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Fee: No Fee Check
RANAE WILDE, Recorder
Filed By KP
For DAGGETT COUNTY
DAGGETT COUNTY

DAGGETT COUNTY ORDINANCE NO. 04-15
AN ORDINANCE REQUIRING PERMITS FOR DISTURBANCE OF COUNTY ROADS
AND PROHIBITING THE DISTURBANCE OF NEWLY CONSTRUCTED ROADS

WHEREAS, Daggett County constructs and maintains roads for the benefit and convenience of citizens and visitors to Daggett County; and

WHEREAS, the construction and maintenance of roads within the county constitutes a major expenditure of public funds and resources; and

WHEREAS, disturbance or damage or injury to roads by utility companies or by individuals permanently damages the road surface and makes the surface more susceptible to breakdown and destruction; and

WHEREAS, all users of the roads and all residents of the county benefit by protection to and maintenance of road surfaces; and

WHEREAS, damage to road surfaces may cause accidents or injuries to persons and property; and

WHEREAS, it is desirable that roads maintained by the County be kept in good condition and that said roads not be unnecessarily damaged or injured; and

WHEREAS, regulation of cutting or disturbance of the roads or road surface creates costs for the County; and

WHEREAS, newly constructed and established road surfaces should not be disturbed for a period of at least five (5) years; and

WHEREAS, in order to regulate and protect the roads and the citizens of the county and users of the road(s), permits from the County should be required for any work that will disturb the road surface or right-of-way.

NOW, THEREFORE, be it ordained by the Legislative Body of Daggett County, State of Utah that:

**SECTION I
PURPOSE**

1.0 The purpose of this ordinance is to establish procedures for permitting, cutting or disturbance of roads or road surfaces owned or maintained by Daggett County and to provide appropriate fees and to provide for a moratorium on any disturbance or cutting of road surfaces on newly constructed or re-surfaced roads. This Ordinance does not apply to work done by the Daggett County Road Department or the Daggett County Special Improvement District.

**SECTION II
DEFINITIONS**

2.0 "County roads" means all roads in the unincorporated area of Daggett County which are owned or maintained by Daggett County as shown on the Daggett County road maps.

2.1 "Paved road" means a road that has had applied to it, asphalt, oil, concrete or other similar substances to provide a (see definition used for State BD Road classification).

2.2 "Unpaved road" (see definition used for State BD Road classification).

2.3 "Management costs" means the reasonable direct and actual costs the County incurs in exercising authority over roads and highways in its jurisdiction.

**SECTION III
PERMITS REQUIRED**

3.0 No person or entity may:

a) Dig or excavate within the right-of-way of any County road; or

b) Place, construct or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way except as provided in this Ordinance or as otherwise specifically authorized by state law.

3.1 Daggett County may allow excavating, installation of utilities and other facilities or access to County roads and right-of-ways in compliance with the terms and conditions set forth in this Ordinance and applicable federal and state law.

3.2 Any person or entity wishing to excavate or install utilities and other facilities within the right-of-way of any County road must apply for and obtain a permit for any such excavation or installation and pay the fee and post the bond required pursuant to this Ordinance.

3.3 The application for a permit for excavation or installation shall be accompanied by the fee established herein.

3.4 The application for any excavation or installation shall be accompanied by a bond or other security as required by this Ordinance.

3.5 Prior to the issuance of any permit to change, alter, cut or disturb any roadway or conduct any installation or excavation in any Daggett County road right-of-way, plans and specifications prepared by a licensed engineer, together with plans and specifications which provide for the replacement of the road surface with appropriate compaction and restructuring shall be provided to the permitting officers. The plans and specifications prepared by the licensed engineer shall also include the licensed engineer's estimate of the cost of restoring the surface and repairing any damage done to the road surface or within the road right-of-way.

3.6 As a condition of any permit, the applicant must guarantee the restoration of such surface to a condition equal to or better than the condition existing prior to the disturbance of the surface and must guarantee the repair work for a period not less than 12 months.

3.7 A permit and plan evaluation fee of \$100.00 is required for each permit issued pursuant to this Ordinance.

3.8 If the excavation or installation requires on-site supervision or inspection or evaluation by the County Road Department or the County Engineer, the costs of providing those services shall be assessed as management costs pursuant to the provisions of §72- 7-102 Utah Code Annotated (1953) as amended. It is intended that the management costs referred to herein shall be revenue neutral, such that the costs assessed shall, as nearly as possible, equate to the management costs incurred by the County related to the permitted work.

