

## RESOLUTION 2024-04

### A RESOLUTION REVISING THE CONTRACTORS' RULES AND CODE OF CONDUCT FOR CONSTRUCTION IN POWDER HOUSE PASS COMMUNITY IMPROVEMENT DISTRICT

The Board of Supervisors for Powder House Pass Community Improvement District ("District"), a local unit of special purpose government, meeting in a regular session on February 8, 2024, pursuant to SDCL 7-25A, upon motion made by Wainman, seconded by J. Kaschmitter, that the following Resolution be adopted:

**WHEREAS**, the Powder House Pass Community Improvement District is intent on providing safe, enjoyable and properly managed property within the District; and

**WHEREAS**, the Powder House Pass Community Improvement District understands that construction activity is important to the development of the District; and

**WHEREAS**, the proper management of construction activities is inherent to the condition of the District;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors approves and adopts the following Contractors' Rules and Code of Conduct; and

**BE IT FURTHER RESOLVED** that this resolution supersedes any prior resolution pertaining to Contractors' Rules and Code of Conduct.

#### **DEFINITIONS**

District: The area known as the Powder House Pass Community Improvement District, Lead, South Dakota.

District Manager: An individual charged with the enforcement of this Code. The District Manager is hereby authorized and directed to enforce all the provisions of these Contractors' Rules and Code of Conduct ("Code"). The District Manager shall have the power to render interpretations of this Code and to enforce rules and regulations supplemental to this Code as the District Manager may deem necessary, in order to clarify the application of the provisions of this Code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Code. The District Manager may appoint a designee to perform these tasks.

District Property: District property includes roads within the District and infrastructure, easements, common areas or any other property owned or under the management of the District.

Owner: The record title owner of each lot, whether one or more persons, or entities, of the fee simple title of any property as shown in the records in the Office of the Lawrence County Register of Deeds.

Contractor: The individual responsible for the construction activities on the property, including but not limited to, supervision and/or control of any subcontractor, delivery operation, or other agents or representatives of the Contractor.

## **CODE OF CONDUCT**

### **ARTICLE 1. Preconditions to Construction Activities**

All contractors engaged in building or construction activities in the District shall agree to and comply with the requirements of these Rules and Code of Conduct for Construction prior to commencing building or construction activities.

Contractors shall comply with all laws, licensing and permitting requirements and applicable rules and regulations of Lawrence County, prior to, during and following construction activities within the District.

- A. All building plans must have been approved by Powder House Pass Architectural Review Committee ("ARC").
- B. At a preliminary meeting arranged by the Contractor with the District Manager, the Contractor will be required to sign the Contractors' Rules and Code of Conduct Agreement.
- C. Contractors shall deposit a retainer in the amount of Five Thousand (\$5,000) Dollars for each individual lot/property to ensure compliance with these Rules and Regulations and/or for the cost of repair of damage to District property.
- D. If the damage(s) exceeds the retainer, the Contractor shall deposit an additional Five Thousand (\$5,000) Dollars for each individual lot/property to ensure compliance with these Rules and Regulations and/or for the cost of repair of damage to District property.
- E. Upon completion of the project, the District Manager shall perform a final inspection and, upon approval, the Contractor shall be reimbursed the full amount remaining in their retainer.

### **ARTICLE 2. Responsibility**

- A. The property owner is responsible and accountable for their contractors' and/or subcontractors' actions.

### **ARTICLE 3. Requirements for Commencement of Construction Activities**

The Owner shall give the District Manager at least fourteen (14) days' written notice of Contractors' intent to commence construction on any property within the District and shall provide an accurate site location map showing the boundaries of the lot and the location of all structures and all utilities located or to be located on the property.

### **ARTICLE 4. Construction Procedures**

Construction shall be conducted so as not to be injurious or offensive to adjacent premises by reason of the emission or creation of unreasonable noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazard and/or glare.

All construction sites are to be maintained in a clean and orderly fashion throughout the construction. Construction materials are to be neatly piled on site. Debris and rubbish are to be contained and periodically removed. Tall, unsightly weeds are to be routinely removed/sprayed.

Streets adjoining a construction site are to be frequently swept clean and kept free of dirt, mud, and construction trash. Any debris left by a Contractor on District streets shall be cleaned up in a timely manner by the Contractor. Adjacent properties and/or District properties (i.e., streets) may not be used for the staging of building materials and/or the dumping of construction debris, dirt, trash and/or such items. There will be no washing of any motor vehicle or construction equipment on the properties of the District.

