

WHITLEY COUNTY ORDINANCE NO. 2020-14AN ORDINANCE ESTABLISHING STANDARDS AND CONDITIONS FOR THE
ISSUANCE OF WHITLEY COUNTY HIGHWAY ROAD AND RIGHT-OF-WAY WORK
PERMITS AND THE ESTABLISHING OF SERVICE CHARGES THEREFORE;

WHEREAS, Indiana Code 36-1-3, et. seq. ("the Indiana Home Rule Act"), permits any county in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its county or internal affairs which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, The Board of Commissioners of the County of Whitley is the county legislative and executive body and is authorized to adopt ordinances and resolutions concerning Whitley County governmental operations; and

WHEREAS, the Indiana Home Rule Act allows Whitley County to impose license fees not greater than that reasonably related to the administrative cost of exercising a regulatory power, and service charges or user fees not greater than that reasonably related to reasonable and just rates and charges for the services provided.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WHITLEY COUNTY, AS FOLLOWS:

SECTION 1. The Board of Commissioners of the County of Whitley hereby adopt the following standards and conditions for the issuance of Whitley County road and right-of-way work permits and the establishing of service charges therefore

I. Definitions:

- A. The term "Road" refers to the driving surface, including but not limited to an asphalt, concrete, or gravel surface
- B. The term "Right-of-Way" refers to the land under the driving surface and beyond the edges of the driving surface that the public has the right to use and the Board of Commissioners has the right to control.
- C. The term "Pavement" refers to any hard surface treatment on the road such as chip and seal, asphalt, or concrete.
- D. The term "County Highway Engineer" refers to the Whitley County Engineer



Permit Holder requests to cut the pavement and it is determined necessary by the County Highway Engineer, the Whitley County Commissioners may authorize the pavement to be cut.

- B. Open cutting of the road without the approval of the Commissioners shall only occur on gravel roads.

VI. Private or Agricultural Work: In all instances where a property owner desires to perform any Work in the Right-of-Way, a permit is required. Right-of-way work includes, but is not limited to the following:

- A. Any excavation
- B. Any filling, regrading, and/or contouring of the roadside ditch or a drainage swale
- C. Any installing, repairing, or replacing of private tiles across or through the Right-of-Way

VII. Installation of Tile and Filling in Roadside Ditch: The installation of tile and filling in of a roadside ditch is prohibited. A formal written request may be submitted to the County Highway Engineer for consideration and may be approved under special circumstances. Any roadside ditch that is filled in without the consent of the County Highway Engineer shall be excavated and re-contoured by the Whitley County Highway Department at the expense of the individual that filled in the roadside ditch without consent.

VIII. Driveway Work: The installation of a new access to any property from a Whitley County maintained Road requires a driveway permit to be submitted for approval prior to driveway work being completed and that permit must meet the following applicable specifications:

- A. Driveway must be sloped to allow surface water to drain away from the road
- B. A culvert pipe may be necessary under the driveway in the side ditch and must meet specified size requirements
- C. Side ditches are necessary for the maintenance of the County Roads and they must be constructed by the owner to allow unrestricted flow of water in the Right-of-Way
- D. There shall be no landscaping in the Right-of-Way
- E. Mailbox installations shall comply with Whitley County Ordinance 2005-15

IX. Emergency Work: Emergency work may be made without a permit anytime human life may be endangered. Subsequent to the emergency work and within one working

C. Boring:

- i. Failure to obtain a permit prior to boring will incur a fine of \$250.00 per crossing.

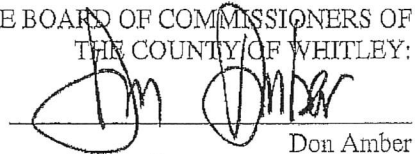
D. Driveway:

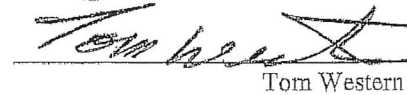
- i. Failure to obtain a permit prior to installing a new access to any property from a Whitley County road will incur a fine of \$100.00

I. Effective Date: This ordinance shall be in full force and effect on passing by the Whitley County Board of Commissioners

II. All as Passes and Ordained this 21 day of December, 2020.

THE BOARD OF COMMISSIONERS OF
THE COUNTY OF WHITLEY:


Don Amber


Tom Western


George Schrupf
COMMISSIONER