

ORDINANCE NUMBER ELEVEN

CRITERIA FOR THE INSTALLATION, RELOCATION, REPAIR OR EXPANSION OF UTILITIES OR ANY GROUND DISTURBING ACTIVITY WITHIN PUBLIC RIGHT-OF-WAYS UNDER PENNINGTON COUNTY'S JURISDICTION

BE IT ORDAINED by Pennington County, South Dakota that Ordinance 11 be amended to read as follows:

Section 101 – Purpose:

- A. To allow for the installation, relocation, repair or expansion of public utilities, rural electric cooperative service, or private rural water service for agriculture purposes within the right-of-way under Pennington County's jurisdiction.
- B. To allow for excavation, alteration, moderation, or any ground-disturbing activities that may alter the nature and character of any right-of-way under Pennington County's jurisdiction.
- C. To establish criteria to protect the traveling public from any of the activities outlined in Section 101 subsection A and B.

Section 102 – Policy:

- A. It is unlawful for any association, corporation, firm, partnership, or person to tunnel under or make any excavation or installation of any utility in or below, or over or across any Pennington County right-of-way without first applying for and obtaining a permit. It is also unlawful to perform any excavation, alteration, modification, or other ground disturbing activity that may change the nature or character of Pennington County right-of-way without first applying for and obtaining a permit.
- B. Excavation or installation of utilities will be completed as provided in the application in order to limit inconvenience to the traveling public.
- C. The installation of privately-owned lines, open ditches, drainage tile, or conduits on county highway rights-of-way for the purpose of draining adjacent wetlands onto the highway right-of-way is prohibited.
- D. Utility lines in the public right-of-way will be removed or relocated, if required in the future, at no expense to the County. Pennington County will provide written notice and conduct a coordination meeting prior to any request for utility removal or relocation.
- E. Permits issued through this ordinance do not replace any other permit, license or other approval that may be required by any other entity holding a property interest in the right-of-way, including but not limited to any Federal, State, Local or Tribal government, the Office of School and Public Lands, the U.S. Forest Service and the Bureau of Indian

Affairs. The issuance of a Utility Permit does not relieve the Permittee of the obligation to obtain any other approvals that might be required for use of the highway right-of-way for utility purposes. The Permittee is solely responsible for investigating whether additional approval is required and complying with any other applicable requirements. If the Permittee fails to secure all necessary approvals or comply with all applicable requirements, permits issued through this ordinance are of no effect whatsoever, and the Pennington County Highway Department may, at the Permittee's sole expense, cause the immediate removal of the utility facilities.

- F. Wherever applicable laws, regulations, rules or guidelines differ from this ordinance, the more restrictive will apply.
- G. The Permittee must be the company or individual who will be responsible for the actions and/or inactions of any contractors or subcontractors secured for the purpose of permitted work in accordance with the permit's terms.
- H. Permittee will be required to provide a certificate of insurance providing evidence that sufficient liability insurance is carried to protect the public from injuries sustained by reason of pursuing the work. Minimum coverage will be \$1,000,000.00 for both general liability and automobile liability and Worker's Compensation that complies with statutory limits.
- I. Permittee will be required to register all utility installations, public or private, within the public right-of-way with the South Dakota 811 one call notification system as an operator.
- J. A copy of an approved Utility Permit, plans, specifications and special provisions must be available on the job site.
- K. A preconstruction meeting with the Permittee and County Highway Department may be required.
- L. Permittee may be required to provide County with Geographic Information System (GIS) data for the permitted work.
- M. The Pennington County Highway Department reserves the right to revoke or change the terms and conditions of the permit with cause for failure to abide by the requirements set forth in permit and/or in this Ordinance, upon notice to the Permittee.
- N. Utility Permits are non-transferable. New applications will be required for any changes to the Permittee or for any proposed changes in size, type or location of the utility submitted on the original application.

- O. All work performed by the Permittee must be warranted for two (2) years. Warranty period will commence upon the Pennington County Highway Department's written approval of a Completion Certificate submitted by the Permittee. Any and all requirements and special conditions contained in the permit must be completed and approved by the County Highway Superintendent or designee prior to Permittee demobilizing from the site.
- P. In the event that any requested permit be related to the installation, relocation, expansion, or excavation of utilities associated with the implementation of utility-scale alternative energy, then the requested permit will not be approved by the Highway Superintendent or his designee, and it must be brought before the Pennington County Board of Commissioners at a regularly scheduled meeting for approval or denial. However, the Pennington County Highway Department will still reserve the right to revoke or change the terms and conditions of any approved permit pursuant to Section 102(M) listed above.

