



County Road Ditch Drainage Permit

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|------------------------------------------|---------|-----------|
| Applicant | Address | Telephone |
| Property Owner (if different than above) | Address | Telephone |

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|----------------------------------------|---------------|---------------------------------------|
| Location of Proposed Drainage Project: | | |
| CR #: _____ | In: _____ | Township _____ |
| _____ Miles | N / S / W / E | of _____ City, Intersection, Landmark |

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|---------------------------------------------------|--|
| Legal Description of Property (or Parcel ID) : | |
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|----------------------------------------------------------------------------|
| Description of work being requested (attach a sketch if necessary): |
|----------------------------------------------------------------------------|

I/We, the undersigned, herewith make application for permission to construct and/or connect a drainage project at the location mentioned above. The drainage project and/or drainage connection will be constructed to conform with the regulations of Benton County and to any special provisions included in the permit. It is agreed that all work will be done to the satisfaction of the Benton County Public Works Department; and no work in connection with this application will be started until the application is approved and the permit issued. It is expressly understood that this permit is conditioned upon replacement or restoration of the County Road to its original condition, or to a condition agreed upon by the Benton County Public Works Department. It is further understood that this permit is issued subject to the approval of local city, village or borough authorities having joint supervision over said street or highway. The applicant(s) will comply with rules and regulations of any other governmental agencies (MnDNR, MPCA, Corp. of Engineers, etc.).

Furthermore, except for negligent acts of Benton County, its agents and employees, the applicant or his/her designee, agents, or contractor shall assume all liability for, and save Benton County its agents and employees, harmless from, any and all claims for damages, actions or causes of action arising out of the work to be done herein and the continuing usage, constructing, reconstructing, maintaining and using of said drainage facility under this application and permit for construction.

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|---------------------------|------|
| Applicant(s) Signature(s) | Date |
|---------------------------|------|



Minnesota Law Governing Drainage Work

160.20 DRAINAGE.

Subdivision 1. **Connecting drains to highway drains.** When the course of natural drainage of any land runs to a highway, the owner of the land shall have the right to enter upon the highway for the purpose of connecting a drain or ditch with any drain or ditch constructed along or across the highway, but before making the connections, shall first obtain a written permit for the connections from the road authority having jurisdiction. The connections shall be made in accordance with specifications set forth in the permits. The road authority shall have power to prescribe and enforce reasonable rules and regulations with reference to the connections. The highway shall be left in as good condition in every way as it was before the connection was made.

Subd. 2. **Constructing tile drain across highway.** If any person desires during construction or reconstruction of a highway to install a tile drain for agricultural benefits in a natural drainage line in lands adjacent to any highway, and if a satisfactory outlet cannot be secured on the upper side of the right-of-way and the tile line must be projected across the right-of-way to a suitable outlet, the expense of both material and labor used in installing the tile drain across the roadbed shall be paid from funds available for the roads affected provided the road authority is notified of the necessity of the tile drain in advance of the construction of the roadbed so that the drain may be placed and the roadbed constructed in the same operation.

Subd. 3. **Installing drain tile along or across highway.** When the course of natural drainage of any land runs to a highway, the owner of the land who has been granted a permit as provided in subdivision 4 may install drain tile along or across the highway right-of-way along the general course of the natural drainageway, provided further that there will be no diversion of drainage waters away from the natural receiving drainageway immediately downstream from the highway. Any installation shall be made in accordance with specifications set forth in the permit and any rules that apply to the installations. When any installation is made pursuant to this subdivision the highway shall be left in as good condition in every respect as it was before the installation was made.

Subd. 4. **Conditions.** (a) A road authority may accept applications for permits for installation of drain tile along or across the right-of-way under its jurisdiction. The road authority may adopt reasonable rules for the installations and may require a bond before granting a permit. Permits for installation along a highway right-of-way must ensure that the length of the installation is restricted to the minimum necessary to achieve the desired agricultural benefits. A permit must not allow open trenches to be left on the right-of-way after installation of the drain tile is completed. A road authority that grants a permit for tile drain installation is not responsible for damage to that installation resulting from the action of the authority or any other permittee utilizing the right-of-way.

(b) A person who installs drain tile along or across a highway right-of-way without obtaining a permit as provided in this section is guilty of a misdemeanor.