#### **ARTICLE 5. Parking**

Construction activities, including but not limited to, parking of construction vehicles or equipment, shall not interfere with the free passage of traffic through and around the construction site. Construction traffic must be continuously considerate of the traffic patterns, speed limits and needs of the community. Contractors, their employees and subcontractors must park on the construction site property so as to not hinder snow removal, to not interfere with regular road maintenance and to allow safe traffic flow within the District.

#### **ARTICLE 6. Screening**

Where offensive construction activities, as determined by the District Manager, occur adjacent to a developed property or otherwise sensitive land use, the District Manager may require the Contractor to erect a proper temporary fence to screen such activity. The design of that fence must be approved by the Operations Manager. Adjacent properties must also be protected from wind-born dust and debris.

#### **ARTICLE 7. Noise**

Unreasonably loud radios or noise will not be allowed within the District. This can be disrespectful, distracting, annoying and discomforting to other property owners within the District. Normal radio levels are acceptable. Speakers shall not be mounted on and used on vehicles or outside homes under construction. All contractors and subcontractors must respect the quiet use and enjoyment of neighboring properties.

#### **ARTICLE 8. Temporary Structures/Signs**

The installation and location of all temporary structures such as construction trailers and leasing offices must be approved by the District Manager. These structures must be promptly removed upon the completion of construction. No contractor or subcontractor signs are allowed other than those permitted within the District unless allowed or approved by the District Manager.

#### **ARTICLE 9. Erosion Control**

The Contractor is responsible for implementation of any erosion and sediment control plan to control runoff and contain silt within disturbed areas of the construction site.

#### **ARTICLE 10. Deliveries**

No deliveries of equipment or material should be made before 7:00 AM or after 8:00 PM. If spillage or damage to District roads or property occurs, delivery operators or their contractors are responsible for immediate cleanup. Delivery operators or their contractors are required to immediately contact any necessary governing agencies governing these occurrences. Cleanups done by the District will be billed to the responsible Contractor. Report any spills as soon as they occur.

**ARTICLE 11. Trash**

At the Contractors'/Owners' expense, dumpsters shall be provided at the building site prior to the start of construction to collect trash and debris generated by construction and subcontractors and their employees. They shall be emptied regularly to prevent overfilling.

**ARTICLE 12. Work Hours**

Construction work shall not begin before 7:00 AM nor continue after 8:00 PM. All attempts should be made to coordinate construction schedules that may cause the least amount of disruption to adjoining property owners or their guests or invitees.

**ARTICLE 13. Protecting Vegetation**

During construction, reasonable and practical efforts must be employed to protect and preserve existing trees and other vegetation from damage and to protect the landscape and character of the District.

**ARTICLE 14. Vacant Property**

All vacant property shall be kept neat and cleared of debris and rubbish and junk and weeds shall be controlled in order for the property to be maintained in its natural condition until construction commences on the property. Storing material on vacant lots is not permitted unless permission is given by the District Manager.

**ARTICLE 15. Damage to Structures/Utilities**

Any damage to streets and curbs, drainage inlets, streetlights, street markers, mailboxes and/or walls resulting from and/or related to construction activities shall be repaired within a reasonable timeframe and reclaimed to original condition. Repairs made by the District will be billed to the Owner.

All utility locations shall be identified prior to the beginning of construction. Contractors will be required to follow all South Dakota 811 Location protocols.

Any party who cuts any utility line including, but not limited to, water, sewer, electricity, gas, fiber/cable TV or telephone shall be responsible for reporting the accident to the District and the appropriate utility within 30 minutes of such damage.

**ARTICLE 16. Portable Toilets**

Portable toilets, if necessary, must be provided by the Contractor at the site prior to any construction.

**ARTICLE 17. Open Burning**

No open burning is allowed.

**ARTICLE 18. Infractions**

Infractions of these Construction Rules and Code of Conduct, or as amended, may be cause for a fine or suspension of Contractor or Contractor's subcontractor from the project and/or the District.

**ACKNOWLEDGEMENT, AGREEMENT AND SIGNING**

I, \_\_\_\_\_, the Contractor for the Owner of:

- Owner: \_\_\_\_\_
- Lot: \_\_\_\_\_
- Block: \_\_\_\_\_
- Addition: \_\_\_\_\_

in the Powder House Pass Community Improvement District, hereby acknowledge and agree that I have read and understand the **CONTRACTORS' RULES AND CODE OF CONDUCT FOR CONSTRUCTION** in the District and shall abide by and be subject to all of the Rules and Code of Conduct stated therein.

