

**AMENDED RESOLUTION REGARDING THE PLACEMENT OF UTILITIES  
WITHIN THE ELK COUNTY ROAD RIGHT-OF-WAY**  
(replacing resolution 13-12)

**RESOLUTION 16-3**

**WHEREAS**, the Board of County Commissioners of Elk County, is tasked with maintaining the public roads within the County, and

**WHEREAS**, the County must perform necessary maintenance work which includes, but is not limited to, the cleaning and shaping of ditches and right-of-ways to provide for proper drainage of water away from the road surface, and

**WHEREAS**, K.S.A. 68-545 makes it unlawful to make any holes or remove any earth from the county road way, ditch, or right-of-way without direction or authority given by the county engineer or road supervisor, and

**WHEREAS**, the State of Kansas has given authority to utilities to use public right-of-ways for the placement of underground utilities as long as the same does not impede or interfere with the public or County's reasonable use thereof, and

**WHEREAS**, there is a need to establish a base depth for all utility placement so that the same does not interfere with the primary use of the right-of-way which is to provide a safe roadway and the maintenance thereof.

**BE IT THEREFORE, RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ELK COUNTY, KANSAS:**

It is resolved that prior to the placement of any new underground utility, replacement of any underground utility or repair of the same, the utility shall:

- 1) Ten days prior to the commencement of any burying of utility lines, pipe or conduit, the utility shall notify the county road supervisor of the work to be done and the time period in which the work is to be performed.
- 2) Shall provide to the county road supervisor a map of the locations(s) of the placement, replacement or repair of utilities lines and services.
- 3) That all utilities shall be placed at a minimum 48" below the surface of the right-of-way.

- 4) That the utility shall make its work available for inspection by the county road supervisor or his designee to ensure compliance with this resolution.
- 5) That utility is defined to include any and all providers of electric, telephone, internet, gas, water, and sewer service. Private entities who lay line for the gathering and transporting of oil, natural gas or other fluids associated with the production of oil or natural gas shall comply with the provisions of this resolution.
- 6) That a \$250.00 non-refundable application/permit fee shall be assessed for each construction projection. The fee shall not be assessed for emergency repairs to existing lines. Emergency is defined as a repair that requires immediate attention in order to prevent damage to property, excessive water loss in the case of water or sewer leaks and damage to business due to a loss of service and the amount of utility line being replaced is less than 100 feet. Notice of an emergency repair must be made within 72 hours of the repairs being commenced.

Any violations of this act shall be classified as a misdemeanor and punishable by a fine of not less than \$250.00 and not more than \$500.00 and/or 30 days in the county jail. Each day a violation persists shall be considered a new and separate violation of this act and punishable in the same manner.

**ADOPTED AND APPROVED**, at this regular meeting on the 9<sup>th</sup> day of May, 2016.

THE BOARD OF COUNTY COMMISSIONERS  
OF ELK COUNTY, KANSAS

  
\_\_\_\_\_  
Shari Kaminska, Chairman

  
\_\_\_\_\_  
K.R. Liebau, Member

  
\_\_\_\_\_  
Gary Hebb, Member

  
\_\_\_\_\_  
Paul E. Dean, County Counselor

ATTEST:

  
\_\_\_\_\_  
Vicky Wedman, County Clerk