



**MORGAN COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION 2024 BCC 40

**A RESOLUTION APPROVING THE MORGAN COUNTY RIGHT-OF-WAY
REGULATIONS CONCERNING WORK AND USE OF COUNTY RIGHTS-OF-WAY**

WHEREAS, the Board of County Commissioners of Morgan County, Colorado are authorized under Colorado law to control the use of and work within County rights-of-way, including but not limited to C.R.S. §§ 30-11-107(1)(h), 30-15-401(1)(h), 42-4-110(1), 42-4-111(1)(g),(y) and 43-2-111(1),(6); and

WHEREAS, the Board desires to adopt right-of-way regulations to provide for an application process for and restrictions on work and occupation of County rights-of-way and finds that these regulations are in the best interest of the citizens of Morgan County.

**NOW THEREFORE BE IT RESOLVED BY THE MORGAN COUNTY BOARD
OF COUNTY COMMISSIONERS AS FOLLOWS:**

Section 1. The Morgan County Right-of-Way Regulations attached hereto as Exhibit A are hereby approved.

DATED this 1st day of October, 2024.

**BOARD OF COUNTY COMMISSIONERS
MORGAN COUNTY, COLORADO**

Mark A. Arndt, Chair


Jon J. Becker, Commissioner
Gordon H. Westhoff, Commissioner

ATTEST:

Kevin Strauch, Clerk to the Board

MORGAN COUNTY RIGHT-OF-WAY REGULATIONS

I. Applicability

The purpose of these regulations is to govern work in and occupation or use of the County's rights-of-way which have been opened for public use. These regulations do not govern 1) County rights-of-way which are not open for public use or 2) the maintenance of any County right-of-way that has been granted prior approval by the County or has been required by the County through an approved land use permit. Nothing herein shall be deemed to limit or restrict the County's police powers or authority over its rights-of-way.

II. Application

- A. All work and occupation or use of a County right-of-way, subject to these regulations, requires prior application to be made to the Morgan County Road and Bridge Department on the forms provided by the Department. For purposes of these regulations, "work" shall be defined as follows: any labor performed on, or any use or storage of equipment or materials, including, but not limited to, construction of roads and all related appurtenances, fixtures, improvements, driveway openings, traffic signal devices, or laydown piping. It shall also mean construction that requires lane closures or excavation; and installation and repair of all underground structures such as pipes, conduit, culverts, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation and maintenance of overhead poles and wires or other facilities or equipment used for any purpose.
- B. All right-of-way applications shall be accompanied by required information and all applicable fees.
- C. Incomplete applications will not be processed and returned to the applicant.
- D. If required by the County, the applicant shall provide a survey of the road and the proposed location of the work or facility to ensure the proposed work or facility is within the County right-of-way.
- E. Depending on the work performed, the County may require the applicant to enter into public improvement agreement to ensure the completion of such work. If the work is being performed to benefit a specific property or use, the County may require the owner of that property to execute the public improvement agreement.
- F. No work shall be performed in the County right-of-way until a permit is issued by the Morgan County Road and Bridge Department.

III. Restrictions

- A. If the application is for facilities to be placed in the right-of-way, the applicant shall be the owner/operator of the facilities to be placed in the County right-of-

way and executed by the owner/operator. If the application is for work only in the right-of-way with installation of facilities, the applicant may be the individual or entity performing the work.

- B. Road cuts are not allowed on paved roads. All crossings of paved roads must either be bored under the road or installed overhead.
- C. Any underground facility, such as a pipeline or cable, shall be buried a minimum of forty-eight (48) inches below the roadway surface or the bar ditch, as applicable.
- D. All facilities and trenches that parallel County rights-of-way must be placed at least three (3) feet from the shoulder of the road. If the desired location is already occupied by an existing facility, the County may require that the proposed facility be relocated.
- E. A minimum of thirty-six (36) inches of horizontal separation shall be maintained between different facilities using the County right-of-way.
- F. The height of overhead facilities is limited to seventy-five (75) feet. The diameter of any poles or width of any other type of facilities is limited to three (3) feet.
- G. The right-of-way and the bar ditch shall be returned to equal or better condition prior to the commencement of the work, including but not limited to revegetation if required by the County. The applicant must supply adequate evidence of the right-of-way and bar ditch condition for both pre- and post-construction. Such evidence must be supplied prior to commencement of any work. Roads and bar ditches must be backfilled with a minimum of ninety-five percent (95%) compaction. Any settling of a trench or cut must be further back filled by the applicant to the County's satisfaction. The applicant will be required to warrant any restoration of the road surface for a period of twelve (12) months.
- H. The applicant specifically waives the right to any damages for injury to the applicant's facilities caused by the County. Any damage to the applicant's facilities caused by normal County maintenance operations, including mowing, grading, and snowplowing in the County right-of-way is the responsibility of the applicant and not that of Morgan County.
- I. The applicant and its contractor, as applicable, must provide proof of general liability insurance with an aggregate limit of one million dollars (\$1,000,000.00) at the time of application. Such insurance must remain in effect during all installation and restoration activities.
- J. The applicant and its contractor, as applicable, upon issuance of the permit, will be required to hold harmless, indemnify, and defend Morgan County, its officials, employees and agents, from any claim of any person arising from the installation, use, maintenance, or removal of the facilities in the County right-of-way.

- K. The County may require the presence of a County inspector, which may be a third-party hired by the County at the County's sole discretion, when installing facilities under, around, or near bridges and culverts. The cost of a County inspector shall be \$50 per inspection.
- L. Installation of facilities must be completed within twelve (12) months of the date of issuance of a permit except for reclamation which must be completed within eighteen (18) months from the date of issuance.
- M. The applicant will be required to provide the Morgan County Information Systems Department with GIS shape files compatible with County mapping within thirty (30) days of completion of installation, unless the applicant and the County have a current map sharing agreement.
- N. The applicant is responsible for ensuring compliance with any applicable easement, covenant, or other private agreement.

IV. Decision on Application

- A. Except as required under applicable law, the County reserves the right, pursuant to its statutory authority and general police powers, in its sole discretion, to fully regulate the use of its rights way and work performed in its rights-of-way, including the denial of any application or the imposition of conditions to ensure the County's interest in its rights-of-way and the public safety and welfare are maintained.
- B. Any request to deviate from the restrictions in these Regulations must be approved by the Board of County Commissioners. The Board may require modifications to any of the restrictions herein, including but not limited to more stringent restrictions or deny a request, if, in the sole discretion of the Board, it is necessary to maintain the public safety and welfare or in the best interests of the citizens of Morgan County.