(c) The commissioner shall take no action under this section which will result in the loss of federal aid for highway construction in the state.

(d) For the purpose of this section, "highway" means any highway as defined in section 160.02 which is located outside the corporate limits of a home rule charter or statutory city.

County Road Ditch Drainage Policy

BENTON COUNTY BOARD OF COMMISSIONERS

RESOLUTION 2019 - #30

WHEREAS, the County of Benton, in its role as road authority, from time to time receives requests for installation of drainage tile along or through a road right-of-way, for a ditch or drain connection to a road right-of-way ditch, and for road ditch cleaning; and

WHEREAS, pursuant to Minn. Stat §160.20, subject to reasonable regulation by the road authority, an owner of land whose natural drainage runs to a roadway may install drain tile along or across the road right-of-way along the general course of the natural drainage; and

WHEREAS, prior to installing a drain or ditch connection or tiling, the statute requires, to the extent that the road authority has adopted a permitting program, an owner to first acquire a written permit from the road authority. The permitting program must comply with the requirements of Minn. Stat. § 160.20, subd. 4; and

WHEREAS, the permitting program may establish conditions and standards for the proposed work in order to protect the public road system and avoid landowner conflicts; and

WHEREAS, failure to obtain a written permit as required by Minn. Stat. § 160.20 is a misdemeanor crime; and

WHEREAS, in addition to a permitting program for the purposes described above, the County desires to establish a policy addressing maintenance of county road ditches, including: authorizations, conditions and standards for private parties to clean and remove perceived obstructions from the road ditches; establishment of a maintenance fund for such work to be performed by the County; and the development of standards by which the County will evaluate the need for such work; and

WHEREAS, the requirements and conditions prescribed for permits required under Minn. Stat. § 160.20 can also apply to individuals requesting permission and a permit to clean a public right-of-way ditch, and as a result the County chooses to include cleaning permits into its policy for private drainage utilization of public right-of-way ditches; and

WHEREAS, decisions to clean public right-of-way ditches is discretionary and the County is not required to approve an application for a private party to clean a public right-of-way ditch, the County may approve such application if the requirements of its policy and other applicable laws and regulations are complied with; and

WHEREAS, the County is not mandated to approve an application to clean a public right-of-way ditch even if the requirements of its policy are met; and

WHEREAS, in addition to Minn. Stat. §160.20, if a ditch is deemed to be a portion of the public drainage system, the requirements of Minn. Stat Ch. 103E and any other applicable law and regulations will also need to be complied with; and

WHEREAS, it is desirable to define the policy and procedure of the County for connection of private drains to roadway drains, installation of drain tile along or across a County right-of-way, and cleaning of public right-of-way ditches; and

THEREFORE, BE IT RESOLVED, that the following policy and regulations be adopted in Benton County:

1. The recitals set forth in the whereas clauses above are incorporated by reference as if fully set forth herein.
2. The County may approve an application for a permit connecting a drain or ditch with any drain or ditch constructed along or across the highway, installing drain tile along or across the highway right-of-way roadway ditch, or the cleaning of a roadway ditch provided that the parties requesting the permit shall comply with federal and state laws and regulations and these adopted policies and regulations.
3. The applicant shall submit a completed Drainage and Cleaning Permit application to the Public Works director and shall comply with any provisions described therein.
4. Before any permit is approved and/or any work is started, the individual/contractor responsible for the project (applicant) shall provide a certified check or performance bond in the amount deemed appropriate by the County engineer for the scope of work included under the permit. The maximum amount of the required check or performance bond is set forth in the adopted current County Fee Schedule. A fee will be charged for the required permit. The fee for the permit is also set forth in the County Fee Schedule.

Upon completion of the work the applicant shall notify the County Engineer's office to obtain final inspection. If the work is determined acceptable, and after 60 calendar days have elapsed (to determine if any settlement occurs), the certified check or performance bond will be returned.

If the work is deemed unacceptable by the County Engineer, notification will be given to the applicant, who shall complete all necessary corrective action within 30 days. If corrective action is not completed by the applicant within the allotted time frame, the performance bond or certified check funds will be used by the County to correct any deficiencies in the project. The remainder (if any) of the performance bond or certified check funds will be returned to the applicant upon completion of the corrective action.

