

CONSTRUCTION IN RIGHTS-OF-WAY ORDINANCE

WHEREAS, The Board of Commissioners of Hendricks County, Indiana ("Hendricks County"), may, pursuant to Indiana law [I.C. 36-1 (Home Rule)], enact Ordinances for effective governance of the County and its Offices and Departments; and

WHEREAS, Hendricks County is responsible for maintaining the County roads and rights-of-way within its jurisdiction; and

WHEREAS, Hendricks County desires to repeal the existing Hendricks County Ordinance No. 99-19; and

WHEREAS, Hendricks County finds that is in the best interests of the County, its residents, and taxpayers to repeal the existing Ordinance cited above and replace it with the Ordinance as attached in Exhibit "A".

NOW, THEREFORE, BE IT ADOPTED AND ORDAINED by the Board of Commissioners of Hendricks County, State of Indiana, do hereby repeal the existing Hendricks County Ordinance No. 99-19 and replace it with Hendricks County Ordinance No. 2023-11 as delineated in the attached Exhibit "A".

This Ordinance shall become effective on June 1, 2023. If any portion or provision of this Ordinance is subsequently deemed unconstitutional or otherwise declared void by a Court of competent jurisdiction, the remaining portions of the Ordinance will continue in full force and effect.

DULY EXECUTED this 14th day of March, 2023.



Phyllis A. Palmer, President

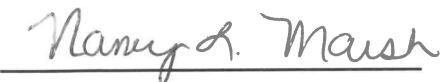


Bob Gentry, Vice President



Dennis W. Dawes, Member

ATTEST:



Nancy L. Marsh, Auditor

EXHIBIT A

This Ordinance shall be known as the Hendricks County Construction in Rights-of-Way Ordinance.

SCOPE

- (A) The provisions of this Ordinance shall govern the construction, relocation, alteration, or change in the character or use of Improvements in the rights-of-way of the Hendricks County highway system and the maintenance of such Improvements, which are not otherwise governed under the Hendricks County Ordinances.
- (B) Improvements, for the purposes of this Ordinance, include, but are not limited to:
- (1) entrances, driveways, or drive approaches,
 - (2) mailbox approaches,
 - (3) culvert or roadside ditch modifications necessitated for other Improvements,
 - (4) sidewalks, pathways, trails, or multi-use paths, and
 - (5) public utility infrastructure.
- (C) Improvements, as defined by this Ordinance, shall not include:
- (1) infrastructure made under contract with or by order of the Board of Commissioners or other governmental agency through its proper officials.
 - (2) surfacing or resurfacing of a paved Improvement provided it does not change drainage flows and does not expand the width of the existing Improvement.
- (D) It shall be unlawful for any person, firm, or corporation to construct Improvements in the rights-of-way of the Hendricks County highway system without first obtaining a permit in accordance with this Ordinance.
- (E) Any work completed as emergency work which does not meet the definition of emergency as set out in this section is a violation of this Ordinance.
- (F) The County Engineer shall have the authority to issue Stop Work Orders for any violations of this Ordinance.

AUTHORITY

- (A) The Hendricks County Engineer, as defined by I.C. 8-17-5, is hereby authorized to approve and issue permits for all Improvements under this Ordinance.
- (B) The County Engineer shall have the authority to:
- (1) execute permits and related documents, including permits, agreements and other documents approved by the Board of Commissioners,
 - (2) perform inspections,
 - (3) administer the terms of permits and encroachment agreements,
 - (4) order or otherwise compel correction of violations of this Ordinance, including issuance of Stop Work Orders,
 - (5) approve the completion and acceptance of work under a permit, and
 - (6) perform all other actions necessary for the administration and enforcement of this Ordinance.
- (C) The County Engineer may delegate his authority under this section to other Hendricks County employees as needed to meet the intent of this Ordinance.

