

# Permitting and Right-of-Way and the Relationship to Surveying and Mapping

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# **I. Introduction**

Permitting and Right-of-Way's relationship with surveying and mapping is most often antagonistic because of the lack of understanding and communication between the disciplines. This does not have to be the norm. A very simple and basic understanding of the role of each discipline, and its function with regard to the successful and timely completion of a project will improve these relationships.

## **II. Body of Paper**

To start, what is permitting? What is its role in the planning and completion of a project? How does it affect the surveying and mapping disciplines?

Permitting is obtaining a document or certificate granting permission, approval and license for a construction or land development project. An assortment of city, county, state and federal permits are required for residential, commercial, mixed-use, industrial, and institutional/government projects. Permitting personnel are responsible throughout a project for completing the following:

1. Determining and documenting what city, county, state, and federal permits are required,
2. Contacting the various authorities and departments identified;
3. Obtaining the proper application and instructions for the various permits,
4. Determining the fees involved in obtaining each permit,
5. Determining what surveys and drawings are required for each application,
6. Compiling a list of items that must be shown on each drawing for the permit application's approval, and finally
7. Documenting in a timeline when the application must be prepared and when it will be issued (i.e., either before construction begins, during, and what is required upon completion).

The following sample documents illustrate the tasks outlined above and show the relationship between the various disciplines:

- PERMIT INVESTIGATION REPORT – FIG. 1
- PERMIT APPLICANT INFORMATION SHEET – FIG. 2
- TOWN OF FRANKLIN BUILDING PERMIT APPLICATION – FIG. 3
- PERMIT LOG – FIG. 4

Figure 1<sup>1</sup>

## PERMIT INVESTIGATION REPORT

Page \_\_\_\_\_ of \_\_\_\_\_ Page(s), including attachments

PROJECT NAME: \_\_\_\_\_  
PROJECT NUMBER: \_\_\_\_\_  
TYPE PERMIT REQUIRED: \_\_\_\_\_  
(Crossing, Longitudinal, Zoning, License/Franchise, Building, etc.)  
(Attach Application)

DATE CONTACT MADE: \_\_\_\_\_  
AGENCY NAME: \_\_\_\_\_  
(City, County, State [Zoning, Planning Commissions, Franchise Depts., etc.], BLM, BIA, DOT, etc.)

PERSON CONTACTED: \_\_\_\_\_  
(Name & Title)

Address: \_\_\_\_\_  
Mailing (If Different) \_\_\_\_\_  
Telephone # \_\_\_\_\_ Fax # \_\_\_\_\_ E-Mail \_\_\_\_\_

TYPE PERMIT NEEDED: \_\_\_\_\_  
(Temporary/Special Use, Crossing, Longitudinal Encroachment, Franchise/License, Drainage/Flood Plain Permits, Land Development Permits, Building Permit, etc.)

SETBACK REQUIREMENTS: \_\_\_\_\_  
\_\_\_\_\_

ZONING REQUIREMENTS: \_\_\_\_\_  
\_\_\_\_\_

Will setback variance(s) be required? Explain: \_\_\_\_\_  
\_\_\_\_\_

Will subdivision process be required? Explain: \_\_\_\_\_  
\_\_\_\_\_

List any visual, noise or other requirements: \_\_\_\_\_  
\_\_\_\_\_

If approval required, who gives approval? \_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> Fig. 1, K & J Publishing Company, *The Land and Right of Way Encyclopedia*, (Sheridan, 2000)

(City/County/Franchise Board of Commissioners, etc.)

If approval required, how soon can application get on agenda for next meeting? \_\_\_\_\_

When is the next meeting that will consider application? \_\_\_\_\_

Is a Public Hearing required?  Yes  No

How much Notice to the Public is required? \_\_\_\_\_

Approximate time to go through approval process: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

LIST ANY OTHER AGENCIES WHO ARE REQUIRED TO REVIEW AND/OR APPROVE PERMIT(S): \_\_\_\_\_

ADDITIONAL REQUIREMENTS: (Attach Guidelines, Sample Drawings, including Typical and Detailed Plans)

Drawing Type(s): \_\_\_\_\_  
[Alignment Sheet(s), Cross-Section, Profile, As-Built, Mylars, etc.]