Name (Print): \_\_\_\_\_

Company: \_\_\_\_\_

\_\_\_\_\_  
Signature Date

This Resolution shall take effect on the 20<sup>th</sup> day following its publication, unless suspended by Referendum.

Those voting aye: G. Kaschmitter, J. Kaschmitter, Broin, Ortman, Wainman, Hasche


Those voting nay: None

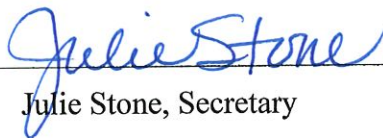
Motion carried.

Adopted at Powder House Pass Community Improvement District, Lead, South Dakota, this 8<sup>th</sup> day of February, 2024.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Greg Kaschmitter, CID President

  
\_\_\_\_\_  
Julie Stone, Secretary

**Approved: February 8, 2024**  
**Published Date: February 16, 2024**  
**Effective Date: March 7, 2024**  
Seal



## **Contractor Notification Process:**

Approved Powder House Pass Architectural Review Committee (ARC) plans will be sent to the District Manager by BH Development. Once received, the District Manager will forward a copy of the "Contractors' Rules and Code of Conduct for Construction" to the contractor of record. It will be the contractor's responsibility to arrange a meeting with the District Manager 14 days (or more) prior to the start of the construction process for the signing of the "Contractors' Rules and Code of Conduct for Construction". The \$5,000.00 retainer will be required at/or prior to document signing.

## **Additional Requirements:**

Building Permit must be posted, easily seen, and accessible during the construction process. Posting the building permit on a tree is not permitted.

## **Points of Emphasis:**

Dumpster covered at end of workday.

Street swept/cleaned at end of workday (if needed).

Nothing stored on the street (construction material, construction equipment, roll-off dumpster, etc.). Temporary unloading of construction material permitted.

Construction work hours & all deliveries must occur between 7:00 am & 8:00 pm. Time-sensitive deliveries of concrete and asphalt will be exempt (within reason).

Concrete truck cleanout must be done on property and wasted concrete removed (when hardened).

No contractor or any subcontractor may post any sign on a tree.

All temporary construction, contractor, or subcontractor signs may only be placed on the property of the construction.

The sewer line from the home to the connection onto the Powder House Pass CID main will be inspected (camera) to ensure no sump pump or drain tile is connected to the sewer line. If an infraction is found, there will be **no 24-hour grace period and fine (\$500.00/day until remedied) will be assessed immediately.** Lawrence County Building Inspector and/or State Plumbing Inspector will also be notified if this infraction is found.

### **Enforcement Process & Fine (\$500.00/day):**

Any found infraction of the "Contractors' Rules and Code of Conduct for Construction" will be photographed and/or videoed and sent to the contractor of record via electronic communication (Email). Once notified, Contractor will have a ***24-hour grace period*** to remedy the infraction, or a \$500.00/day fine will be assessed until the infraction is remedied. Extenuating circumstances may be considered. The extenuating circumstance(s) must be electronically communicated (Email) with the District Manager by the contractor of record. If approved, written authorization from the District Manager will be electronically communicated (Email) to the contractor of record.

***\*\*\*The 24-hour grace period will not be given for any repeat infraction. The infraction will be documented, sent to the contractor of record, and the \$500.00/day fine will be assessed until remedied\*\*\****

### **Project Completion/Return of Retainer:**

Upon completion of the project, the District Manager shall perform a final inspection and, upon approval, the Contractor shall be reimbursed the full amount remaining in their retainer.

**POWDER HOUSE PASS COMMUNITY IMPROVEMENT DISTRICT  
CONTRACTORS' RELEASE OF BOND--SITE INSPECTION**

DATE: \_\_\_\_\_

**INSPECTION PARTICIPANTS:**

CID: \_\_\_\_\_

CONTRACTOR(S): \_\_\_\_\_

\_\_\_\_\_

OWNER(S): \_\_\_\_\_

**CHECKLIST:**

	Acceptable	Unacceptable
<b><u>Overall Site Conditions</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		
<b><u>Debris Removed/Controlled</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		
<b><u>Property Conditions</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		
<b><u>Adjacent Properties</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		
<b><u>Road/Ditch Conditions</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		
<b><u>Infrastructure Conditions</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:		

**SIGNATURES**

NAME	COMPANY	SIGNATURE