DEFINITIONS

The following definitions apply only to this Ordinance:

- (A) Commercial Drive: Any driveway serving a property zoned commercial, serving a business or place otherwise open to the public, or providing access to an occupied utility facility. Commercial

drives are categorized as follows:

- (1) Minor Commercial Drive: Any commercial drive having or requiring acceleration and deceleration tapers, but not having or requiring associated auxiliary lanes except a mailbox approach.
- (2) Major Commercial Drive: Any commercial drive having or requiring associated full-width auxiliary lanes with acceleration and deceleration tapers.
- (B) Construction Equipment: Backhoes, loaders, bulldozers, graders, excavators, trenchers, dump trucks, compactors, cranes, forklifts, pavers, milling machines, boring machines, heavy equipment transport trucks, and related heavy construction equipment. Construction equipment does not include agricultural equipment or construction-type equipment typically used in agricultural activities.
- (C) Emergency: A situation where there is an immediate need to perform repair work on an existing utility infrastructure that has been interrupted or damaged and where the failure to perform such work would result in an immediate danger to life or property or cause environmental damage.
- (D) Highway Department: Any employee or designated subcontractor of the Hendricks County Highway Department or Hendricks County Engineering Department.
- (E) County Engineer: The Hendricks County Engineer or their designee.
- (F) Field Entrance: A drive (paved, gravel or dirt) which is installed only for access to an agricultural field or solely for farm use. Any drive installed to serve an agricultural or farm business which is open to the public shall be considered and permitted as a Commercial Drive.
- (G) Overhead Linear Project: Overhead infrastructure and its related construction that is installed substantially parallel to the right-of-way.
- (H) Underground Linear Project: Underground infrastructure and its related construction that is installed substantially parallel to the right-of-way, including open ditching, grading, trenching, excavation, directional drilling or boring.
- (I) Private Linear Utility: Privately owned infrastructure providing a product or service to one or a small number of properties that is installed substantially parallel to the right-of-way.
- (J) Public Utility: A business organization providing a product or service regarded as a utility (often termed a public utility regardless of ownership) and managed as a private enterprise or utility cooperative.
- (K) Residential Drive: A driveway serving a private property zoned residential and serving one (1) or two (2) single-family dwellings or one (1) two-family dwelling unit on a single property.
- (L) Utility Pull Off Drive: A drive serving only as access to a normally unmanned utility facility where occasional maintenance or facility observation is required.

COST, OWNERSHIP, AND MAINTENANCE OF IMPROVEMENTS

- (A) Permittee/Owner shall own and be responsible for the cost of construction, materials, and installation of Improvements in the right-of-way.
- (B) The permittee shall save harmless and indemnify the Board from any claim for damages of any nature whatsoever arising out of the permittee's negligence in connection with any work done pursuant to the agreement or in connection with the operation of the utility or improvement.
- (C) The maintenance of Improvements will remain the responsibility of the property owner and/or permittee and must be maintained in a manner which does not interfere with the use of the right-of-way for its dedicated purpose.

GENERAL RIGHT-OF-WAY STANDARDS FOR IMPROVEMENTS

The following General Right-of-Way Standards, in conjunction with the Right-of-Way Standard Drawings, shall be applicable for all Improvements in the Hendricks County highway system rights-of-way:

- (A) Driveways shall be placed in a location which, in the County Engineer's opinion, minimizes the opportunity for accidents, taking into consideration the following:
- (1) Sight distances on the existing County highway, including curves, trees, brush and other obstructions, and topography;
 - (2) The distance to other driveways and intersections;
 - (3) Drainage; and
 - (4) Planned Improvements to the County highway or surrounding properties or thoroughfares.
- (B) Multiple Residential Drives serving a single parcel must meet minimum separation between drives based on the County highway classification and accepted engineering design standards.
- (C) A Residential Drive permit may be issued for a single drive serving more than one property, provided that all property owners served by the driveway have entered into a recorded agreement providing for a mutual easement for ingress and egress, maintenance and repair of the drive, and a covenant provision that Hendricks County will never be responsible for the maintenance of the mutual driveway and that the mutual drive will never be considered a public road necessitating maintenance by any unit of government.
- (D) Improvements, such as public utilities or developer-installed storm sewer pipes requiring a subsurface crossing of a County highway, shall be installed by boring or pushing the utility beneath the County highway. This requirement may be waived and the Improvement installed by open cut methods at the discretion of the County Engineer under the following conditions:
- (1) Where the County highway pavement is scheduled for rehabilitation within the following year;
or
 - (2) Where the existing condition of the County highway surface upon restoration of such construction will be preserved or improved and that no long term deterioration will result from the construction;
 - (3) Where disruption to the traffic utilizing the County highway will be minimal.
- (E) Hendricks County promotes and encourages co-location of utilities whenever possible, and as a general rule will not permit multiple pole lines on the same road segment.
- (F) Traffic will be maintained at all times during construction of Improvements unless a County highway closure and detour plan is approved by the Hendricks County Engineer. The detour will be marked at least one week prior to the closure and maintained by permittee throughout the period of the closure. Permittee shall provide ten (10) days prior notification to all appropriate public safety agencies of the time and location of the closure.
- (G) Permittee shall provide traffic control devices and flaggers as set out in the Indiana Manual on Uniform Traffic Control Devices and as required by the County Engineer to regulate traffic safety if construction affects the flow of traffic or the safety of the public. Such devices shall be provided in paved right-of-way and on other County highways as determined by the County Engineer prior to work in the right-of-way until completion of the work. In general, traffic control devices shall be provided during the times required by the County Engineer where:
- (1) pavement is being removed or installed,
 - (2) temporary pavement or surface patches exist,
 - (3) construction equipment is conducting construction activities in the right-of-way,
 - (4) excavations are occurring within the right-of-way or are less than five (5) feet away from the edge of pavement, or
 - (5) the number or width of travel lanes is reduced, the travel lane(s) jog, or travel lane(s) switch.
- (H) Where open trench construction occurs, temporary patches may be constructed and maintained by the permit holder in a smooth and safe condition acceptable to the County Engineer until a permanent repair is accomplished. Use of temporary patching shall not exceed thirty (30) days. An extension beyond the thirty (30) day requirement may be granted by the County Engineer upon request with justification by the permittee. Open trench construction shall utilize cementitious flowable backfill in accordance with Indiana Department of Transportation Standard Specifications

within the right of way.

(I) All pavement damaged during any activity related to the subject improvement shall be restored to a smooth, permanent surface meeting Hendricks County standards. Aggregate and chip-and-seal surfaces shall be restored in conformance with Hendricks County standards.

(J) All sod, swales, side ditches, shoulders, culverts, and other Improvements within the right-of-way which are disturbed by any work or construction within the right-of-way shall be repaired or replaced in a condition equal to or better than they were prior to the work or construction, as approved by the County Engineer. Materials used in the repair of any disturbed area and the method used to make the repairs shall be approved by the County Engineer and shall generally meet INDOT standards and specifications. Permittee shall be responsible for providing evidence of existing conditions prior to the work in any dispute related to those conditions.

(K) Anyone who cuts or damages an underground tile, storm sewer pipe or culvert pipe in the right-of-way, whether it appears abandoned or not, shall notify the County Engineer immediately upon discovery of the damage. The person cutting the tile or pipe shall repair the damaged tile or pipe to the satisfaction of the County Engineer and, if the tile or pipe is a regulated drain, to the satisfaction of the Hendricks County Surveyor.

(L) The Permittee shall construct and maintain appropriate erosion control measures during and after construction.

(M) Any pipe placed in the roadside ditch shall have a minimum diameter of fifteen (15) inches.

EMERGENCIES

(A) In the event of an emergency, utility repairs may be undertaken without first receiving a permit. However, in a utility emergency, the utility must notify the County Engineer as soon as possible, but in no case later than twenty-four (24) hours after initiation of such repairs in the right-of-way. Notification during non-work hours may be made by fax or e-mail.

(B) All repairs conducted under an emergency shall be done in a safe manner generally meeting Hendricks County and INDOT maintenance of traffic standards. Final repairs shall comply with Hendricks County standards.