Narrative Requirements: \_\_\_\_\_

Number of Drawings Required: \_\_\_\_\_

Must Drawings be Signed and Sealed by Registered Engineer of State?  Yes  No

Are Bond and Insurance Required:  Yes  No

Requirements of Bond and Insurance: \_\_\_\_\_

CONSTRUCTION REQUIREMENTS: \_\_\_\_\_

(Open Cut, Bore, Distance of Bore Pits from Edge of Payment/Right of Way, Traffic Control, etc.)

Distance from Construction Site Notifications Required: \_\_\_\_\_

Number to call for Location of facilities of other Utilities: \_\_\_\_\_  
(DigAlert, OneCall, etc.)

COMMENTS: \_\_\_\_\_

ATTACHMENTS: \_\_\_\_\_

(Applications, Rules and Regulations, Sample Drawings, Maps, Drawings Reflecting Utilities in Area, Drainage Plans, etc.)

THIS FORM COMPLETED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

<sup>1</sup> Fig. 1, K & J Publishing Company, *The Land and Right of Way Encyclopedia*, (Sheridan, 2000)

Figure 2<sup>2</sup>

**PERMIT APPLICANT  
INFORMATION SHEET**

Please prepare and submit prior to application or at time of application submittal.

1. Name of Applicant (as to be shown on application):

---

If corporation, what state: \_\_\_\_\_

If DBA, name of principals: \_\_\_\_\_

If Partnership, partnership consists of \_\_\_\_\_

---

---

2. Address of Applicant:

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3. Contact Person:

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

4. Billing Address:

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5. Insurance carrier:

Address:

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<sup>2</sup> Fig. 2, K & J Publishing Company, *The Land and Right of Way Encyclopedia*, (Sheridan, 2000)

Contact and phone: \_\_\_\_\_  
\_\_\_\_\_

6.  Application for crossing permit  
 Application for longitudinal encroachment permit  
 Application for crossing property  
 Other \_\_\_\_\_

7. Do you classify as a \_\_\_\_\_  
 Public Utility, what authority: \_\_\_\_\_  
 Private Corporation  
 Individual  
 Other \_\_\_\_\_

8. Is this a \_\_\_\_\_  
 Permanent Installation  
 Temporary Use

9. By what date do you need to receive this permit or license: \_\_\_\_\_

10. Describe Project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Location of work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Do you have any existing permits or agreements on file with this entity (provide numbers): \_\_\_\_\_  
\_\_\_\_\_

13. Will construction be by a Contractor?  Yes  No

If yes, name of Contractor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

License #: \_\_\_\_\_

Name and phone of contact: \_\_\_\_\_

14. Describe manner and/or method of construction: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Additional information pertinent to this application: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

<sup>2</sup> Fig. 2, K & J Publishing Company, *The Land and Right of Way Encyclopedia*, (Sheridan, 2000)

TOWN OF FRANKLIN  
BUILDING PERMIT APPLICATION

INFORMATION AND INSTRUCTIONS:

1. **WHEN REQUIRED:** A building permit is required whenever a project includes construction, reconstruction, alteration, repair, removal or demolition of a structure; change of use or occupancy of a building or structure, or installation or alteration of any equipment that is regulated by the Commonwealth of Massachusetts State Building Code. (781 CMR)
2. **PENALTY:** Failure to obtain a building permit or starting work before a permit is issued may result in increased permit fees, fines up to \$1,000 per day, imprisonment or any or all of the foregoing.
3. **APPLICATION:** Must be made by the owner or his/her authorized agent. Forms must be thoroughly and accurately completed. It is the applicant's responsibility to obtain approvals of Engineering, Water, Sewer, Wiring, Plumbing, Fire, Planning, Conservation, Health and Building Departments. The state code provides that the Building Department shall review a building permit application within thirty (30) days after filing.
4. **PLANS AND SPECIFICATIONS:** The State Building Code (780CMR) requires these sets of construction documents be submitted with the application. The Building Official is permitted to waive or modify the requirements for filing construction documents when the Building Official determines that the scope of the work is of minor nature.

