

**ORDINANCE NO. 2024-OR-004**

**AN ORDINANCE VACATING A PLATTED UTILITY EASEMENT**

**AN ORDINANCE FOR THE VACATION OF A PLATTED GENERAL UTILITY  
EASEMENT PURSUANT TO A PETITION FILED BY TRI-TOWNSHIP FIRE  
PROTECTION DISTRICT**

BE IT ORDAINED by the Town Council of the Town of Sellersburg, Indiana, (“Town”) pursuant to I.C. § 36-7-3-12 that:

SECTION 1. The application filed by Tri-Township Fire Protection District (“District”) is requesting the vacation of a general utility easement located in the Town of Sellersburg, Clark County, Indiana, and being more particularly described as that 20’ general utility easement dedicated to public use on the plat recorded in Plat Book 11, Page 65, in the office of the Recorder for Clark County, Indiana.

SECTION 2. That general utility easement concerns real estate located on our around Hamburg Way Sellersburg, Indiana and 7306 & 7310 Hwy 11, Sellersburg Indiana, which is exclusively owned by the District, and more specifically described as follows (the “Real Estate”), to-wit:

**LEGAL DESCRIPTION**

A part of Lot 4 of Hamburg Park Subdivision as shown in Plat Book 11, Page 65 of the Clark County, Indiana records, prepared by Christopher Howell, PS# 20600006, Blankenbeker and Associates Job #B22-24536, not based on a survey, described as follows:

Beginning at the west corner of said Lot 4;  
thence N 25°42'11" E 20.00 feet along the northwest line of said Lot 4;  
thence S 64°19'21" E 316.08 feet;  
thence S 25°41'15" W 20.00 feet to the southwest line of said Lot 4;  
thence N 64°19'21" W 316.09 feet along said southwest line to the point of beginning.

Containing 0.145 acre more or less, and subject to all easements, restrictions, and rights-of-way of record.

Being a portion of that property conveyed to Tri-Township Fire Protection District in Instrument 202226054 as recorded in the Office of the Recorder of Clark County, Indiana.

SECTION 3. The Town hereby releases, assigns and quits any claim to the 20' general utility easement on the plat recorded in Plat Book 11, Page 65, in the office of the Recorder for Clark County, Indiana, and title to such 20" general utility easement within the above-described Real Estate shall henceforth be vested in the owner of the Real Estate.

SECTION 4. This Ordinance shall be in the full force and effect from and after its passage by the Town Council of the Town of Sellersburg this 22<sup>nd</sup> day of January, 2024.

SO ORDAINED THIS 22ND DAY OF JANUARY 2024.

*[Signature Page To Follow]*

“Aye”

“Nay”

Brad Amos  
Brad Amos  
Council President

\_\_\_\_\_  
Brad Amos  
Council President

Terry Langford  
Terry Langford  
Council Vice President

\_\_\_\_\_  
Terry Langford  
Council Vice President

Scott McVoy  
Scott McVoy  
Council 2<sup>nd</sup> Vice President

\_\_\_\_\_  
Scott McVoy  
Council 2<sup>nd</sup> Vice President

Matthew Czarniecki  
Matthew Czarniecki  
Council Member

\_\_\_\_\_  
Matthew Czarniecki  
Council Member

Randall Mobley  
Randall Mobley  
Council Member

\_\_\_\_\_  
Randall Mobley  
Council Member

Michelle D. Miller  
Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 1/22/24

MOTION: McVoy

SECOND: Czarniecki

VOTE: 5 AYE 0 NAY 0 ABSTAIN

APPROVAL

DATE: 1/22/24

MOTION: Czarnicki

SECOND: M<sup>d</sup> Vog

Ordinance 2024-OR-004

VOTE: 5 AYE 0 NAY 0 ABSTAIN

STATE OF INDIANA

BEFORE THE SELLERSBURG TOWN COUNCIL

IN RE THE PETITION TO VACATE )  
 A CERTAIN PLATTED )  
 EASEMENT OF )  
 HAMBURG PARK (PLAT BOOK 11, PAGE 65 )  
 SELLERSBURG, CLARK COUNTY, )  
 INDIANA, )  
 )  
 TRI-TOWNSHIP FIRE PROTECTION )  
 DISTRICT )  
 PETITIONER. )