(C) An application for a permit and the associated fee must be filed with the County Engineer within seventy-two (72) hours of the time the work is begun under an emergency.

FORMS, SPECIFICATIONS, AND DETAILS

The County Engineer is hereby authorized to adopt and revise standard permit and other forms, construction details, and technical specifications applicable to the construction or Improvements in the rights-of-way. Current details and specifications will be made available to applicants.

APPLICATION FOR PERMIT

(A) Any person, firm, Public Utility, or corporation desiring to construct an Improvement, or to alter, change or modify an existing structure in the right-of-way of the Hendricks County highway system shall make application for a permit to the County Engineer on the forms provided, accompanied by the required information and fees, either on-line or in person.

(B) Where applicable, the owner of record of the property to be served by an Improvement shall certify as to ownership and, if not the applicant, authorize the application.

(C) The County Engineer shall not accept incomplete applications, or applications not accompanied by the required fees unless prior payment arrangements have been made.

(D) An application accepted as complete may be revised by applicant to address review comments by the County Engineer. Such revised application shall not be considered a new application for the

purposes of this Ordinance.

(E) Any application for which a permit is not issued or which the applicant is not actively pursuing resolution of review comments shall be considered abandoned by the applicant ninety (90) days after the date of the last interaction between the applicant and the County Engineer related to the application.

PERMIT FEES

(A) Applicant shall pay a permit fee to the County Engineer with the application for permit for all Improvements in the Hendricks County highway system right-of-way. This permit fee shall provide for the review, permit issuance, and inspection of the Improvements.

(B) Permit fees shall be as set forth in the Schedule of Fees as approved by the Hendricks County Commissioners.

(C) When underground linear projects exceed one (1) mile in total continuous length of impact to County rights-of-ways, the County Engineer may choose to contract outside inspection services. If outside inspection services are hired, additional permit fees will be calculated based on the actual costs for said inspections and other services related to the encroachment and will be assessed in addition to the base fees outlined in the Schedule of Fees.

(1) County Engineer shall estimate the costs of services related to the requested encroachment.

(2) Applicant shall deposit with the County Engineer the amount estimated by the County Engineer for the services requested plus ten percent (10%) prior to approval of the permit.

(3) Upon completion of the work and before final inspection, County Engineer shall cause to be prepared a summary of the expenses incurred for the requested service.

(a) The cost of the final inspection shall be estimated by County Engineer and shall be considered adequate for the service, whether the actual costs were more or less than estimated. If the final inspection does not result in approval of the work, a new summary and final inspection estimate will be prepared incorporating the costs of the failed final inspection and estimating the new final inspection.

(b) A copy of the summary shall be provided to the applicant.

(4) If the expenses were less than the deposit, County Engineer shall refund unused funds to applicant after approval of the final inspection.

(5) If the expenses exceeded the deposit, applicant shall deposit with the County Engineer additional funds to cover the costs of the requested services prior to approval of the project.

(D) The provisions of this Ordinance pertaining to the fee shall not apply to work done as part of a project owned by any city, town, municipal corporation, or any other county, or by any agency of the state, provided that these entities shall comply with all other applicable provisions of this Ordinance.

(E) Permit fees shall be paid by check, money order or credit card made payable to the "Hendricks County Engineering Department"-cash cannot be accepted. Any payment fees incurred shall be paid by the permittee.

(F) Permit fees shall be deposited in the Engineering Department's general operating fund for the costs of administering the department.

(G) Permit fees are refundable only if the County Engineer determines that compliance with this section is not necessary.

SCHEDULE OF FEES

The permit fee is based on the type and amount of work being authorized by this permit. Fees shall be paid by check or money order or credit card, if on-site or on-line processing is available, made payable to the "Hendricks County Engineering Department". Cash cannot be accepted.