SECTION IV SURETY BOND OR CASH DEPOSIT

4.0 The application for a permit shall be accompanied by a corporate bond issued by a

company authorized and licensed to do business in the state of Utah or a cash deposit in an amount equal to 125% of the engineer's estimated cost of repair and restoration work to the road, road way, road surface and road right-of-way.

4.1 The corporate surity bond must be on a form approved by the Daggett County Attorney. The amount of the bond shall be 125% of the estimated costs of restoration of the surface and subsurface by the applicant's engineer or 125% of the estimated costs established by the County Engineer, whichever is greater.

4.2 If a permittee fails to make the repairs or otherwise violates the terms of the permit and the amount of the bond or cash deposit is insufficient to reimburse the County for the costs of the repair or restoration work, the permittee shall be liable for all such additional costs and expenses incurred. Any person engaging in any disturbance or excavation or installation work within a county road right-of-way without a permit shall be liable to the County for all costs of restoration and remediation.

4.3 The bond or cash deposit shall be refunded not less than one (1) year after the completion of the repair and restoration of the road surface or damage to the road right-of-way, upon satisfactory proof that the repairs have been accomplished in accordance with the specifications in the permit and the road surface repairs are and remain in good condition.

4.4 If the person or entity obtaining the permit fails to comply with the terms and conditions of the permit or fails to repair and maintain the road or road right-of-way required by the permit, the bond shall be immediately forfeited.

SECTION V VIOLATION IS A CRIMINAL OFFENSE

5.0 Any cutting of a road surface or any excavation or installation within the road right-of-way of a county road without a permit and the posting of a bond is a class B misdemeanor and each separate event or each day that said violation continues is a separate and independent offense.

5.1 Any violation of this Ordinance is a class B misdemeanor and each separate event of disturbance of the newly reconstructed, resurfaced or rebuilt road or road right-of-way shall be a separate offense.

5.2 In addition to any fines and imprisonment imposed, the County shall be entitled to

recover, as restitution and/or in a separate civil action, all damages caused by said violation including the costs of any resurfacing that may be necessary to completely restore and resurface the affected county road.

**SECTION VI
MORATORIUM ON NEWLY CONSTRUCTED ROADS**

6.0 When a County road or roadway has been reconstructed or rebuilt by increasing the base, resurfacing or changing the grade, it shall be unlawful for any person, firm or entity to cut, alter, change or disturb said newly constructed road for a period of five (5) years.

6.1 Prior to any such reconstruction, rebuilding or resurfacing, the County shall post a notice, in three public places, of said proposed work describing the roads to be improved and shall, to the extent reasonably practical, provide written notice at least 30 days in advance to owners of property adjacent to said roads and to utilities having facilities within the road right-of-way of the intended work and the impending moratorium. Failure to provide notice as set forth herein or of an owner or utility to receive said notice shall not prevent enforcement of the provisions of this Ordinance.

6.2 Any utilities and property owners that may have the need within the following five (5) years to do any work within the road right-of-way should complete that work prior to the resurfacing, rebuilding or reconstruction of the identified road.

**SECTION VII
PERMITTING OFFICIAL**

7.0 The permitting official shall be the Daggett County Clerk.

**SECTION VIII
APPEALS**

8.0 Any person grieved by the denial of a permit or by the terms and conditions of the permit or the fee assessed may, within 15 business days of said action by the permitting official, file a written appeal of the decision to the Daggett County Commission. Said written appeal shall set forth in detail and with specificity the issues in dispute and all facts and information supporting the applicant's position. The decision of the County Commission shall be final.

**SECTION IX
EFFECTIVE DATE**

9.0 This Ordinance shall become effective immediately upon adoption and posting in three (3) public places in Daggett County.

Passed, adopted, and ordered posted this 1st day of June, 2004.

Commissioner Collette X Aye Nay

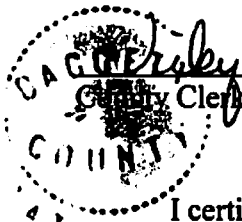
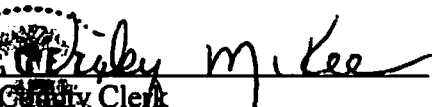
Commissioner Leith (Absent) Aye Nay

Commissioner Reed X Aye Nay



Daggett County Commission Chairman

ATTEST:

County Clerk

I certify that a copy of this Ordinance was duly posted on the 1st day of June, 2004, on the front door of the Daggett County Offices in Manila, Utah, and certify that this Ordinance was posted at three public places within Daggett County on or before the 8th day of June, 2004.



(TO)Daggett/County Road Disturbances Permit.Ordinance