PETITION TO VACATE PLATTED EASEMENTS

Petitioner, Tri-Township Fire Protection District (hereinafter referred to as "Petitioner"), an Indiana municipal corporation by statute, for its petition state as follows:

1. Petitioner owns Lots 3 and 4, Hamburg Park Subdivision (collectively the "Property"), as recorded in Plat Book 11, Page 65 in the Clark County Recorder's Office (hereinafter referred to as the "Plat"), a copy of said Plat being attached as Exhibit "A" hereto. The Property lies on the southeastern side of the street known as Hamburg Way Road.

2. In preparation for purchasing the Property as the site for the construction of Petitioner's new fire headquarters building, Petitioner had a Survey prepared and discovered that the proposed building would cover a platted utility easement, a copy of said Survey being attached as Exhibit "B" hereto.

3. The Survey reflects the existence of two (2) previously recorded easements in the proposed building area, along with several other platted easements

unaffected by this petition, all as shown on the "Easement Descriptions" portion of the Survey.

5. Pursuant to the provisions of Indiana Code 36-7-3-12 and 36-7-3-16, Petitioners seek the vacation of all of the platted general utility easement (the "Utility Easement"), as highlighted on the drawing attached hereto as Exhibit "C," and described by metes and bounds on Exhibit "D" attached hereto. None of the other Easements shall be affected by the proposed vacation. There are no other owners of land that abut the portion of the easements to be vacated.

6. Petitioner seeks the vacation of the Utility Easement to be able to complete construction of its new fire headquarters building.

7. Vacation of the Utility Easement will not hinder the growth of or orderly development of the neighborhood in which the Property is located or to which the Utility Easement is contiguous.

8. Vacation of the Utility Easement will not make access to the lands of any person by means of public way difficult or inconvenient.

9. Vacation of the Utility Easement will not hinder any utility company's ability to provide utility services to the residents in the surrounding area.

10. Petitioner has further caused notice of the filing of this petition and the scheduled hearing hereon to be published in News and Tribune one (1) time at least ten (10) days before the scheduled date of such hearing as required by Indiana Code 5-3-1-2(b).

11. Petitioner asks that the proposed vacation of the platted easement be granted by ordinance of the Town of Sellersburg, and that such ordinance provide that subsequent to such vacation Petitioner shall own the vacated property.

WHEREFORE, Petitioner respectfully asks that the Sellersburg Town Council conduct a public hearing on this petition, and that following such petition enact and adopt the ordinance vacating the specified portion of the platted easement as requested herein.

TRI-TOWNSHIP FIRE PROTECTION  
DISTRICT, an Indiana governmental  
municipality

By: Dale P Coole  
Name: TRI-TOWNSHIP FIRE PROTECTION  
Title: CHAIRMAN

*This petition prepared by:*  
Erin Legg Benken  
APPLEGATE FIFER PULLIAM LLC  
428 Meigs Avenue  
Jeffersonville, Indiana 47130  
(812) 284-9499  
Attorney for Petitioner

EXHIBIT "A"

PLAT







EXHIBIT "B"

SURVEY





EXHIBIT "C"

DRAWING OF PORTION OF EASEMENTS TO BE VACATED



EXHIBIT "D"

METES AND BOUNDS DESCRIPTION OF PORTION OF EASMENTS TO BE  
VACATED

A part of Lot 4 of Hamburg Park Subdivision as shown in Plat Book 11, Page 65 of the Clark County, Indiana records, prepared by Christopher Howell, PS# 20600006, Blankenbeker and Associates Job #B22-24536, not based on a survey, described as follows:

Beginning at the west corner of said Lot 4;  
thence N 25°42'11" E 20.00 feet along the northwest line of said Lot 4;  
thence S 64°19'21" E 316.08 feet;  
thence S 25°41'15" W 20.00 feet to the southwest line of said Lot 4;  
thence N 64°19'21" W 316.09 feet along said southwest line to the point of beginning.