Section 201 – Minimum Construction Standards and Specifications:

- A. Utility installations must be designed, constructed and maintained with durable materials.
- B. Any trenching, tunneling or excavating will be performed in accordance with the requirements of the Occupational Safety and Health Administration (OSHA) and other South Dakota governmental departments having jurisdictional authority over such actions.
- C. Permittee will be responsible for any and all traffic control, including all safety/work zone signs, which will be in conformance with the most current published edition of the Manual on Uniform Traffic Control Devices (MUTCD). A traffic control plan will be required for any work permitted for roads with an Average Daily Traffic count of 250 or more, based upon Pennington County's most recent data. The traffic control plan must be approved by the County Highway Superintendent or designee.
- D. All workers of the Permittee within the public right-of-way will wear high-visibility safety apparel, as described in the most current published edition of the MUTCD.
- E. Skewed crossings greater than forty-five (45) degrees will not be allowed.
- F. The location of utility facilities will comply with the most current published edition of the Americans with Disabilities Act.
- G. Electric power and communication cables, gas lines, water lines and sewer lines must be separated from one another as required by applicable codes and ordinances.
- H. If one (1) or more acres of earth disturbance or work in a waterway will occur for permitted work, Permittee will be responsible for complying with the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota, Article 74:52. County permit for excavation or installation of utilities in the public right-of-way will not be issued without Permittees proof of issuance of all applicable South Dakota Department of Agriculture and Natural Resources Permits.

- I. Permittee may be required to obtain a Storm Water Permit from the Pennington County Planning Department for land disturbances greater than or equal to 10,000 square feet.
- J. The County Highway Superintendent or designee will be permitted to document pre-existing conditions of the proposed work area prior to work commencing and will be allowed to conduct investigations while work is in progress. The County Highway Superintendent or designee may require changes in procedure or suspend permitted work as may be deemed necessary to comply with this Ordinance and to best serve the interests of the County and the traveling public.
- K. Permittee will notify the department before spraying, cutting, or trimming vegetation in connection with construction, relocation, or maintenance activities. The department may require special procedures as necessary.
- L. At the completion of the work permitted, the public right-of-way will be restored to its original condition or better as accepted by the County Highway Superintendent or designee. The backfilling of ditches or other excavation will be performed in such a manner as not to permit any settling, erosion, or other damages to the public road or right-of-way and will conform to the most current published edition the "Standard Specifications for Roads and Bridges", South Dakota Department of Transportation.
- M. All disturbed areas will be free of rocks and seeded in conformance with the most current published edition the "Standard Specifications for Roads and Bridges", South Dakota Department of Transportation.
- N. Criteria for Protecting and Enhancing the Environment
 - 1. Designated areas including scenic strips, overlooks, rest areas, recreation areas, public parks, and historic sites are subject to limited utility installations.
 - 2. New underground utility installations may be permitted within the kinds of lands listed at the beginning of this section if they do not require extensive removal or alteration of trees or other natural features visible to the highway user and do not impair the visual quality of the lands being traversed.
 - 3. New aerial installations may be permitted by the County Highway Superintendent or designee at such locations only if other locations are unusually costly, other locations are less desirable from the standpoint of visual quality and the proposed installation can be made visually pleasing.
- O. Overhead/Aerial Facilities Design Criteria
 - 1. Ground-mounted supports for aerial facilities and other appurtenances must be located as near to the right-of-way line as possible and must provide a clear zone in accordance with the most current published edition of the American Association of State Highway and Transportation Officials (AASHTO) "Roadside Design Guide." In curb and gutter roadway sections, ground-mounted supports and other appurtenances must be located a minimum of six feet (6') beyond the back side of the curb.

