

APPLE SPRINGS ROAD DISTRICT
ORDINANCE NUMBER 2012-07-R

AN ORDINANCE TO PROTECT APPLE SPRINGS ROADS AND RIGHT OF WAY FROM
DAMAGE OCCASIONED BY UTILITY CONSTRUCTION, MAINTENANCE OR REPAIR

WHEREAS, the Apple Springs Road District ("District") is charged with the maintenance and preservation of the roads and rights of way within the District, and

WHEREAS, unregulated utility construction under or across District roads and rights of way is a threat to the useful life of said roads and rights of way,

1. 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 Apple Springs Road District road system right-of-way without first applying for and obtaining a Permit For Utility Installation Or Excavation Within The Public Right-of-Ways as provided for in the attached (EXHIBIT A-07-R) and agreeing to the following.

2. Prior to the issuance of any permit, a cash or surety bond must be posted with Apple Springs Road District 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 District for all damages and inspections 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 Apple Springs Road District for not less than two (2) years after completion of the work permitted herein unless officially cancelled, in writing, by Apple Springs Road District prior to that date.

3. Excavation and trenching work shall be completed as provided in the application in order to limit inconvenience to the 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 District. At a minimum, all rock two inches (2") and larger shall be removed and all disturbed areas are to be seeded.

4. 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.

5. The method of installing the utility under any district road 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 Apple Springs Road District Board of Trustees 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.

6. 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 Apple Springs Road District Board of Trustees 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 District shall cause to have the work done. If the District must cause to have the work done, the permittee shall surrender its bond to cover the costs to the District 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.

7. 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.

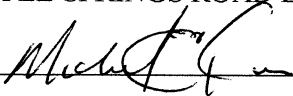
8. Utility lines shall be moved or rearranged, if required in the future, at no expense to the District.

9. The Road District, or there 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 District and the public.

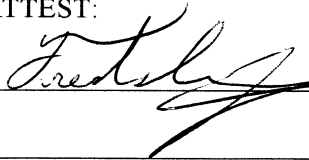
10. In addition to any other penalty authorized by State law or County Ordinance, each violation of this ordinance subjects the individual to a fine of five-hundred (\$500.00) and cost of restoration of public right-of-way to its original condition.

THEREFORE BE IT RESOLVED that the Apple Springs Road District Board of Trustees adopt the foregoing ordinance. Dated this 19 day of July 2012.

APPLE SPRINGS ROAD DISTRICT BOARD OF TRUSTEES



ATTEST:



First Reading: June 21, 2012
Second Reading: July 19, 2012
Date Published: July 19, 2012
Date Effective: July 19, 2012

EXHIBIT A-07-R
(Ref: Ord No.2012-07-R)

PERMIT FOR UTILITY INSTALLATION OR EXCAVATION
WITHIN THE PUBLIC RIGHT-OF-WAYS

On this date _____, the Applicant hereby applies to Apple Springs Road District for permission to install _____ utilities or conduct _____ excavation work within the public right-of-way.

The proposed utility/excavation will be located in Apple Springs District in or below the ground, crossing, or along District Road(s) _____ as shown on the plans, drawing or sketch accompanying this request. The plans, drawings or sketches provided shall show the exact location, alignment and depth of utility placed in the public right-of-way.

Date work is to commence on _____, and to be completed by _____ unless the District is timely notified in writing of a request for an extension of time and consents thereto.

Prior to the issuance of any permit, a cash or surety bond must be posted with Apple Springs Road District 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 District for all damages and inspections which may occur as a result of the excavation and/or installation of the utility authorized by this permit. Said cash or surety shall remain in place and be warranted to Apple Springs Road District for not less than two (2) years after completion of the work permitted herein unless officially cancelled, in writing, by Apple Springs Road District prior to that date.

In consideration of granting a permit to make any excavation or installation of any utility in or below, over or across any Apple Springs Road District Right-of-Way, the undersigned association, corporation, firm, partnership, or person hereby agrees to indemnify and hold Apple Springs Road District, its employees, officers, representatives, agents and assigns harmless from and against any and all claims, demands, liabilities, obligations, damages, costs, actions, or other proceedings resulting from the errors, omissions, actions or conduct of its officers, agents or employees arising out of or related to any work performed in relation to the permit issued herein.

I/we of _____ (utility company/contractor) agree to comply with all the conditions and requirements of this application and set forth in District Ordinance No. 2012-07R.

_____	and	_____
Utility Company		Contractor
_____		_____
Representative Signature		Representative Signature
Address _____		Address _____
_____		_____

APPLE SPRINGS ROAD DISTRICT

Apple Springs Road District Representative

Approved this date

Final Inspection: Date:

By:

Remarks: _____