Containing 0.145 acre more or less, and subject to all easements, restrictions, and rights-of-way of record.

Being a portion of that property conveyed to Tri-Township Fire Protection District in Instrument 202226054 as recorded in the Office of the Recorder of Clark County, Indiana.

ORDINANCE NO. \_\_\_\_\_

IN RE THE PETITION TO VACATE CERTAIN PLATTED EASEMENT  
OF HAMBURG PARK (PLAT BOOK 11, PAGE 65),  
SELLERSBURG, CLARK COUNTY, INDIANA

WHEREAS, petitioner, Tri-Township Fire Protection District, an Indiana municipal corporation by statute, has filed a petition for the vacation of a platted easement on petitioner's property pursuant to the provisions of IC 36-7-3-12 and 36-7-3-16; and,

WHEREAS, such petitioner has further caused a notice of public hearing on such petition before this Council to be properly published in accordance with Indiana law; and,

WHEREAS, this Council having held such public hearing at the date and time as stated in such published notification.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL  
FOR THE TOWN OF SELLERSBURG, INDIANA, as follows:

1. The Town Council for the Town of Sellersburg, hereby finds all of the following:

a. There are no other owners of land that abut the platted easement to be vacated.

b. The proposed vacation shall allow the petitioner to begin construction of its new fire headquarters building.

c. The proposed vacation will not hinder the growth or orderly development of the neighborhood in which the easement is located or to which the easement is contiguous.

d. The proposed vacation will not hinder the any utility company's ability to provide utility services to the residents in the surrounding area.



2. The petitioner's petition for vacation of platted easements is hereby granted, and the platted easement within Sellersburg's municipal boundaries are hereby vacated as depicted on attached Exhibit "C" and described in Exhibit "D". Exhibits "A" and "B" to the petitioner's petition are intentionally omitted.

3. The petitioner shall cause a certified copy of this Ordinance to be recorded in the office of the Recorder of Clark County, Indiana, in accordance with the provisions of Ind. Code § 36-7-3-12(e), and thereafter shall file a recorded copy with the office of the Clerk of the Town of Sellersburg, Indiana.

4. This Ordinance shall be in force and effect upon its adoption.

So Ordained by majority vote of the entire membership of the Town of Sellersburg, Indiana at a properly noticed and convened public meeting held this 22nd day of January, 2024.

TOWN COUNCIL FOR THE TOWN OF  
SELLERSBURG, INDIANA

By: Brad J. Anos  
~~Matthew Czarniecki, President~~  
Brad J. Anos

Attested by:

Michelle D. Miller  
Michelle D. Miller, Clerk Treasurer

EXHIBIT "C"

DRAWING OF PORTION OF EASEMENTS TO BE VACATED





EXHIBIT "D"

METES AND BOUNDS DESCRIPTION OF EASEMENTS TO BE VACATED

A part of Lot 4 of Hamburg Park Subdivision as shown in Plat Book 11, Page 65 of the Clark County, Indiana records, prepared by Christopher Howell, PS# 20600006, Blankenbeker and Associates Job #B22-24536, not based on a survey, described as follows:

Beginning at the west corner of said Lot 4;  
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thence S 64°19'21" E 316.08 feet;  
thence S 25°41'15" W 20.00 feet to the southwest line of said Lot 4;  
thence N 64°19'21" W 316.09 feet along said southwest line to the point of beginning.

Containing 0.145 acre more or less, and subject to all easements, restrictions, and rights-of-way of record.

Being a portion of that property conveyed to Tri-Township Fire Protection District in Instrument 202226054 as recorded in the Office of the Recorder of Clark County, Indiana.

