

STATE OF INDIANA

BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

ORDINANCE NO. 2019 – OR – 022

**AN ORDINANCE ESTABLISHING CONDITIONS AND REQUIREMENTS OF
RIGHT-OF-WAY ACTIVITY PERMIT.**

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, this Council finds it necessary to establish conditions and requirements for issuance of right-of-way permit to ensure work is performed in a manner that is the least disturbing to the public or damaging to the city’s infrastructure; and,

WHEREAS, this Council finds that the adoption of this Ordinance is necessary in order to protect the public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by this Town Council of Sellersburg, Indiana the following:

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). Any ROW permit requiring lane restrictions 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 injury 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 pre existing 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
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

This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

So Ordained this 12 day of August, 2019

“Aye”

“Nay”

Paul J. Rhodes
Paul J. Rhodes
Council President

Paul J. Rhodes
Council President

Brad Amos
Brad Amos
Council Vice President

Brad Amos
Council Vice President

Martina Webster
Martina Webster
Council Member

Martina Webster
Council Member

Jim LaMaster
Jim LaMaster
Council Member

Jim LaMaster
Council Member

William Conlin
William Conlin
Council Member

William Conlin
Council Member

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

FIRST READING

DATE: 8/12/19

MOTION: Webster

SECOND: LaMaster

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 8/12/19

MOTION: LaMaster

SECOND: Conlin

VOTE: 5 AYE 0 NAY 0 ABSTAIN