2. Ground-mounted supports or other protruding appurtenances within the clear zone must be constructed with a breakaway feature or be protected in accordance with the most current published edition of the AASHTO "Roadside Design Guide" when the speed limit is over thirty miles per hour.
3. Aerial facilities must completely span the highway. If there is a median over eighty feet (80') wide, a supporting structure may be placed in the median if a clear zone can be maintained in accordance with the most current published edition of the AASHTO "Roadside Design Guide."
4. The minimum vertical clearance for power and communication lines above the highway and the lateral and vertical clearance from the bridges must conform to the most current published edition of the "National Electrical Safety Code."
5. Breakaway supports or guide rails are not required when the support or appurtenance is located beyond deep drainage ditches, approaches, retaining walls, and other protected locations.
6. In urban areas, a five foot (5') minimum walkway must be clear to facilitate travel by the visually impaired and the handicapped.

P. Underground Power and Communications Design Criteria

1. Longitudinal installations will be located as near the right-of-way line as possible. The County Highway Superintendent or designee may grant an exception to this requirement if they determine the utility cannot be placed beyond the curb.
2. Installations will be in as straight a line as possible. Markers will indicate crossings and longitudinal occupation and will be placed as shown on the approved utility permit.
3. Crossings must be made by boring or jacking. Boring or jacking must be continuous from toe of inslope to toe of inslope or back of curb to back of curb.
4. Conduit is required for bored or jacked crossings except when the cable being installed is approximately of the same size as the opening being made.
5. The minimum depth of cover over the installation to the surface is four feet (4') under rural roadway sections, two feet (2') under curb and gutter roadway sections, and three feet (3') under other areas within the right-of-way. A minimum of five feet (5') will be maintained from the edge of the road surface, except at crossings and a minimum of five feet (5') of lateral clearance will be maintained from drainage structures and culverts. Permittee will be responsible and liable for any and all damages, costs and actions for any installations less than these required minimums. Deviations will not be allowed unless authorized in writing by the County Highway Superintendent or designee.

Q. Underground Pipeline Design Criteria

1. Longitudinal installations must be located as near the right-of-way line as possible. In curb and gutter highway sections, the installation may be placed under the parking lanes or, if none, the outside driving lane when it cannot be placed beyond the curb. The County Highway Superintendent or designee may grant an exception to this requirement if the utility is tying into existing pipelines.

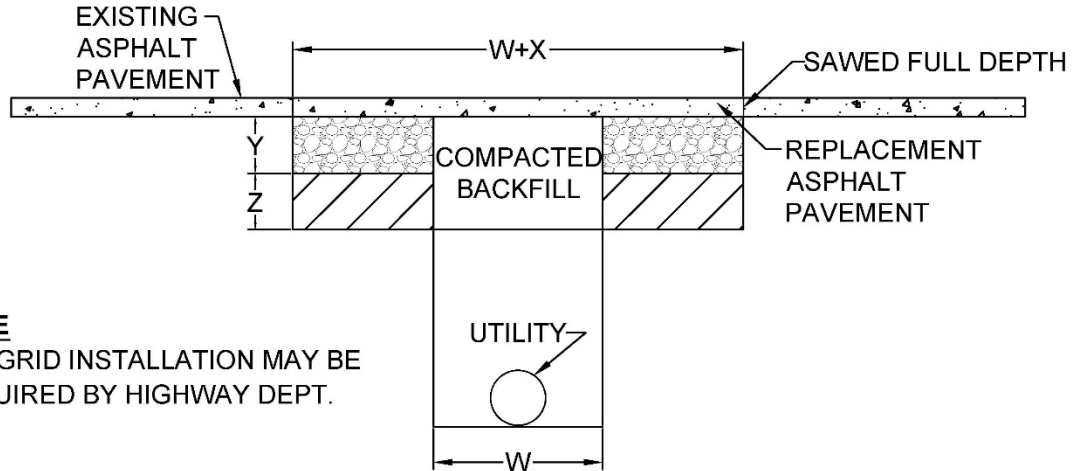
2. Installations must be in as straight a line as possible. Installations must indicate crossings and longitudinal occupation by means of markers or manholes placed as shown on the approved utility permit.
3. Crossings must be made by boring or jacking, unless the County Highway Superintendent or designee determines diminished pavement condition, existing pipelines or other mitigating conditions make boring or jacking unnecessary. Boring or jacking must be continuous from toe of inslope to toe of inslope or back of curb to back of curb.
4. Pipeline crossings carrying hazardous materials, rural pipeline crossings carrying nonhazardous materials, pipeline crossings with diameters of six inches (6") or more, and pipeline crossings operating at pressures of eighty pounds per square inch gauge or more must be encased. However, welded steel pipeline crossings may be installed without encasement provided that the crossings meet the following requirements:
 - a. Have increased wall thickness or higher strength steel or both;
 - b. Have increased depth of cover;
 - c. Are marked in accordance with subdivision (2) of this section; and
 - d. Are designed to withstand internal design pressures and the superimposed loads of the roadway and traffic, including that of construction machinery.
 Deviations will not be allowed unless authorized in writing by the County Highway Superintendent or designee.
5. Pipelines carrying hazardous materials must conform with 49 C.F.R. §§ 192.1 et seq. (August 15, 2024), or 49 C.F.R. §§ 195.0 et seq. (August 15, 2024), as applicable.
6. The minimum depth of cover over the installations to the surface is four feet (4') under rural roadway sections, two feet (2') under curb and gutter roadway sections, and three feet (3') under other areas within the right-of-way. A minimum of five feet (5') will be maintained from the edge of the road surface, except at crossings and a minimum of five feet (5') of lateral clearance will be maintained from drainage structures and culverts. Permittee will be responsible and liable for any and all damages, costs and actions for any installations less than these required minimums. Deviations will not be allowed unless authorized in writing by the County Highway Superintendent or designee.
7. The location of manholes and longitudinal pipelines must be in accordance with the most current published edition of the Guide for Accommodating Utilities within Highways and Freeways.

