

ORDINANCE 1997- 4

ASHLEY COUNTY, ARKANSAS

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF
ASHLEY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

"AN ORDINANCE TO PRESCRIBE NOTICE FROM ANY PUBLIC
UTILITY PRIOR TO INSTALLATION OF ANY SYSTEM WITHIN
A COUNTY ROADWAY AND MAKING FAILURE TO COMPLY A
VIOLATION OF LAW AND PRESCRIBING PENALTIES FOR
SUCH VIOLATION".

WHEREAS the Quorum Court of Ashley County, Arkansas has
determined that various public utility providers have been and
are currently installing communications, water, electric and
other utility lines within the rights-of-way of roads which are
the responsibility of Ashley County, without any notice to the
county, and without any permission to utilize easements or
rights-of-way granted Ashley County for roadways, and

WHEREAS many such installations are done within areas which
must be utilized for road maintenance and reconstruction and are
within depths and locations that interfere with Ashley County's
responsibilities for maintenance to the citizens of the county
and to other users of such roadways, and

WHEREAS the uncontrolled installation and maintenance of
such utilities is interfering with, delaying and postponing
maintenance of such roads by Ashley County and is creating a
burden of substantial additional costs for maintenance which
adversely affects the interests of Ashley County, and of its
citizens.

NOW THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF ASHLEY COUNTY, ARKANSAS, as follows:

Section 1: From the effective date of this ordinance and thereafter, no person, firm, entity or corporation (hereafter "installer") may install any pipeline, cable, communications circuitry, any form of utility transmission facility or other device (hereafter "utility") by which any form of utility or service is provided or conveyed, unless such installer shall have given a minimum of 72 hours advance notice of intention to make such installation, giving the location to be affected, to the office of the Ashley County Judge at Hamburg, Arkansas.

Section 2: Failure to give such notice, followed by installation in any county maintained roads or road of a utility shall be a continuing trespass and Ashley County specifically disclaims responsibility for any monetary or other damages that may subsequently occur to the utility during the course of its maintenance or reconstruction of a road, culvert, bridge or other county road facility.

Section 3: Failure of the "installer" to give the required notice followed by installation of a utility shall relieve Ashley County of any duty to notify "installer" of county maintenance or reconstruction of such road, culvert, bridge, or other county facility for the reason that the county will not be on notice of the existence or location of such "utility".

Section 4: It is further provided that any "installer" who locates or establishes a "utility" without compliance with the

notice provisions of paragraph 1 above shall be guilty of a violation of this ordinance, which violation is defined as having the same characteristics of a Class "B" Misdemeanor, per A.C.A. §5-1-107(b)(2), and upon conviction for such violation may be fined up to \$100.00, for such offense.

Section 5: The provisions of this ordinance are severable and if for any reason a provision of the ordinance is declared to be invalid by a court of competent jurisdiction, the remainder of the ordinance shall continue in full force and effect.

Section 6: This ordinance is necessary for the preservation of the Ashley County road system and the interference with maintenance and reconstruction of such system is to be remedied by this ordinance. As conditions presently exist, the uncontrolled installation of utilities in the county road system presents a substantial safety hazard to the users of such roads. Therefore, an emergency is found to exist and this ordinance shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED this 10th day of JUNE, 1997.

ASHLEY COUNTY QUORUM COURT

By

Don Hartley
DON HARTLEY, ASHLEY COUNTY JUDGE

ATTEST:

Sonya Meeks
SONYA MECKS-ASHLEY COUNTY CLERK

Recorded on this 13th day of June, 1997
Quorum Court Record 5 on
pages 433-435 in the Ashley County Clerk's
office. Sonya Meeks, County Clerk.

By: Genie Kersten D.C.