

STATE OF INDIANA  
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

**ORDINANCE NO. 2022 – OR – 010**

**AN ORDINANCE AMENDING ORDINANCE 2019-OR-022 ESTABLISHING  
CONDITIONS AND REQUIREMENTS OF RIGHT-OF-WAY ACTIVITY PERMIT(S).**

**WHEREAS**, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

**WHEREAS**, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, from time to time this Council finds it necessary to amend and improve certain previously adopted ordinances,; and,

**WHEREAS**, this Council now desire to amend *Ordinance 2019-OR-022 – An Ordinance Establishing Conditions And Requirements Of Right-Of-Way Activity Permit(s)*.

**NOW THEREFORE BE IT ORDAINED** by this Town Council of Sellersburg, Indiana the following amendments, which shall be identified in italics and bold font:

1. Permit Requirement(s). Any and all work in the right-of-way (“ROW”) that is not included in the limits of an otherwise permitted construction project shall require a permit from the Town Engineer or this Council’s designee. A project that requires and does not have a ROW permit shall be subject to a stop work order and fee of \$400.00. Any work completed after the stop work order is delivered shall incur a fee of \$500.00 per day which shall be satisfied before the permit is issued.
2. Lane Restriction(s) and Temporary Road Closure(s). Any ROW permit requiring lane restrictions *or temporary road closures* shall require the contractor to supply a traffic

maintenance plan per INDOT traffic control standards and in compliance with the Indiana Manual on Uniform Traffic Control Devices with the application to the Town Engineer or this Council's designee by email no later than ten (10) days prior to the lane restriction activity.

3. Backfill. All ROW excavation within five (5) feet of the right-of-way shall be backfilled with flowable fill or any other suitable material as directed by the Town Engineer or this Council's designee.
4. Asphalt Pavement. Asphalt pavement shall be neatly saw cut on each side two (2) feet wider than the trench opening. The pavement and base material shall be replaced according to the specifications set forth by the Town Engineer. All seams must be cleaned and tack-coated to provide a seamless joint to the surrounding pavement. No cold patch shall be used except for temporary patching which will be maintained by the contractor for the duration until HMA pavement can be installed.
5. Concrete Paving. Concrete pavement shall be neatly saw cut and the whole disturbed panel shall be removed and replaced. There will need to be at least 2 feet of undisturbed soil on each side of the excavation to allow the concrete patch to bridge the excavation. The new concrete patch shall be installed using Class A concrete. The finish is to match the existing finish of the surrounding pavement. All concrete patches shall be treated with a curing compound.
6. Ditches. Ditches disturbed by excavating shall be properly graded, seeded and blanketed to allow for positive drainage. The blanket needs to be approved by the Town Engineer.

7. Grass. Grass areas that are disturbed shall have a minimum of 6” of aggregate free soil installed and seeded (equal to or better than existing grass). The stabilization needs to be completed within 14 days from the date of completion of the install and/or repair.
8. Final Inspection. Upon the completion of all installations or repairs, the application is required to schedule a final inspection with the Town Engineer. If all work and stabilization is completed to the sole satisfaction of the inspector and stabilization has been maintained for no less than 21 days, the inspector shall sign off on the release of the permit. The release of the permit does release the contractor from the settling and germination requirements of 70% germination.
9. Right to Withhold Release. If the inspector deems the craftsmanship or quality of work to be questionable, the Town reserves the right to withhold the release for up to one (1) year from the date of final inspection.
10. Larger Surety. The Town reserves the right to require a larger surety if unusual conditions exist which may dictate higher than usual damages.
11. Responsibility of Work. The Town shall hold the applicant directly responsible for all work performed under the permit.
12. Notification. The Town Engineer’s office shall be notified a minimum of four (4) hours prior to starting all pavement repairs so that an inspector may observe the placement of the new patch material. Failure to notify the Town Engineer shall result in removal and replacement of such material with applicant responsible for the costs. Hours for this inspection shall occur during regular business hours.
13. Liability. The application shall indemnify, defend, and hold harmless, the Town of Sellersburg, Indiana, its employees, agents, and representatives against any and all claims,

demands, judgements, losses and expenses, related, directly or indirectly, or which may arise from any injuries to person or persons and damage to property resulting or caused from or by the work, of form any condition created by such work in the street, public place, or ROW by the applicant.