R. Irrigation Facilities Design Criteria

1. Longitudinal installations will be located as near to the right-of-way as possible. Open ditch installations are not permitted within the right-of-way.
2. Permanent installation crossings of the right-of-way will be made with buried box culverts or pipelines. All joints must contain a seal to prevent leaking. The minimum depth of cover over the installation is three feet (3').
3. Temporary irrigation facilities, those remaining in place only for the duration of the irrigation season, may be placed on the ground surface when they are beyond the clear

zone. When they are within the clear zone they must be dug in so that no more than four inches (4”) of pipe extends above the ground.

4. Crossings must be made by boring or jacking. Boring or jacking must be continuous from toe of inslope to toe of inslope or back of curb to back of curb. Temporary irrigation facilities may be placed inside a highway drainage structure if the County Highway Superintendent or a designee determines that such placement does not interfere with drainage.
- S. Open Cut Method of Utility Installation or Repair Criteria
1. The open cut method of installation or repair of utilities will not be allowed unless the County Highway Superintendent or designee determines, in writing, that jacking, boring, tunneling, or similar methods are not feasible or practical.
 2. The opening in existing asphalt pavement must be made by sawing full depth ahead of excavation operations to confine pavement damage to the limits of the trench or excavation. The asphalt removed must be disposed of by the contractor unless otherwise specified by the County Highway Superintendent or designee.
 3. All unstable excavation material, as determined by the County Highway Superintendent or designee, must be removed and disposed of by the contractor.
 4. The excavated material may be used for backfill unless found to be unsuitable by the County Highway Superintendent or designee. Any other material proposed for backfill must be approved by the County Highway Superintendent or designee before being used.
 5. The backfill material must be placed in layers not to exceed one foot (1’) in loose depth. Each layer must be uniformly compacted to a minimum of ninety-five percent of maximum dry density before successive lifts are placed. The backfill material must be compacted at a moisture content of no less than four percentage points below the optimum moisture content.
 6. The maximum dry density and optimum moisture content must be determined by T 99 Standard Method of Test for Moisture-Density Relations of Soils or T 180 Modified Method of Test for Moisture-Density Relations of Soils, AASHTO most current published edition. Testing must be done every two feet (2’) of lifts. The requirement for compliance with density and moisture specifications may be waived at the option of the County Highway Superintendent or designee.
 7. Granular surface material must be replaced to the previous depth with in-kind material or material which must be approved by the County Highway Superintendent or designee before being used. Materials must be satisfactorily compacted as approved by the County Highway Superintendent or designee.
 8. Asphalt pavement surface material must be replaced to the previous depth with in-kind material or material approved by the County Highway Superintendent or designee. Pavement must be satisfactorily compacted as approved by the County Highway Superintendent or designee.



NOTE
GEOGRID INSTALLATION MAY BE
REQUIRED BY HIGHWAY DEPT.

