

ORDINANCE NUMBER 11 REVISED

AN ORDINANCE TO REGULATE THE INSTALLATION OF UTILITIES OR EXCAVATION WITHIN THE PUBLIC RIGHT-OF-WAYS.

BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS THAT PURSUANT TO ITS AUTHORITY UNDER SDCL CHAPTER 7-18A, ORDINANCE NO. 11 REGULATING THE INSTALLATION OF UTILITIES OR EXCAVATION WITHIN THE PUBLIC RIGHT-OF-WAYS BE AMENDED AS FOLLOWS:

It shall be unlawful for any association, corporation, firm, partnership, or person to tunnel under or to make any excavation or installation of any utility in or below, over or across any Pennington County Highway Right-of-Way without first applying for and obtaining a permit as provided for in the attached (EXHIBIT A) and agreeing to the following:

Prior to the issuance of any permit, a cash or surety bond must be posted with Pennington County in the sum of five thousand dollars (\$5,000.00) for faithful performance of all requirements of this permit including full restoration of the premises upon completion of the project and for repayment to the County for all damages which may occur as a result of the excavation or installation of the utility authorized by this permit. Said cash or surety shall remain in place and be warranted to Pennington County for not less than two (2) years after completion of the work permitted herein unless officially cancelled, in writing, by Pennington County prior to that date.

Excavation and trenching work shall be completed as provided in the application in order to limit inconvenience to the general public. At the completion of the work permitted herein, the public right-of-way shall be restored to its original condition as accepted by the County Highway Superintendent. At a minimum, all rock two inches (2") and larger shall be removed and all disturbed areas are to be seeded.

If one (1) or more acres will be disturbed, applicable permits in Compliance with the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD) Chapters 74:52:01 through 74:52:11 shall be obtained.

The method of installing the utility under any public or county highway shall be by pushing and/or boring only. If it is not possible to make the installation by this method, then before any other methods are employed, the permittee shall obtain written permission from the County Highway Superintendent before proceeding. If written permission is procured, then saw cutting of the pavement structure ahead of excavation operations shall be required to confine pavement damage to the limits of the trench or excavation.

The backfilling of ditches or other excavation shall be performed in such a manner as not to permit any settling, erosion, or other damages to the public road or right-of-way. In the event of any settling occurring in the right-of-way or under the surface or pavement within two (2) years following completion of the permitted activity, the County Highway Superintendent will send a notice by certified or registered mail to the person, firm, or corporation having obtained the permit for said work. The permittee will have thirty (30) days upon receipt of the notification to correct the deficiencies or the County shall cause to have the work done. If the County must cause to have the work done, the permittee shall surrender its bond to cover the costs to the County and shall be assessed an additional fee equal to any balance remaining to complete the work. This assessment shall be paid prior to issuance of any additional permits and in no case later than thirty (30) days after receipt of a balance due.

All utility installations shall be a minimum depth of thirty six inches (36") below existing ground line and/or road surface. A minimum of five feet (5') shall be maintained from the edge of the road surface, except at crossings, a five foot (5') lateral clearance shall be maintained from drainage structures and culverts. Permittee shall be responsible and liable for any and all damages, costs, and actions for any installations less than thirty six inches (36") in depth.

The individual or entity installing the utility shall be responsible for any and all safety/work zone signs, which shall meet the requirements of the Manual on Uniform Traffic Control Devices.

Utility lines shall be moved or rearranged, if required in the future, at no expense to the County.

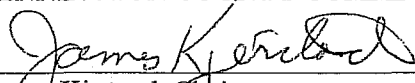
The County Highway Superintendent, or his representative, shall be permitted to make investigations of the work in progress and require such changes in procedure as may be deemed necessary to comply with this Ordinance and to best serve the interests of the County and the public.

In addition to any other penalty authorized by State law or County ordinance, each violation of this ordinance subjects the individual to a fine of five hundred (\$500.00) dollars and/or imprisonment for a period not to exceed thirty (30) days.

A violation of any resolution passed by the Pennington County Board of Commissioners under the authority of this ordinance is deemed to be a violation of this ordinance and punishable as provided above.

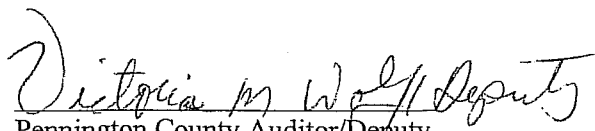
Dated this 14th day of August, 2007.

PENNINGTON COUNTY COMMISSION



James Kjerstad, Chairman

ATTEST:



Pennington County Auditor/Deputy

First Reading: August 7, 2007

Second Reading: August 14, 2007

Published: August 29, 2007

Effective: September 18, 2007