TYPE OF WORK	FEE
Open Road Cut Across or Within a Paved Roadway	\$3.00 per square foot of excavation (\$200.00 minimum)
Underground Linear Project Including Grading, Trenching, or Excavation Parallel to Road	\$50.00 for each five hundred (500) feet of continuous construction or part thereof *Additional fees may be assessed on projects greater than 1 (one) mile to cover the direct expenses of hiring consultant inspection staff.
Push or Bore Under Road	\$75.00 per push or bore
Placement/Removal of Poles/Overhead Lines	\$75.00 for each one thousand (1,000) feet of continuous pole line or fraction of one thousand (1,000) *Permit not required when replacing or removing a single pole in an existing location due to damage to the pole or when making a utility connection on an existing pole line.
Tap Pit/Spot Cut Dirt	\$75.00 per tap pit/spot cut less than one hundred (100) square feet in area *Does not include any cutting of the pavement surface.
Major Commercial Drive	\$250.00 per drive
Minor Commercial Drive	\$250.00 per drive
Construction/Temporary Drive	\$100.00 per drive
Public Road Approach/Private Road Approach	\$400.00 per approach + \$1.00 per square foot of full width auxiliary lane pavement + \$0.25 per square foot of road widening
Utility Pull-Off Drive	\$250.00 per drive
Residential Drive	\$150.00 per drive
Field Entrance	\$25.00 per entrance

BONDS

(A) Where in the opinion of the County Engineer the Improvements may impact County Improvements in the right-of-way, a permit bond for the estimated cost of the impact shall be provided to the County Engineer. The bond shall be submitted and approved prior to issuance of a permit.

(B) The permit bond shall obligate the applicant to perform all duties required by the terms of the permit and to the satisfaction of the County Engineer, and shall pay all lawful claims of the contractor, vendors and laborers for labor performed and materials furnished, or other services rendered in the carrying forward, performing and completing of the permit.

(C) The standard bond amounts shall be as set forth in the Schedule of Bonds as approved by the Hendricks County Commissioners.

(D) The County Engineer may allow utilities intending to file for multiple permits to have an annual permit bond for utility work in the county right-of-way in an amount acceptable to the County Engineer. The minimum annual permit bond amount requirement is TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). The annual permit bond shall be written so that it covers all contemplated projects within Hendricks County and automatically renews, unless the surety gives the County Engineer a written notice sixty (60) days prior to the annual expiration date. An annual permit bond cannot be used for drive or public road approach permits.

(E) The County Engineer shall have the authority to develop bond forms and to approve bonds received for Improvements.

(F) Prior to the release of any permit bond, the County Engineer will inspect to determine the completion of construction according to the terms of the permit and to the satisfaction of the County Engineer.

(G) At the discretion of the County Engineer, a maintenance bond may be required from an applicant as a condition of approval or as a condition of releasing the permit bond. A utility company having a certificate of authority or franchise issued by the Indiana Utility Regulatory Commissioner and who has a continuous bond on file with the Hendricks County Engineer may use the permit bond in lieu of the maintenance bond when approved by the County Engineer.

(H) If the bond company sends notice that the bond is being canceled at any time prior to completion of the conditions for which the bond is obligated, the total amount of the bond shall become immediately due and payable to the Hendricks County Board of Commissioners. If a maintenance bond is not submitted upon completion of the work, the total amount of the permit bond covering the work will become immediately due and payable to the Hendricks County Board of Commissioners and no additional permits will be issued to the applicant.

SCHEDULE OF BONDS

The minimum permit bond required is based on the type and amount of work being authorized by this permit. Bond coverage is based upon the controlling operation of the proposed work within the right-of-way. Bond coverages may be adjusted at the discretion of the County Engineer and/or the Board of Hendricks County Commissioners.