KEY

 SCARIFY & RECOMPACT

 BASE COURSE

- X DEFINED BY HIGHWAY DEPT.
- Y DEFINED BY HIGHWAY DEPT.
- Z DEFINED BY HIGHWAY DEPT.

TYPICAL SECTION FOR ASPHALT PAVEMENT
N.T.S

T. Attachment to Highway Structures Design Criteria

1. A utility company may not locate, relocate, expand, or otherwise place and maintain a utility on any bridge or other highway structure of the Department without first obtaining a permit.
2. Utility attachments to bridges or other highway structures are not permitted if the County Highway Superintendent or designee determines it is reasonable to locate facilities elsewhere. If other locations prove to be difficult and unreasonably costly, the Department may consider attachments of utility facilities to a bridge structure if the attachment can be made without materially affecting the structure, the safety of traffic, the efficiency of maintenance of the structure, the efficiency of bridge inspection, or the bridge's appearance and if the structure can support the additional load.
3. Utility facilities are not permitted to be attached to bridges or other highway structures on or eligible for listing on the National Register of Historic Places without prior written consent of the state historic preservation officer.
4. Utility installations must be attached to the bridge structure beneath the structure's floor, between the outer girders or beams, or within a cell of a box girder and must be at an elevation above low superstructure steel or concrete. Utility attachments to the outside of bridges are not permitted unless there is no reasonable alternative in the judgment of the County Highway Superintendent or designee. Utilities attached to the

outside of the structure must be on the downstream side of the bridge or other highway structure. Attachments of utilities to the bridge rail or guardrail or their anchorage systems is not permitted.

5. The location of utility facilities on a structure which will interfere with access to parts of the structure for inspection, painting, or repair are not permitted. Manholes for utility access are not permitted in the bridge deck.
6. Utility facilities must be firmly attached to the bridge structure and padded, where necessary, to eliminate noise and abrasion due to movements caused by temperature, wind, or traffic.
7. Installation of utility facilities through the abutment or wingwall of an existing bridge are not permitted. In locations where a utility facility, attached to a structure, is carried beyond the back of the bridge abutment, the facility must curve or angle out to its proper alignment outside the roadbed area as quickly as is practicable.
8. Utility facilities may be attached to structures by hangers or roller assemblies suspended either from inserts in the underside of the bridge floor or from hanger rods clamped to a flange of a superstructure member. Lead anchors are not allowed. Bolting through the bridge floor or concrete beams is not permitted. Welding of attachments to steel members or bolting through such members is not permitted. Where there is transverse bridge steel extending sufficiently from the underside of the bridge floor to provide adequate clearance in the judgment of the County Highway Superintendent or designee, utility facilities may be installed on rollers or neoprene padded saddles mounted atop the transverse members if the County Highway Superintendent or designee finds the members to be structurally able to carry the utility. Steel components of attachment hardware must be galvanized or of stainless steel. If these components are not commercially available as galvanized or stainless steel, the County Highway Superintendent may allow painting.
9. The design of a utility facility attached to a bridge or highway structure must include provisions for lineal expansion and contraction due to temperature changes. Line bends or expansion couplings may be used for this purpose. Materials used for attaching a utility facility to the structure must be of such composition that no deterioration of the structure due to corrosion can occur.
10. A utility facility and associated appurtenances attached to a highway structure must be painted when requested by the Highway Department. The type and color of the paint must be approved by the County Highway Superintendent or designee.
11. Attachments to structures must be inspected by the owner, and the owner must repair any deficiencies immediately.
12. Utility lines that transport materials that could pollute a stream must have a manual or automatic shutoff valve placed at each end of the structure.
13. Each proposed bridge or highway structure attachment is considered separately by the Department, and a permit application must be made for each attachment.
14. Pipelines that transport volatile, flammable, corrosive, or explosive materials may not be located, relocated, or otherwise placed and maintained on any bridge or other highway structure unless they are encased throughout the bridge, and the casing must

be carried beyond the back of the bridge abutment and effectively opened or vented at each end. The casing pipe must be capable of withstanding the same internal pressure as the carrier pipe. Each line must have a manual or automatic shut-off valve located within 300 feet (300') of each end of the structure.

