

FAYETTE COUNTY ORDINANCE #39

UTILITY ORDINANCE

FAYETTE COUNTY UTILITY ORDINANCE TO PROVIDE FOR: THE ISSUANCE OF PERMITS FOR UTILITY LINE INSTALLATION, THE COLLECTIONS OF FEES, AND PENALTIES FOR VIOLATIONS.

BE IT ORDAINED BY THE FAYETTE COUNTY BOARD OF SUPERVISORS:

SECTION 1. Purpose: The purpose of this ordinance is to adopt provisions for the inspection and regulation of utility line installations, including the issuance of permits and the collection of fees, and to provide penalties for the violation of this ordinance in order to protect public safety, health, and welfare.

SECTION 2. Definitions: For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. Applicant – Includes a person, persons, company, corporation or governmental entity desirous of placing a utility line on or under the County's secondary road system.
2. Board of Supervisors – Refers to the Fayette County Board of Supervisors.
3. County – Refers to Fayette County, Iowa.
4. Utility Line – Refers to a telecommunication, electric, gas, water or sewer line.

SECTION 3. Powers of the Board of Supervisors: An applicant shall not place a utility line on, in, above, or below the secondary road system ROW without a utility permit issued by the County Engineer. An applicant shall not place a utility line on the secondary road system which violates a utility permit issued by Fayette County. All jurisdiction and control over the issuance of a utility permit shall rest with the County Engineer as the dually authorized agent of the Board of Supervisors.

SECTION 4. County Engineer to Administer: The County Engineer may make such rules and regulations, not inconsistent with this ordinance, as are necessary to carry out the administration of this ordinance. The attached utility permit is hereby incorporated as part of this ordinance. All amendments thereto, shall be adopted by the Board of Supervisors.

SECTION 5. Authority to Establish: The Board of Supervisors is empowered to establish and require a utility permit under the authority of Iowa Code Chapters 306, 318, 320, 331, 477, 479, 479A, and 480.

SECTION 6. County Infraction: Violation of this ordinance is a county infraction under Iowa Code Section 331.307, punishable by a civil penalty of \$750 for each violation. Each day that a violation occurs or is permitted to exist by the applicant constitutes a separate offense.

SECTION 7. Severability Clause: If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional.

SECTION 8. Effective Date: This ordinance shall be in effect after its final passage, approval and publication as provided by law. This Ordinance replaces the former Fayette County Utility Ordinance #6 dated, January 25, 1993.

Passed and approved this 28th day of NOV, 2016.

Fayette County Board of Supervisors

Jeanine Tellin

Jeanine Tellin - Chairperson

Darrel Dolf

Darrel Dolf - Vice Chairperson

Vicki Rowland - Board Member

ATTEST:

Lori Moellers

Lori Moellers - Fayette County Auditor

First Reading: 11/21/16

Second Reading: 11/28/16

Approved: 11/28/16

Published: 11/16/16

FAYETTE COUNTY ROAD DEPARTMENT

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 West Union, Iowa 52175
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UTILITY PERMIT APPLICATION

This is a Utility Permit Application for telecommunications, electric, gas, water, and sewer utilities. The applicant agrees to comply with the following permit requirements. Compliance shall be determined by the sole discretion of the Fayette County Engineer as deemed necessary to promote public health, safety, and the general welfare. These requirements shall apply unless waived in writing by the Fayette County Engineer prior to installation.

Owner/Applicants Name		Address		
Phone Number	Fax Number	City	State	Zip
Cell Phone Number		Email Address		

Contractor's Name		Address		
Phone Number	Fax Number	City	State	Zip
Cell Phone Number		Email Address		

Utility on the County right-of-way described as follows:	
Overhead/Underground	Utility Type (Electric, Gas, Fiber, Etc.)
Location (Road Name, Township Name, Section Number)	

1. **Permit Required:** No applicant shall install any lines unless such applicant has obtained a Fayette County Utility Permit from the Fayette County Engineer and agreed in writing that said installation will comply with all ordinances and requirements of Fayette County for such work.

