

# **Bond Case Briefs**

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## **UTILITIES - SOUTH DAKOTA**

### **City of Rapid City v. Schaub**

**Supreme Court of South Dakota - September 2, 2020 - N.W.2d - 2020 WL 5240386 - 2020 S.D. 50**

Defendant was convicted, following magistrate court trial, of violating municipal ordinance requiring permit for onsite wastewater system. He appealed.

The Circuit Court affirmed. Defendant appealed.

The Supreme Court held that:

- City's sewerage permit ordinance was not an ex post facto law;
- Ordinance did not conflict with state administrative regulations; and
- City had authority to enforce ordinance beyond its municipal boundaries.

City's sewerage permit ordinance was not an ex post facto law as applied to property owner whose onsite wastewater system may have existed prior to enactment of ordinance, where resident's failure to obtain permit for his wastewater system occurred well after city enacted its ordinance.

Municipal ordinance requiring permits for onsite wastewater systems did not conflict with state administrative regulations promulgated by Department of Environmental and Natural Resources (DENR) concerning onsite wastewater systems; ordinance did not require standards for onsite wastewater systems.

City had authority to enforce municipal sewerage ordinance beyond its municipal boundaries; statute provided that municipalities had express authority to protect their water supplies within one mile of limits of municipality.