Plans should include but not be limited to:

- A. A scale plan of the lot, drawn and stamped by a registered land surveyor. This plan should show dimensions of the lot, locations and dimensions of all existing and proposed structures, easements, drainage, utilities, location of any Flood Plain on the lot, Wetlands, etc. Existing and proposed topography in 2' intervals based on USGS elevations with a site benchmark.
- B. Foundation plan with exchange locations and clearly showing a minimum four (4) foot depth to bottom of all footings.
- C. Structural, architectural, mechanical and electrical plans in sufficient detail to determine code compliance. (Include exterior building envelope component materials with U-values, R-values, heat loss information. HVAC zoning, etc. for energy code compliance.)
- D. Any changes or modifications to the approved plans must be submitted in writing for the Building Commissioner's approval.
- E. As built foundation certification plan prior to the placing of any framing on foundation.
5. **STAMPED PLANS:** Plans and specifications for any building containing more than 35,000 cubic feet of enclosed space must be stamped and signed by a qualified registered professional engineer or architect, and an independent structural engineering review must be submitted as required by 780 CMR.
6. **POSTING PERMITS:** The building permit must be posted at the site in clear view and protected from the weather at all times until the Certificate of Use and Occupancy is issued. Approved plan shall be kept at the site for Inspector's use. No change to approved plans unless Inspection department reviews and approves changes.
7. **OCCUPANCY:** Upon completion of the work and prior to occupancy, submit the permit of occupancy forms with all approval signatures to the Building Department for issuance of a Certificate of Use and Occupancy. Occupancy or use of a building or structure without this certificate is subject to penalties as noted in #2 above.
8. **EXPIRATION:** A building permit expires if the work authorized is not started within six (6) months of issuance and continued through, in good faith, to completion.
9. **GENERAL:** The building permit will indicate specific points in the construction process at which inspections must be made. No work should proceed until each of these phases has been inspected and signed off by the appropriate inspector. It is the applicant's responsibility to notify each inspector at least twenty-four (24) hours in advance of each required inspection.  
*At the rough inspection the Electrical, Plumbing and Fire Department approvals must be obtained prior to seeking approval of the Building Inspector.*
10. If you require any additional information, please contact the Inspection Department at (985) 528-8926 between the hours of 8:30 - 4:30. We look forward to assisting you with your project.

Control # \_\_\_\_\_

Figure 3<sup>3</sup>

<sup>3</sup> Fig. 3, Franklin, MA, <http://www.franklin.ma.us/town/building/longpermit.pdf>



As you can see from the contents of the foregoing documents, if permitting fails to obtain and distribute the necessary information to surveying and mapping, then the likelihood of receiving the necessary permits for the project is highly unlikely. This is why it is imperative for the permit personnel to do a thorough job of compiling and distributing the permitting requirements to surveying and mapping.

Now, what is right-of-way? What is their role in the planning and completion of a project? How does it affect the surveying and mapping disciplines?

In the strict sense of the word, right of way refers to the land on which infrastructure is built. Infrastructure could be anything from a highway to an airport. Projects such as pipelines, power lines, or telephone facilities all require right of way. Generally speaking, the term right of way is used to describe the industry as a whole and the professionals who are involved in it. There are many areas of specialization in right of way to include acquisition and negotiation, property management, relocation, appraisal, title, surveying, engineering, attorneys, and records management. There are a number of related industries and professionals whose responsibilities overlap right of way. Some of these areas include soil and water conservation, construction, mineral leasing (landman), telecommunications, environmental consultants, title abstracting, and mapping.<sup>5</sup>

The right-of-way personnel's role in planning and completion of a project begins with determining the ownership of the parcels of land involved. This requires a right-of-way agent to take a trip to the local courthouse to check the tax and deed records for ownership and contact information. While there, most agents will obtain tax maps for the county or counties that are involved in the project, if this was not done during the initial planning phase. Once this information is obtained, the agent will then begin preparing a Right-of-Way Document & Tract Data Entry Report.