An applicant shall file this permit with the Fayette County Engineer at least 30 working days prior to the proposed installation. Installation shall be completed within one year of permit approval. **A start of installation notice shall be sent to the County Engineer at engineer@co.fayette.ia.us prior to the start of installation with the start date, permit #, and the onsite foreman's name and cell phone number.**

2. **Location Plan:** An applicant shall file a completed location plan as an attachment to this Utility Permit Application. All of the proposed utilities in the road ROW and in a corridor 10ft beyond the ROW shall be shown. All above ground structures shall have the location clearly delineated with respect to the road centerline and the road ROW. Those above ground structures encroaching 3ft or greater on the ROW as measured from the back of the ROW shall be highlighted for closer review.

3. Inspection: The Fayette County Engineer may provide a full-time inspector during the installation to insure compliance with this Utility Permit. The inspector shall have the right to enter an installation site in the discharge of the inspector's official duties and to make any inspection or test that is reasonably necessary to protect the public health, safety, and welfare.

4. Inspection Fee and Repair Costs: Upon approval, the Utility Permit will be issued by the Fayette County Engineer. The permit is valid after payment of the required prepaid fee in the amount of \$10,000. The applicant may provide a bond to Fayette County in lieu of direct pre-payment.

Pre-paid inspection fees may be reduced or waived for utilities in good standing that have no outstanding Repair Costs or Inspection Fees overdue to the County.

The applicant shall pay actual costs directly attributable to the installation inspection and costs incurred to repair the road system resulting from the utility installation. Payment shall be made out of the prepaid inspection fee or remitted to the Fayette County Engineer within 30 days of an invoice from the County Engineer. The Fayette County Engineer shall refund any unused portions of the prepaid fee to the applicant along with a statement for services rendered. Fee shall cover all expense incurred by Fayette County including, but not limited to, labor, fringe benefits, mileage, equipment rental, and other associated costs.

5. Requirements:

a) **Safety and Public Access:**

Construction signing shall be furnished by applicant and shall comply with the Manual on Uniform Traffic Control Devices (MUTCD). If it is necessary to have an open excavation during non-working hours; the applicant is responsible for securing advance permission from the County Engineer. Excavation shall be barricaded with an encompassing perimeter of orange reflective mesh safety fence around excavation and delineated by signing and flashing lights in accordance with the MUTCD.

Residents along the utility route shall have uninterrupted access to the public roads. An all-weather access shall be maintained for residents adjacent to the project.

Applicant MUST contact **Iowa One Call** for utility locations within the excavation area. A request can be made by calling (800) 292-8989 or on their website at <http://www.iowaonecall.com/contractors/> and requires at least a 48 hour notice. NO EXCAVATION MAY BEGIN UNTIL LOCATIONS HAVE BEEN MARKED.

b) **Utilities to Be Placed Along Roads:**

Crushed Rock Roads – The utility line shall be installed as close to the shoulder as the applicant's equipment can conveniently operate. The knifed line or filled trench shall be compacted and the surface returned to its original condition.

Paved Roads - The applicant shall install the utility on the shoulder unless otherwise directed. Equipment used to install the cable shall have treads or tires that will not damage the surface of the pavement. The knifed line or filled trench shall be compacted in 8 inch lifts and the surface returned to its original condition.

All Roads – Above ground structures such as utility poles and guy wires shall be installed as close to the ROW line as possible. Those structures encroaching over 3 foot into the ROW must be clearly delineated for approval in the location plan.

All underground utility lines shall be bored under culverts or drainage structures. All tile lines shall be bored under at a minimum of 36 inches. Unmarked tile lines encountered during utility installation shall be repaired by the applicant and the locations shall be marked by the applicant with reference signs stating "TILE" placed on the right of way boundary. Signs are available from the County Engineer.

The applicant shall place identification signs on the right of way boundary at 1,500 feet intervals and at changes in utility alignment. The Fayette County Engineer may require closer intervals. Signs shall indicate the owner/operator's name, telephone number to contact in case of emergency and type of buried utility at a minimum.

c) **Road Crossings:**

All utilities should cross the road at a 90 degree angle.

The minimum overhead crossing height shall be 21feet under ½ inch icing conditions.

