

AN ORDINANCE ESTABLISHING A NOTIFICATION REQUIREMENT FOR CONSTRUCTION AND TILING FROM AGRICULTURAL LANDS INTO COUNTY SECONDARY ROAD RIGHT-OF-WAY

BE IT ORDAINED, by the Pocahontas County Board of Supervisors, that hence forward no individual, or entity shall construct and maintain agricultural drainage tile so as to outlet it into the right-of-way of Pocahontas County secondary road systems without first obtaining prior written approval from the Pocahontas County Board of Supervisors and the Pocahontas County Engineer.

Such approval shall also include any surface drainage or alterations to surface drainage which would involve outlets or crossing the secondary roads or the right-of-way.

A request for prior written approval as noted hereinabove shall be made in writing and directed to the County Engineer. Said request shall include a brief description of any and all construction within the road right-of-way; the name of any contractors contemplated to do said work; and the name of any licensed Civil Engineer employed by the applicant to configure said drainage.

This Ordinance shall include all construction within the road right-of-way, inclusive of any dirt work, pipeline construction or electrical transmission line construction.

Any violation of the conditions, limitations and/or specification in the permit shall be a County Infraction punishable in Title I, Organization and Structure, Chapter 2 Penalty, Section 1-2-1 and 1-2-2 in the Pocahontas County Code of Ordinances.

In addition to any penalty above, any person or entity responsible who violates this ordinance shall be strictly liable and responsible for the abatement, removal, and/or repair of any county property damaged because of any unauthorized tile drainage. The county's costs for abatement or correction of the violation may be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

It shall be the duty of the Pocahontas County Engineer to identify violations of this ordinance. The Pocahontas County Attorney shall take any necessary steps following recommendations from the Pocahontas County Engineer and Pocahontas County Board of Supervisors.

Upon violation of the conditions, limitations and/or of a permit, the Pocahontas County Engineer may, at his or her sole discretion to take any steps to recommend a cure of the violation and to assess any costs to the person or entity who violated this ordinance in lieu of any formal legal action. The County Engineer may also take any appropriate action authorized in this ordinance or any other actions authorized under the Pocahontas County Code of Ordinances or Code of Iowa.

Nonconforming Use: Nonconforming uses of all drainage tiles are uses lawfully in existence prior to the adoption of this Ordinance that do not meet the requirements of this Ordinance in the areas of county's secondary right-of-way in which they are located. The Pocahontas County Engineer shall identify all nonconforming uses of drainage tiles and notify all property owners of same following passage of this ordinance.

Nonconforming uses of drainage tiles in county's secondary right-of-way, shall be allowed subject to the following provisions:

1. Conformity encouraged. All nonconforming uses of drainage tile are encouraged to convert to conformity with this Ordinance whenever possible.
2. All nonconforming uses and nonconforming drainage tiles shall not be allowed to continue when there is a change of title or change of right of possession to any property.
3. If nonconforming use of any drainage tile is discontinued for a continuous period of twelve (12) months or more, it shall not be re-established and any subsequent use of drainage tile shall be conforming with this ordinance.
4. A nonconforming drainage tile damaged by fire, flood, Act of God or other causations to the point it needs to be repaired, must be repaired within one (1) year of damage unless said drainage tile cannot be repaired and is causing ongoing damage to the county's secondary right-of way. In that case, the owner shall take all immediate remedial measures to prevent any further damage to the county's secondary right-of-way including, but not limited to, the removal of said drainage tile. It shall be the responsibility of the owner to notify the County Engineer of any damaged drainage tile. However, the county may also notify the owner if any damaged tile is identified in the county's secondary right-of way. Any damaged drainage tile that has been repaired shall be subject to a final inspection and approval by the County Engineer.
5. Any substitution, reconstruction, or enlargement of any drainage tile shall be considered a variation and shall require prior approval by the County Engineer. The substitution, reconstruction, or enlargement, not part of any reparation as described in paragraph 4 above, is subject to inspection by the County Engineer to ensure the work to said drainage tile is being conducted in a timely manner and to ensure no damage is done to the county's secondary right-of-way.

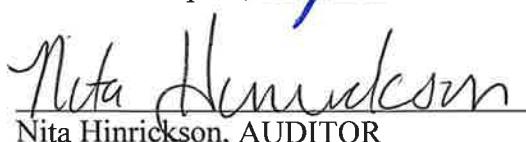
This Ordinance being deemed of immediate importance, shall become effective upon publication.

Passed and adopted by the Board of Supervisors of Pocahontas County on this 13th day of May, 2025.

APPROVED BY:



Clarence Siepker, Chairman



Nita Hinrickson, AUDITOR