

**ORDINANCE NUMBER 07-01 REVISED**

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

**BE IT HEREBY ORDAINED BY THE LAWRENCE COUNTY BOARD OF COMMISSIONERS THAT PURSUANT TO ITS AUTHORITY UNDER SDCL 7-18A, ORDINANCE NO. 07-01 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 Lawrence County Highway Right-of-Way without first applying for and obtaining the applicable permits(s) and agreeing to the following:

Prior to the issuance of any permit, a cash or surety bond must be posted with Lawrence County in the sum of five thousand dollars (\$5,000) 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 Lawrence County for not less than two (2) years after completion of the work permitted herein unless officially cancelled, in writing, by Lawrence 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 Lawrence 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 Lawrence 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 Lawrence 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 shall 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.

Applicant shall provide protection to highway traffic during the construction and repair of the utility designated in this application by the use of proper signs, barricades, flag persons and lights as prescribed in the Manual of Uniform Traffic Control Devices 2003 Edition.

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

The Lawrence County Highway Superintendent, or his representative, shall be permitted to make investigation 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 Lawrence County and the public.

Permittee shall not cause a road or highway to be closed to vehicular traffic, for any length of time, except upon the prior express written permission of the Lawrence County Highway Superintendent or his representative.

Before commencing work permitted pursuant to this Ordinance, Permittee shall obtain the insurance as required by Lawrence County and receive approval of the County Attorney as to form, amount and carrier. Permittee shall maintain the insurance during the term of the Permit. If required, the insurance shall name Lawrence County as an additional named insured and extend to the County, its elected and appointed boards, commissions, officers, agents, employees and representatives and to the Permittee, each contractor and subcontractor performing work on the project.

If required, permittee shall maintain workers' compensation insurance for all persons employed as part of the permitted work and shall require each contractor and subcontractor similarly to provide workers' compensation insurance for their respective employees.


Permittee agrees to indemnify Lawrence County for damage resulting from Permittee's failure to take out and maintain such insurance. Permittee shall maintain public liability insurance in an amount not less than one million dollars (\$1,000,000.00) for injuries (including death), to any one person and subject to the same limit of any one occurrence.

Any association, corporation, firm, partnership, or person that violates the provisions of this ordinance shall be guilty of a Class 2 misdemeanor and may be subject to a maximum penalty of thirty (30) days in jail, a five hundred dollar (\$500.00) fine, or both. Each and every day that the violation continues may constitute a separate offense.

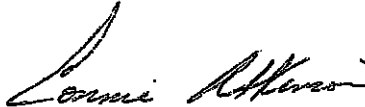
The Lawrence County Highway Superintendent is authorized to promulgate such forms and procedures as are necessary to carry out the intent of this Ordinance.

Dated this 10 day of June, 2008.

LAWRENCE COUNTY COMMISSION

  
Terry Weisenberg, Chairman

ATTEST:

  
Connie Atkinson, Auditor

First Reading: May 27, 2008  
Second Reading: June 10, 2008  
Published: June 18, 2008  
Effective: July 8, 2008