TYPE OF WORK	MINIMUM BOND REQUIRED
Open Road Cut	\$15,000.00 per location
Underground Linear Project Including Grading, Trenching, or Excavation Parallel to Road	\$10,000.00 per mile or fraction of a mile
Push or Bore Under Road	\$5,000.00 per push or bore
Placement/Removal of Poles/Overhead Lines	\$5,000.00 per mile or fraction of a mile
Tap Pit/Spot Cut Dirt	\$5,000.00 per tap pit/spot cut
Major Commercial Drive	\$15,000.00 per drive
Minor Commercial Drive	\$10,000.00 per drive
Construction/Temporary Drive	\$10,000.00 per drive
Public Road Approach/Private Road Approach	\$15,000.00 per approach
Utility Pull-Off Drive	\$10,000.00 per drive
Residential Drive or Field Entrance	No bond required
Maintenance Bonds	Equal to initial permit bond amount

GENERAL PERMIT CONDITIONS

Permits for work in the right-of-way shall include the following general conditions as applicable to the permit type and work being done:

(A) The permittee shall request utility locates prior to any excavation in accordance with Indiana State law.

(B) A drive is not permitted to cross a limited access rights-of-way or a non-access easement.

(C) The entire expense of constructing driveways, mailbox approaches, utilities, and other private improvements shall be borne by the property owner(s).

(D) No entrance shall be closer than five (5) feet to the adjacent property line or as indicated by any zoning bufferyard requirements.

(E) No approach shall be constructed so that any part of it extends in front of the property belonging

to a person other than the permittee.

(F) All driveways and approaches shall be so constructed that they shall not interfere with drainage of, or cause erosion to, the highway.

(G) All water must be directed away from the roadway to side ditches or other swales.

(H) All disturbed areas shall be seeded or sodded immediately upon completion to prevent erosion. This work may be deferred until growing season upon installation of erosion control measures at the County Engineer's discretion.

(I) The construction of such driveways and approaches shall not interfere with any existing structure or any County highway right-of-way without specific written permission from the County Engineer and any owner of the structure.

(J) Concrete headwalls or any other concrete, brick or other solid structures including mailbox installations will not be permitted in the right of way.

(K) All entrances and approaches shall be constructed with adequate sight distance in both directions along the highway to allow safe access to the highway without interfering with traffic on the highway.

(L) No entrance or approach shall be constructed where it will interfere with or prevent the proper location of highway signs.

(M) If the driveway has a loose aggregate surface, it is the permittee's responsibility to keep the highway pavement free from the loose aggregate at all times.

(N) Permitted work must be completed within one (1) year after the permit is issued; otherwise the permit will expire and a new permit will be required.

(O) Permittees and property owner(s) shall bear all expenses of keeping approaches, culverts, and drainage in proper and adequate repair.

(P) The permittee may not plant flowers, shrubs, or trees within the right-of-way. Existing plantings in the right-of-way creating a potentially dangerous condition as determined by the County Engineer shall be removed by permittee.

(Q) During construction of any drive, the approach must have sufficient aggregate during construction to prevent damage to the edge of existing pavement.

(R) Permittee will be responsible for costs incurred by the Highway Department to repair the existing road or public improvements if damaged.

(S) The permittee shall provide a drawing (plan sheets if applicable) of the proposed installation (see "Instructions for Completion" for the requirements.)

(T) The utility facilities which are to be retained, installed, adjusted, or relocated on, over, along, or under the highway, within Hendricks County right-of-way limits, will be located and accommodated in a manner that will not impair use of the highway, its maintenance, or otherwise interfere with its safe operation.

(U) No pole, handhole, riser, or other feature constructed as part of this Improvement shall be placed in the flowline of a roadside ditch, nor in any manner that will obstruct drainage.

(V) The permittee hereby agrees to assume liability for making any necessary utility adjustments should future conditions or road improvements necessitate such action when so requested by the Board, including the assumption of cost thereof, except where permittee has a compensable property right, or where reimbursement of such cost is provided for by law.

(W) It is the responsibility of the permittee to determine and show the County right-of-way limits to the best of their ability.

(X) All disturbed areas shall be seeded or sodded by the permittee immediately upon completion to prevent erosion. This work may be deferred until growing season upon installation of erosion control measures at the Highway Engineer's discretion.