5. For all Drainage and Cleaning Permits the parties requesting the permit shall comply with the following regulations:
 - a. First complete all ditching needed below the outlet end of the connection to ensure proper drainage.

- b. Any work done on highway right-of-way ditches or on slopes shall be done in a manner to meet current geometric standards.
 - c. All backfill material and the method of compaction shall comply with 2451.3D of the Minnesota Department of Transportation Standard Specifications (latest version).
 - d. Wherever topsoil and sod are disturbed, they shall be replaced and maintained satisfactorily until the turf is established, and otherwise restore the county highway right-of-way to its original condition.
 - e. Upon completion of an installation, the applicant shall then notify the office of the County Highway Engineer of the completion of the work so that inspection can be made to determine its acceptability.
 - f. When working within the right-of-way limits of the county highway, the contractor shall erect and maintain all barricades, signs and lights needed to protect the traffic, including all warning signs specified under Minnesota Statute 160.16, and in compliance with the current Minnesota Manual of Uniform Traffic Control Devices (MN MUTCD).
 - g. The highway shall not be closed to traffic on Sundays or on legal holidays, and shall not be closed for more than 5 hours on any project.
 - h. The installation shall not interfere with any existing utility facilities on the county highway right-of-way. Interruption, interference or damages to any utility shall be restored and/or paid for by the applicant. It is the applicant's responsibility to complete a Gopher State One-Call ticket 48 hours prior to any excavation.
 - i. The installation shall be made in conformity with all applicable laws, regulations, and codes covering said installations. All installations shall be made in conformity with regulations of governmental agencies for the protection of the public.
6. Any additional right-of-way required for the above work shall be obtained at the expense of the owner or applicant requesting the work.
 7. The County may establish a maintenance fund pursuant to statutes section 160.201 for the purpose of paying all or a portion of the cost of cleaning and maintenance of right-of-way ditches.
 8. If a maintenance fund is established, the County may participate in funding the requested work. Cost share funding of private cleaning or maintenance work in a right-of-way ditch shall not exceed 50% of prior documented costs of the work if in the judgment of the County Highway Engineer, a Benton County highway, or the traveling public receives a direct benefit for such maintenance or cleaning. The amount and percentage of funding shall be at the discretion of the County Highway Engineer. It shall otherwise be the responsibility of Benton County to maintain roadways in a manner to provide what would otherwise be a natural drainage condition upon consideration of policy factors including but not limited to (1) is the maintenance required to eliminate or prevent harm to the road and (2) is the maintenance required to eliminate or prevent an objective harm to public or private interests adjacent to the roadway.

9. Each permit application and/or project will be reviewed on its own merits and specific circumstances by the County Highway Engineer. County financial considerations will govern participation in all project costs. No guarantee of issuance of a permit or county participation in the project is implied by county participation in any other project or issuance of any other permit.
10. Written notification shall be made to the County Engineer if drainage ditching or other utility work will affect drainage to/from county facilities and/or right-of-way even if the work is to be accomplished outside of the existing of the existing right-of-way. Modifications to the existing county facilities, including to ditch/drainage systems made necessary by drainage, ditching, or other utility work, will require financial contribution from the responsible party. If the responsible party refuses to provide financial contribution, the cost of the required modification and/or alteration may be assessed to the responsible parties' property tax.
11. Other Permits and Agency Notification The applicant shall notify all appropriate agencies of the scope and nature of the work to be performed. Appropriate agencies may include but may not be limited to Benton County Department of Development, Soil and Water Conservation District, Minnesota Department of Natural Resources, U.S. Army Corps of Engineers, and other notifications as are appropriate to the specific project. Any permits required from outside agencies shall be obtained prior to commencing work. Required notifications and initial responses shall be included with the permit application.
12. By signing this permit the responsible party agrees to give permission for the county to enter onto any properties requiring corrective action associated with the work included in this permit.
13. The applicant shall indemnify and hold harmless the county, its agents and employees from and against all claims, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense is caused in whole or in part by any negligent act or omission of the applicant, anyone directly or indirectly employed by the applicant, or anyone for whose acts the applicant may be liable.

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Approved and adopted this 3rd day of September, 2019.



A. Jake Bauerly, Chair
Benton County Board of Commissioners,

ATTEST:



Montgomery Headley
Benton County Administrator