specifically exempt.

A major project, which extends a utility line down the side of a road with several crossings of the roadway, will require an encroachment permit for each crossing. There may be one permit application; however, there will be a fee for each crossing of the roadway.

In cases of emergency repair, such as during or following a storm, an after-the-fact permit may be applied for covering the incident without penalty.

An encroachment that in the opinion of the County Road Department will be more extensive than a regular vertical cut across a county road as

described above, shall require the posting of a bond in the amount of 125% of the estimated cost of repair to the county road.

NOTE – State Registered Contractors \$25,000.00 bond for three years not to exceed ten encroachments in any one year. Bonds to be renewed annually to maintain the three year cycle.

Bonds are returned to permit applicant if the construction is performed to the required standards and is approved and, in the opinion of the County Road Department, performs adequately for a two year time period. Should the repair to the road not be approved or **fail within the two year time period**, the permit applicant (or landowner for whom the work was performed) may correct the problems at their expense or, the County Road Department may cash the bond and correct the problems utilizing the bond monies.

UTILITY COMPANY EXEMPTION: The following regulated companies providing utility services in Flathead County are exempt from the bonding requirements listed above: AT&T, Bresnan Communications, Flathead Electric Co-operative, Lincoln Electric, Northwestern Energy, CenturyTel. Subcontractors of these entities shall be bonded with Flathead County and shall add Flathead County to their liability insurance as a named insured and shall provide verification thereof prior to the commencement of construction.

Unpermitted Encroachments Upon the Right-of-Way

An amount twice the permit fee will be charged for permits issued after the start and/or completion of construction. Unpermitted encroachments will be removed at the discretion of the Flathead County Road Department.

BE IT FURTHER RESOLVED that the effective date of this Resolution is effective on approval.

DATED this 28th day of July, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Gary D. Hall
Gary D. Hall, Chairman

By /s/ Robert W. Watne
Robert W. Watne, Member

By /s/ Joseph D. Brenneman
Joseph D. Brenneman, Member

ATTEST:
Paula Robinson, Clerk

By /s/ Kimberly Moser
Kimberly Moser, Deputy