(Y) The permittee further agrees to comply with the rules and regulations of the Board in servicing, maintaining, replacing, and removing the above described facilities, and to obtain a permit before performing any of these functions on such facilities located within the highway right-of-way, through the office of the Hendricks County Engineer.

(Z) The permittee shall save harmless and indemnify the Board from any claim for damages of any nature whatsoever arising out of the permittee's negligence in connection with any work done pursuant to the agreement or in connection with the operation of the utility or improvement.

(AA) During the progress of any construction undertaken within the limits of said highway in compliance with this agreement, the permittee shall provide watchmen and flagmen as may be required for safety and convenience of the public. Further, the permittee shall provide all barricades, signs, and traffic control lights reasonably necessary to protect the public. Traffic shall be maintained at all times unless otherwise indicated by special endorsement of the Boards duly authorized representative. Further, any detours of traveled roadways in Hendricks County, Indiana must be approved by the Hendricks County Engineering Department and the Board which have acknowledged and approved the impact of such detours on the County roadways prior to the implementation of such detour as may be required. All traffic control measures shall be in compliance with the Indiana MUTCD and INDOT Standards.

(BB) All damages to drainage structures, roadbeds, pavements, ditches, and other highway appurtenances arising from the installation, maintenance, or repair of the permittee's utility facilities shall be repaired at the expense of the permittee. No portion of pavement or highway shall be disturbed without prior permission from the Board. If a road cut is approved, the permittee shall make all necessary repairs according to specifications obtained from the Hendricks County Engineering Department. Upon completion of any work within the limits of the highway, all disturbed portions shall be replaced as nearly as practicable in as good a condition as they were when the work was begun.

(CC) It is understood and agreed to by the Board and the permittee that all utilities shall comply with the applicable provisions of the "Indiana Department of Transportation Utility Accommodation Policy, June 1, 2019", or latest edition.

PERMIT REVIEW AND ISSUANCE

(A) The County Engineer shall review each application for compliance with the provisions of this Ordinance and the published details and specifications.

(B) The County Engineer shall conduct an inspection of the location of any proposed encroachment.

(C) Upon a finding by the County Engineer that the proposed Improvement substantially complies with the County's requirements, and any culvert will be appropriately sized, the County Engineer shall approve and issue a permit for the Improvements.

(D) Permittee shall post the permit in a conspicuous location where the Improvements are being constructed.

PERMIT TERM AND EXTENSION

(A) The holder of a permit shall complete the work within one year of the date of issuance of the permit.

(B) A permit will expire the earlier of:

(1) one (1) year from the date of issuance,

(2) upon final approval of the work covered by the permit as determined by the County Engineer,
or

(3) sixty (60) days prior to the expiration of the permit bond covering the work.

(C) In the event permittee has not initiated the work prior to the end of the permit term, the permit shall expire.

(D) An extension of time for a period of one year may be granted upon receipt of a new application and permit fee.

INSTALLATION, INSPECTION, AND APPROVAL

- (A) Permittee shall be responsible for the purchase, installation, and construction of all Improvements in the right-of-way according to the permit.
- (B) The County Engineer shall inspect the Improvements to determine conformity with the permit and the applicable details and specifications.
- (C) The County Engineer shall be notified at least twenty-four (24) hours in advance of construction and when construction is complete in order to allow for inspections.
- (D) The County Engineer shall have the authority to make final administrative determinations as to the acceptability of any work done in the right-of-way.
 - (1) a final determination by the County Engineer that the work is complete and complies with the applicable standards shall satisfy permittee's obligations under the permit and the permit bond.