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Fax (765)648-4229

ORDER CONFIRMATION (CONTINUED)

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NOTICE OF PUBLIC HEARING TO CONSIDER A PETITION TO  
VACATE CERTAIN PLATTED EASEMENTS OF HAMBURG PARK  
(PLAT BOOK 11, PAGE 65) SELLERSBURG, CLARK COUNTY,  
INDIANA

NOTICE is hereby given that the petitioner, Tri-Township Fire Protection District, an Indiana governmental entity, has filed with the Sellersburg Town Council of the Town of Sellersburg, Indiana, a petition to vacate two platted easements, an Ameritech easement and utility easement, the portion of which to be vacated is more particularly described as follows:

A part of Lot 4 of Hamburg Park Subdivision as shown in Plat Book 11, Page 65 of the Clark County, Indiana records, prepared by Christopher Howell, PS# 20600006, Blankenbeker and Associates Job #B22-24536, not based on a survey, described as follows:

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thence S 6419'21" E 316.08 feet;  
thence S 2541'15" W 20.00 feet to the southwest line of said Lot 4;  
thence N 6419'21" W 316.09 feet along said southwest line to the point of beginning.

Containing 0.145 acre more or less, and subject to all easements, restrictions, and rights-of-way of record.

Being a portion of that property conveyed to Tri-Township Fire Protection District in Instrument 202226054 as recorded in the Office of the Recorder of Clark County, Indiana.

AND ALSO INCLUDING

A part of Lot 4 of Hamburg Park Subdivision as shown in Plat Book 11, Page 65 of the Clark County, Indiana records, prepared by Christopher Howell, PS# 20600006, Blankenbeker and Associates Job #B22-24536, not based on a survey, described as follows:

Beginning at the west corner of said Lot 4;  
thence N 2542'11" E 100.00 feet along the northwest line of said Lot 4;  
thence S 6417'49" E 10.00 feet; thence S 2542'11" W 90.00 feet; thence S 6419'21" E 306.08 feet; thence S 2541'15" W 10.00 feet to the southwest line of said Lot; thence N 6419'21" W 316.09 feet along said southwest line to the point of beginning.

Containing 0.093 acre more or less, and subject to all easements, restrictions, and rights-of-way of record.

The original petition is on file in the Town Clerk's Office at 316 E. Utica Street, Suite 101, Sellersburg, Indiana, and may be inspected during regular business hours.

Notice is further given that a public hearing on the petition will be held by the Town Council at its regular meeting on January 22, 2024, at 6:00 o'clock p.m. (prevailing local time). The meeting will be held in the Sellersburg Government Building, 316 E. Utica Street, Sellersburg, Indiana, at which time you may be heard in person at the hearing. All interested persons shall be heard at such public hearing regarding the matters set out in said petition.

The Town Council for the Town of Sellersburg, Indiana, may continue the public hearing from time-to-time as deemed necessary, and/or may adopt the proposed vacation by ordinance or reject the proposed vacation following the conclusion of such hearing.

Such notice is given this the 2nd day of January, 2024.

/s/ Michelle D. Miller  
Sellersburg Town Clerk-Treasurer

Prepared by:

Erin Legg Benken  
Attorney for Petitioner  
APPLGATE FIFER PULLIAM, LLC  
428 Meigs Ave.  
Jeffersonville, Indiana 47130  
(812) 284-9499

hspaxlp

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ORDER CONFIRMATION

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Ad #: 1866138

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APPLEGATE FIFER PULLIAM LLC  
PO BOX 1418  
428 MEIGS AVENUE  
JEFFERSONVILLE IN 47131-1418

Start: 01/10/2024 Stop: 01/10/2024  
Times Ord: 1 Times Run: \*\*\*  
LEG 2.00 X 76.00 Words: 536  
Total LEG 152.00  
Class: 105 PUBLIC NOTICES  
Rate: LMIS1 Cost: 445.36  
# Affidavits: 1

Contact: JAIME FARABEE  
Phone: (812)284-9499  
Fax#:  
Email: jfarabee@afpfirm.com  
Agency:

Ad Descript: NOTICE OF PUBLIC HEARING  
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Created: jgall 01/08/24 14:06  
Last Changed: jgall 01/08/24 14:12

PUB ZONE EDT TP RUN DATES  
JEFF JEF 95 S 01/10  
JNOL JEF 95 S 01/10

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

\_\_\_\_\_  
Name (print or type)

\_\_\_\_\_  
Name (signature)

(CONTINUED ON NEXT PAGE)