15. Electric power and communication lines attached to a highway bridge or structure must be insulated from the structure and must be carried in protective conduit or pipe throughout the bridge and to underground locations at each end of the structure. Exposed metallic conduit carrying electrical cables must be grounded separately from the structure. High voltage transmission lines which cannot be placed in protective conduit or pipe must be located outside of the superstructure either on poles supported from the bridge piers or on framework attached to trusses. Attachments for electric power and communication lines must provide sufficient clearance for convenience and safety during maintenance and repair of bridge structure or other utility installations on the bridge. Metallic conduit attached to structures that are cathodically protected must meet all of the requirements in this section and may not adversely affect the cathodic protection of the structure. Such an attachment must insulate the conduit from the soil and use anodes at each end for grounding. The specific method proposed to be used must be specified in the permit application and is subject to approval by the County Highway Superintendent or designee.
16. If the Department plans to construct a new bridge structure, the design of the structure may, upon request of a utility company, be reviewed for accommodation of existing or proposed utility installations consistent with the requirements in this chapter. The utility company must reimburse the County for any additional costs associated with accommodation of the utility facility in the new structure. Installation of a facility by a utility company on a new structure must be coordinated with the bridge construction so as not to interfere with the operations of the highway contractor.

Section 300 – Amendments:

- A. The Amendment of this Ordinance may be initiated by the Pennington County Board of Commissioners under provisions of the South Dakota Codified Laws, Chapter 7-18A-2, or by individual citizens, or groups of citizens under the provisions of South Dakota Codified Laws, Chapter 7-18A-9.

Section 400 – Schedule of Fees:

<u>Type of Permit</u>	<u>Fee</u>
Private Service Line Installation/Repair Originating from Public Utility ¹	
No crossing	\$40.00
Crossing	\$80.00
Standard Utility Installation/Repair (occupancy of right-of-way)	\$120.00
Plus additional fee per each crossing	\$250.00
Plus additional fee per each longitudinal parallel mile ²	\$250.00
Hazardous Utility Installation/Repair ³ (occupancy of right-of-way)	\$250.00
Plus additional fee per each crossing	\$1,500.00
Plus additional fee per each longitudinal parallel mile ²	\$1,800.00
Open Cut Crossing Installation/Repair ⁴	\$1,500.00
Plus additional fee per day road closed	\$500.00
Open Cut Partial Crossing Installation/Repair ⁴	\$500.00
Plus additional fee per day lane closure	\$500.00
Attachment to Highway Structure ⁵	\$varies

¹ Private service line is defined as a utility line that services a single specific private property or customer that originates from a public utility for a distance of less than or equal to the width of the public right-of-way.

² Distance in miles will always be rounded up to the nearest mile, i.e., a 400-foot (400') parallel run will be charged one (1) mile and a 1.3-mile parallel run will be charged two (2) miles, and so on. If the utility enters and leaves the right-of-way intermittently, the distance in miles will always be rounded up to the nearest mile each time it enters the right-of-way.

³ A hazardous utility is defined as any utility line that carries hazardous substances, hazardous waste, marine pollutants, elevated-temperature materials, flammable or combustible liquids or gases, corrosive, explosive, toxic materials or any material designated as hazardous by the U.S. Department of Transportation.

⁴ Open cuts will not be allowed unless the County Highway Superintendent or designee determines, in writing, that jacking, boring, tunneling, or similar methods are not feasible or practical.

⁵ Attachments to highway structures require review by a professional engineer. The County may provide this service and charge the cost to the Permittee or the Permittee may provide a signed and stamped review by a structural professional engineer at their expense.

A. Permittee may be required to post a performance bond with the Pennington County Highway Department, at the discretion of the County Highway Superintendent or designee,

prior to work commencing. The bond is for the faithful performance of all the requirements of the permit and for repayment to the County for all damages which may occur as a result of the permitted work. Performance bond will be in place for not less than two (2) years after the Pennington County Highway Department's written approval of a Completion Certificate unless officially canceled, in writing, by Pennington County prior to that date.

The performance bond must be in an amount equal to 15% of the estimated cost of the construction within the right-of-way. An itemized schedule showing all costs of labor, materials and equipment must be submitted as part of the permit application when a performance bond is required.