NON-COMPLIANCE

- (A) The following conditions or events, as determined by the County Engineer, represent non-compliance with the permit:
 - (1) permittee's work is substantially completed but does not fully comply with the applicable standards following notification to permittee and providing thirty (30) days for correction,
 - (2) the term of the permit is expiring and permittee is not making continuing, diligent efforts to complete the work, or
 - (3) where a condition exists related to the permit work that, in the County Engineer's opinion, creates an unsafe condition or a hazard and permittee has not corrected the condition after being notified and provided the opportunity to resolve the condition.
- (B) A permit time extension shall satisfy the non-compliant conditions or events represented under (1) or (2) above.
- (C) The County Engineer is authorized to issue a Stop Work Order for work under any permit until any condition under (3) above is resolved.
- (D) Upon a condition or event of non-compliance, the County Engineer may notify the permit bond holder that a claim is pending under the permit bond to complete the work. The County Engineer thereafter may take such actions as he considers prudent to cause the work to be completed.

NON-CONFORMITY

- (A) If any Improvements in the rights-of-way are found to be in violation of the ordinance in a manner that, in the County Engineer's opinion does not represent a significant potential safety hazard, permittee or property owner shall be notified in writing by the County Engineer about the violation and shall be given thirty (30) days to conform to this Ordinance.
- (B) If any Improvements in the rights-of-way are found to be in violation of the ordinance in a manner that, in the County Engineer's opinion, does represent a significant potential safety hazard, the County Engineer may issue a Stop Work Order for use of the Improvements and direct permittee to immediately rectify the violation to the extent the safety hazard is resolved, after which the Stop Work Order shall be revoked.
- (C) Continued violation of this Ordinance may result in revocation of the permit and may result in the removal of existing Improvements at permittee's expense by the Highway Department.
- (D) Permittee will then have to file for a new permit, pay a new permit fee, and comply with the current standard details and specifications.
- (E) Nothing in this Ordinance shall limit the County's rights to seek and obtain injunctive relief for any non-conformance.

VIOLATIONS

(A) A person who violates this Ordinance commits a class A infraction. When a violation occurs, the permit holder, the contractor, company or individual performing the work and the owner of the facilities being installed or constructed shall be held in violation both jointly and separately. Each subsection violated and each day for which the violation remains shall be a separate violation. A fine in an amount not to exceed TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) shall be imposed for each violation of this Ordinance. Additionally, the permittee, owner or contractor shall be responsible for the costs of restitution for any damages to any County right-of-way or Improvement thereon. The applicable fine and restitution cost shall be entered against a person who violates this Ordinance per violation for each day of the violation.

(B) Fee for enforcement of violations: Whenever any individual or corporation is found to be in violation of any subsection of this Ordinance, an inspection fee will be imposed to cover the costs of enforcement. This fee shall be TWO HUNDRED FIFTY DOLLARS (\$250.00) per day per violation of each subsection of this Ordinance. This fee is due and payable by permittee upon notification by the County Engineer. Failure to pay the fee within fourteen (14) days of notification will result in the withholding of all future permits to the individual or corporation and immediate submittal of the violation to the Hendricks County Attorney for collection. At the discretion of the County Engineer, this fee may be waived for an initial violation of this Ordinance provided the violator corrects his violation in a timely manner.

(C) Appeal of the levy of this fee may be made to the Hendricks County Commissioners. The fee amount due will not be required to be paid until the Hendricks County Commissioners have acted upon the appeal.

(D) In addition to the remedies set out in this section, any contractor, company, or individual who violates any provision in this Ordinance may be ineligible to obtain a permit under this Ordinance unless, or until all fines, damages, judgments, or restitution costs are paid in full by the violator.

(E) For any violation of this Ordinance or for any fine, fee, or cost of restitution as provided for in this Ordinance, Hendricks County may file an action for damages and injunctive relief and for the imposition or collection of such fine, fee, or cost of restitution in the Hendricks County Circuit or Superior Courts. The person, company, corporation for contractor found to be in violation shall also be ordered to pay the costs of such action including reasonable attorney fees of Hendricks County.

OTHER PERMITS

(A) For permits issued for Improvements in the right-of-way necessitated by or related to building construction or remodeling projects, the Hendricks County Area Plan Commission shall:

- (1) not issue a building permit until a permit is issued under this Ordinance, and
- (2) not issue a certificate of occupancy until the County Engineer has given approval of the Improvements in the right-of-way.