14. Moving of Utilities. Applicant agrees to move/relocate its utilities within ninety (90) days upon written notice by the Town of Sellersburg, Indiana should it be necessary for the Town to perform work in the street, public place, or ROW. Failure to move the utilities within ninety (90) days after receiving notice will result in a fine of \$1,000.00 per day. In addition, Applicant, by accepting a ROW permit, agrees to move any preexisting utilities in the public ROWs in the Town of Sellersburg in the same manner and process described herein.

15. Schedule of Fees, Costs and Fines.

Activity Permit Filing Fee	\$50.00
<i>(No fee required for Lane Restriction or Temporary Lane Closure(s))</i>	
Surety Requirement	\$2,000.00 per location
	\$10,000.00 blanket bond
Open Cut Maintenance Bond	\$10,000.00 per location
ROW Boring	\$50.00 + \$0.75 per lineal foot
ROW Open Cut	\$300.00 + \$5.00 per sq. ft.
Stop Work Reinstatement Fee	\$400.00 each time
Work Completed During Stop Work Order	\$500.00 per day
Failure To Relocate Utilities	\$1,000.00 per day after 90 day notice

\*ROW fees do not apply to repairs to existing sidewalks.

\*\*Surety may include any of the following: Bond, Letter of Credit, or Certified Check.

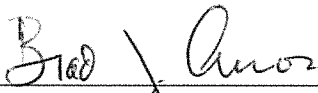
\*\*\* *No bond required for Lane Restriction or Temporary Lane Closures*

The Executive Secretary is hereby charged with the responsibility of publishing this ordinance pursuant to Ind. Code § 5-3-1 *et seq.* and said amendments to the ordinance will take effect thirty (30) days after the date of publishing. All other sections not amended by this ordinance are still in full force and effect.

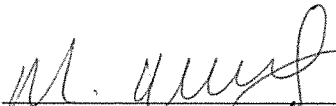
So Ordained this 23<sup>rd</sup> day of May, 20 22.

“Aye”

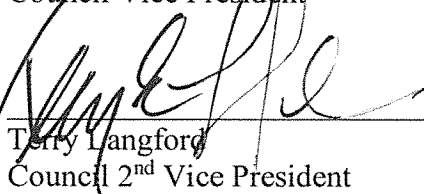
“Nay”

  
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Brad Amos  
Council President

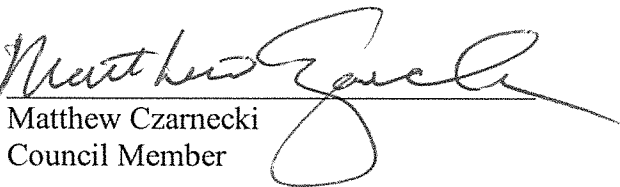
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Brad Amos  
Council President

  
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Scott McVoy  
Council Vice President

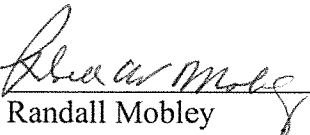
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Scott McVoy  
Council Vice President

  
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Terry Langford  
Council 2<sup>nd</sup> Vice President

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Matthew Czarnecki  
Council Member

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Council Member

  
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Randall Mobley  
Council Member

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Randall Mobley  
Council Member

Michelle Miller

Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 5/23/2022

MOTION: Czarniecki

SECOND: Langford

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 5/23/2022

MOTION: M<sup>o</sup>Vo<sup>y</sup>

SECOND: Czarniecki

VOTE: 5 AYE 0 NAY 0 ABSTAIN