In the event that damages to the right-of-way are present as a result of permitted work within two (2) years following completion of the permitted work, the County Highway Superintendent will send notice to Permittee by certified or registered mail. Permittee will have thirty (30) days upon receipt of notification to correct deficiencies before the County completes the work itself. If the County completes work to repair damages to the right-of-way, the Permittee will surrender the performance bond to cover the costs to the County and will be assessed an additional fee equal to any balance remaining to complete the work. This assessment will be paid prior to the issuance of any additional permits to Permittee and in no case later than thirty (30) days after receipt of a balance due invoice.

- B. Federal, State and Local Government entities, and their subcontractors, will be exempt from all fees and bonds associated with this Ordinance if an agreement for permitted work has been reached outlining the Permittee's responsibility for damages or required restoration of the permitted premises, along with any separate bond agreement that may be required by the County Highway Superintendent or designee.

Section 500 – Franchise Agreements:

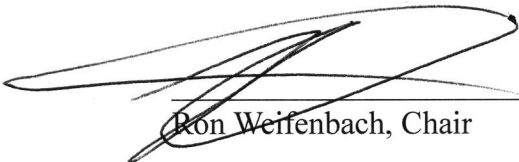
- A. This Ordinance does not apply to Franchisees who have received Pennington County Franchise Agreements pursuant to the provisions set forth in SDCL § 31-26.
- B. In the event that a Franchisee seeks a permit related to the Installation, Relocation, Repair or Expansion of Utilities or any Ground Disturbing Activity within Public Right-of-Ways under Pennington County's Jurisdiction, a permit will be granted, upon application. Any permit requirements, involving a Franchisee under this section will be consistent with SDCL § 31-26 and limited to joint field supervision.
- C. Franchisees who currently hold a Pennington County Franchise Agreement pursuant to the provisions set forth in SDCL § 31-26, and their subcontractors, are exempt from all fees and bonds associated with this ordinance up until the time such Franchise Agreement is expired pursuant to the terms of the applicable Franchise Agreement. Nothing in this Ordinance will preclude any future Franchise applicant from seeking a waiver of fees in any Franchise Agreement through request to the Pennington County Board of County Commissioners; however, the waiving of fees is not guaranteed.

Section 600 – Penalties:

- A. Permit fees under this Ordinance are doubled for any use or work commenced prior to approval of a required permit. A Penalty Fee will not be assessed if work performed without a permit arises out of an emergency and the County Highway Superintendent or a designee concludes the work was necessary to protect public health, welfare, or safety. The Pennington County Board of Commissioners may waive penalty fees if mitigating factors are present.
- B. Any person, firm, corporation, or association violating any provision of this ordinance, or failing to comply with the conditions of an approved permit, is punishable by a fine not to exceed \$500.00 for each violation or imprisonment for a period not to exceed 30 days for each violation, or both.
- C. In addition to all other remedies available to Pennington County to prevent, restrain, or correct violations (or threatened violations) of this Pennington County Ordinance, the County Highway Superintendent may seek injunctive relief pursuant to SDCL Chapter 21-8 against any property owner, Permittee, or other person in violation of this Ordinance or in violation of the conditions of an approved permit.


APPROVED THIS 17 day of FEBRUARY 2026.

PENNINGTON COUNTY
BOARD OF COMMISIONERS



Ron Weifenbach, Chair

ATTEST:



Sabrina Green, Auditor

First Reading: October 24, 1978
Second Reading: October 31, 1978 (adopted)

Amendment 1 First Reading: July 17, 1979
Amendment 1 Second Reading: July 24, 1979



Amendment 2 First Reading: August 26, 2003
Amendment 2 Second Reading: September 9, 2003

Amendment 3 First Reading: August 7, 2007
Amendment 3 Second Reading: August 14, 2007
Published: August 29, 2007
Effective: September 18, 2007

Amendment 4 First Reading: May 6, 2025 (Continued)
Amendment 4 First Reading: May 19, 2025
Amendment 4 Second Reading: June 3, 2025 (Continued)
Amendment 4 Second Reading & Final Adoption: June 17, 2025
Amendment 4 Published: July 2 & 3, 2025
Amendment 4 Effective: July 23, 2025

Amendment 5 First Reading: December 2, 2025 (Continued)
Amendment 5 First Reading: January 20, 2026 (Continued)
Amendment 5 First Reading: February 3, 2026
Amendment 5 Second Reading & Final Adoption: February 17, 2026
Amendment 5 Published: March 4 & 5, 2026
Amendment 5 Effective: March 25, 2026