Since all projects that require right-of-way, also require surveying and mapping, the agent will also begin contacting the individual landowners to describe the project and detail the various stages involved in the project through completion. Before the survey crew begins, the agent will make contact with each of the owners and any tenants, and obtain verbal or written permission, or refusal. This information can be extremely helpful to the surveyor, and a list noting parcel permission or refusal and any special requirements, restrictions or notifications should be prepared by the agent and provided to the survey crews. Without the land survey, the mapping personnel can not accurately perform their job. This initial contact between the landowner/tenant, right-of-way agent,

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<sup>5</sup> [Allen, Williford & Seale, Inc.](http://rightofway.com), <http://rightofway.com>, © 1995

and surveyors is extremely critical for the success of the remaining segments of the project. This is why it is imperative that the right-of-way personnel and survey personnel keep each other informed and stay in constant touch. If the survey personnel fail to adhere to any special requirements, restrictions or notifications of the landowner/tenant, then the landowner can, and usually does, rescind the survey permission. Also, if the surveyors enter property that was refused, in some instances they can be charged with trespass. If either discipline fails to accurately perform their assigned tasks, it will cause harm not only to the relationship between the two disciplines, but also to the relationship between the right-of-way agent and landowner. As I stated earlier, this initial contact between the landowner/tenant, right-of-way agent, and surveyors is extremely critical to the success of the remaining segments of the project.

The following figures illustrate some of the documents mentioned above and used by right-of-way personnel:

- **RIGHT-OF-WAY DOCUMENT & TRACT DATA ENTRY REPORT – FIG. 5**
- **SURVEY PERMISSION – FIG. 6**
- **SURVEY PERMISSION (VERBAL) – FIG. 7**
- **REFUSAL OF SURVEY PERMISSION – FIG. 8**
- **SURVEY PERMISSION ACTIVITY REPORT – FIG. 9**

Figure 5<sup>6</sup>

**REPORT SEQUENCE NUMBER \_\_\_\_\_**

**RIGHT-OF-WAY DOCUMENT & TRACT DATA ENTRY REPORT**

(Abstract route from lowest milepost number. Complete one Report for each document, including counterparts. If more than one document for same tract, complete only the new data. Attach additional pages if insufficient space for any data, i.e., additional owners, etc.)

Pipeline Route Name									
R/W Tract No:		Tax Assessor Parcel #/Tax I.D. #							
County			State						
Conveyance Type <input type="checkbox"/> Easement <input type="checkbox"/> Lease <input type="checkbox"/> License <input type="checkbox"/> Permit <input type="checkbox"/> Letter Agreement <input type="checkbox"/> Franchise <input type="checkbox"/> Ratification <input type="checkbox"/> Other									
Title of Document									
<input type="checkbox"/> Grantor		<input type="checkbox"/> Lessor		<input type="checkbox"/> Licensor		<input type="checkbox"/> Permitter		<input type="checkbox"/> Other	
Name(s)						% Int.			
						% Int.			
<input type="checkbox"/> Grantee		<input type="checkbox"/> Lessee		<input type="checkbox"/> Licensee		<input type="checkbox"/> Permittee		<input type="checkbox"/> Other	
Name(s)									
Date of Document				Date Recorded					
				<input type="checkbox"/> Unrecorded					
in	<input type="checkbox"/> Book		Page		Instrument No.				
in the	<input type="checkbox"/> Volume		Records of		County, State of				
Type Ownership of Grantor/Lessor/Licensor/Permitter, etc		<input type="checkbox"/> Fee		<input type="checkbox"/> Life Estate Tenant		<input type="checkbox"/> Remainderman		<input type="checkbox"/> Contract Seller	
		<input type="checkbox"/> Executor		<input type="checkbox"/> Contract Purchaser		<input type="checkbox"/> Administrator		<input type="checkbox"/> Guardian	
		<input type="checkbox"/> Other						<input type="checkbox"/> Trustee	
<b>LEGAL DESCRIPTION OF LAND CROSSED BY P/L OR WHERE FACILITY SITE LOCATED:</b>									
	Section		Township		Range		Base & Meridian		
	Section		Township		Range		Base & Meridian		
	Section		Township		Range		Base & Meridian		
Brief Metes and Bounds Description:									

<sup>6</sup> Fig. 5, K & J Publishing Company, *The Land and Right of Way Encyclopedia*, (Sheridan, 2000)

**Figure 6**

County: \_\_\_\_\_  
State: \_\_\_\_\_

Location: \_\_\_\_\_  
Tract No: \_\_\_\_\_

## SURVEY PERMISSION

The undersigned hereby gives to XYZ COMPANY, its agents, contractors and employees, permission to enter the undersigned's premises located in \_\_\_\_\_ County, State of \_\_\_\_\_, described as follows:

Tax Parcel Number: \_\_\_\_\_  
Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

For the sole purpose of performing location, archaeological, environmental, geological or similar surveys to determine the feasibility of constructing a pipeline across said premises. It is expressly understood that such permission is given with the understanding that should any damage be caused to the premises as the result of these surveys XYZ COMPANY shall either repair such damage or pay the undersigned for such damages.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

OWNER

XYZ COMPANY

\_\_\_\_\_

\_\_\_\_\_

Agent

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

TENANT

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

**Figure 7**

County: \_\_\_\_\_

Location: \_\_\_\_\_

State: \_\_\_\_\_

Tract No: \_\_\_\_\_

**SURVEY PERMISSION (VERBAL)**

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, the undersigned, representing XYZ Company, spoke with \_\_\_\_\_, in an effort to secure written permission for XYZ, its agents, contractors and employees to enter upon the following described premises for the purpose of performing location, archaeological, environmental, geological, or similar surveys to determine the feasibility of constructing a pipeline upon and across said premises, to wit:

Tax Parcel Number: \_\_\_\_\_

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

The above named individual on said date gave his/her verbal permission for XYZ, its agents, contractors and employees to perform the above described surveys; however, for the reason(s) stated below, did not sign a written permission form. The above named was offered the sum of \$ \_\_\_\_\_ for such permission and the above named agreed/did not agree to accept such sum. If agreed, said sum was mailed/handed to said individual on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Right of Way Agent

Reason(s) for not signing or special conditions (if any): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

**Figure 8**

County: \_\_\_\_\_

Location: \_\_\_\_\_

State: \_\_\_\_\_

Tract No: \_\_\_\_\_

**REFUSAL OF SURVEY PERMISSION**

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, the undersigned, representing XYZ Company, spoke with \_\_\_\_\_, in an effort to secure permission for Colonial, its agents, contractors and employees to enter upon the following described premises for the purpose of performing location, archaeological, environmental, geological, or similar surveys to determine the feasibility of constructing a pipeline upon and across said premises, to wit:

Tax Parcel Number: \_\_\_\_\_

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

The above named individual on said date refused to give his/her written or verbal permission for XYZ, its agents, contractors and employees to perform the above described survey. The above named was offered the sum of \$ \_\_\_\_\_ for such permission. The discussion was in person \_\_\_\_\_ via phone \_\_\_\_\_ (check one).

\_\_\_\_\_  
Right of Way Agent

Reason(s) for not giving permission to survey. Include any suggestions that you may have:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Figure 9

**SURVEY PERMISSION ACTIVITY REPORT**

Project Name/Number: \_\_\_\_\_

FROM \_\_\_\_\_ TO \_\_\_\_\_ PAGE \_\_\_\_\_ OF \_\_\_\_\_ PAGE(S)

TRACT #	PROPERTY OWNER	NAME/ADDRESS/ TELEPHONE NUMBER	STATUS Yes, No, Refusal	COMMENTS, RESTRICTIONS, NOTIFICATION

AGENT'S SIGNATURE: \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_

### **III. Conclusion**

Finally, if all disciplines from permitting to mapping communicate and understand their roles and accurately perform the tasks assigned the antagonistic relationships that have become the norm throughout these industries, will not exist. Not only, will this facilitate team work, it will move more projects toward successful and timely completion.

### **IV. References**

*The Land and Right of Way Encyclopedia*, K & J Publishing Company, (Sheridan, 2000)

<http://rightofway.com>, [Allen, Williford & Seale, Inc.](#), © 1995

### **V. Biography**

Kimberly Hinote, is a Member of the International Right-of-Way Association, Certified Paralegal and an owner of DES Resource Groups, Inc. She obtained her Paralegal Certificate in 1989 from the American Institute of Paralegal Studies in Memphis, TN. In addition to her IRWA membership, she is a member of the National Association of Legal Assistants, Tennessee Paralegal Association, National Association of Female Executives, and National Historical Preservation Society. Mrs. Hinote spent her childhood and most of her adult life in and around surveying and mapping professionals. In addition, she has spent the past 20 years working in the legal, permitting and right-of-way professions.