All underground road crossings shall be bored. Knifing may be allowed on rock roads if properly installed and finished.

d) **Depth:** The minimum depth of cover shall be as follows:

Telecommunications	36"	Gas and Electric	48"
Water and Sewer	60"	Pipeline	60" (Zoning Ordinance will apply)

Additional depth shall be required for the thickness of the deposited silt that has built up over the original ditch level. A Permanent warning tape shall be placed above all underground utility lines at a point one (1) foot above the utility.

e) **Restoring ROW to Original Condition:**

All damaged areas within the right of way shall be repaired and restored to at least their former condition by the applicant; to be done immediately for unsafe areas on top of the roadbed, and within a reasonable period of time for other areas. After construction, granular surfacing shall be added, as necessary, to crushed limestone surfaced roads by the applicant to restore the road to its original condition. Once the road has been saturated, a review by the Fayette County Engineer will be made to determine if additional surfacing or repairs on the road by the applicant are necessary.

The cost of any repair work caused to be performed by Fayette County will be assessed against the applicant. This includes latent defects that may not become evident until well after the installation is completed. Repair of damaged areas shall be made at the standard rates for equipment, labor, and materials in force at the time of the work. An administrative fee of \$200 will be added to the repair costs for required repairs performed by Fayette County.

Areas disturbed during construction which present an erosion problem shall be solved by the applicant in a manner approved by the Fayette County Engineer. Re-seeding of all disturbed areas beyond the roadbed shall be done by the applicant.

6. Nonconforming Work: The Fayette County Engineer may halt the installation at any time if the applicant's work does not meet the requirements set forth in this Fayette County Utility Permit Application.

7. Emergency Work: In emergency situations, work may be initiated by the applicant without first obtaining another Fayette County Utility Permit Application. However, the Fayette County Engineer shall be notified within 48 hours and work must be completed in conformity with the provisions of this Utility Permit Application.

8. Relocation: Fayette County works in good faith with utilities to minimize utility line relocations that are required due to future highway construction or maintenance activities. As consideration to Fayette County for allowing any portion of the applicant's utility line in, on, above, or below the County ROW, the applicant agrees to relocate or remove, at applicant's own expense, their utility line(s) located in the ROW or within 10 feet of the ROW, in order to accommodate maintenance activities or construction improvements. Final authority on relocation decisions is vested in the County Engineer.

9. Insurance Requirements:

A Certificate of Liability Insurance must be on file with the County Engineer's office before the permit can be approved. Fayette County requires General Liability in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, Automobile Liability in the amount of \$1,000,000 and Umbrella Liability in the amount of \$1,000,000.

The applicant shall maintain insurance and provide the County Engineer with proof of insurance. Failure of the applicant to maintain insurance shall not relieve the applicant of the indemnification duties hereunder, but may be grounds for termination of this agreement.

10. Hold Harmless: The applicant shall indemnify and hold harmless Fayette County:

Its agents and employees, from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or damage to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and is caused in whole or in part by any negligent act or omission of the outside party or its

subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

From any damage that may result to said roadway because of the construction, operation or maintenance of said facility and/or connecting facilities and shall reimburse Fayette County for any expenditures it may have to make on said highway on account of said construction, operation or maintenance by the applicant, and shall replace and restore any roadway, including surface and sub-surface materials. The applicant shall also hold Fayette County harmless from any damages that said County would otherwise be responsible for, that flow directly or indirectly from said project, because of construction, operation, or maintenance of said facility.

For all work done in the County road right of ways, easements and county property, the applicant shall be solely responsible for work zone safety and shall hold the County harmless and agree to indemnify the County for all claims that arise from its work in the right-of-way, and further, it agrees that it will adhere to the Manual on Uniform Traffic Control Devices (MUTCD) during the project. The utility owner or their contractor is responsible for providing, installing, maintaining, and cleaning warning signs and protective devices; removing warning signs and protective devices when the work is complete; and providing flaggers for the protection of the traveling public and workers on the site.

11. County Infraction: Violation of this permit is a county infraction under Section 331.307 of the Code of Iowa, punishable by civil penalty of \$750 for each violation. Each day a violation occurs, and/or is permitted to exist by the applicant, constitutes a separate offense.

Acceptance of Conditions: I certify that the statements contained in the application are true and correct, that I can sign the permit on behalf of the utility company, and that the utility company, as applicant, will comply with the conditions outlined above.

APPLICANT SIGNATURE: _____

DATE: _____

Prepaid fee waived by Fayette County. Applicant is still responsible for all costs incurred by Fayette County attributable to the utility installation.

APPROVED BY: _____

DATE: _____

Joel D Fantz, P.E. Fayette County Engineer

Additional conditions or notes:
