



AN ORDINANCE ESTABLISHING STANDARDS AND CONDITIONS FOR THE
ISSUANCE OF WELLS 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 for the performance of 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 Wells is the county legislative and executive body and is authorized to adopt ordinances and resolutions concerning Wells County governmental operations; and

WHEREAS, the Indiana Home Rule Act allows Wells 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 WELLS COUNTY, AS FOLLOWS:

SECTION 1. The Board of Commissioners of the County of Wells hereby adopts the following standards and conditions for the issuance of Wells 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 and will refer to any type of surface such as asphalt, concrete, or gravel.

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 "Highway Supervisor" refers to the Wells County Highway Supervisor.

E. The term "work" refers to any activity such as, but not limited to, excavating, cutting, digging, tearing, boring, installing, filling, drilling, and placing.

F. The term "County Regulated Drain" refers to an open drain, a tiled drain, or a combination of the two as defined in IC 36-9-27-2.

II. Application Charges: No application fee shall be assessed for any permit request.

III. Permitting, Materials, and Inspection Fees: Permits shall be required for the following improvements in, under, or effecting county roads and rights-of-way. For permits involving county regulated drains or improvements that will confer, in the judgment of the Highway Supervisor, a substantial benefit to the County, the Highway Supervisor shall have the authority to waive any permit fee subject to determination of such waiver's propriety by the Wells County Commissioners.

A. Open Cut on Pavement:

Permit holder will be charged a fee of \$520 per single cut. If stone is requested, an additional \$350 will be required to be paid per load.

B. Open Cut on Gravel Road:

Permit holder will be charged a fee of \$320.00 per single cut. If stone is requested, an additional \$350 will be required to be paid per load.

D. Driveway Permit:

Permit holder will be charged a \$50.00 flat fee. If stone is requested, an additional \$350 will be required to be paid per load. If fill dirt is requested, an additional \$150 will be required to be paid per load.

E. Right of Way Cut:

Permit holder will be charged a fee of \$50 per permit. Inspection by the Highway Department shall be required and said cut is subject to approval by the Highway Supervisor. Permit holder will be charged \$50.00 for inspection during regular business hours and \$150.00 for any inspections required outside of regular business hours.

IV. Application Process: Applicants shall covenant and agree faithfully to perform and discharge duties and responsibilities required in the application. The Highway Supervisor shall have the authority to review and issue the permit unless a known circumstance exists raising question as to whether the permit should be issued, in which event the permit shall be conceded to the Board of Commissioners during a formal meeting.

V. Utility Work:

A. In all instances where it is necessary to install an underground utility line across a paved road, the applicant shall bore under the existing pavement. If the applicant requests to cut the pavement and it is determined necessary by the Highway Supervisor, the Wells County Commissioners may authorize the approval of the cutting of the pavement.

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 Ditches: If a roadside ditch is prohibited. A formal written request may be submitted to the Highway Supervisor for consideration and may be approved under special circumstances. Any roadside ditch that is filled in without the consent of the Highway Supervisor shall be excavated and re-contoured by the Wells County Highway Department.

VIII. Driveway Work: The installation of a new access to any property from a Wells County maintained road requires a driveway permit to be submitted for approval prior to driveway work being completed and 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. Landscaping shall not be in the right-of-way

E. Mailbox installations shall comply with Wells County Ordinances

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 day, the Highway Supervisor shall be notified. If required, as determined by the Highway Supervisor, a formal permit must be thereafter obtained.

X. County Regulated Drains: If the work impinges on a County Regulated Drain, a separate permit must be submitted to the Wells County Drainage Board.

XI. Standards of Performance: All installations covered by this ordinance shall be performed in accordance with the standard practices and regulations currently in use and recognized and will be designed and followed to minimize inconvenience and danger to the public at large.

Whenever an open cut is permitted, the applicant shall, upon the completion of the installation, backfill the trench with material as specified by the Highway Supervisor. The road surface shall then be promptly replaced with like materials in a condition that is at least equal to or better than when cut. The surface that has been disturbed must maintain a smooth and uniform condition for a period of 6 months after the work is completed. When any installation is commenced, the work shall be carried on expeditiously and without any unnecessary delay.

It shall be the duty of the permit holder to erect proper warning signs and/or barricades and to provide flag-men or other appropriate warning devices proportionate to the risks involved throughout the process of the work and all holders of the permits shall indemnify and save Wells County harmless from any and all claims and causes of action, if any, which may be asserted or filed against the County by any persons, firms, corporations, if any, who have been injured or damaged or claim to have been injured or damaged, on account of any installations made pursuant to this ordinance or on account of any work done in the making of such installation.

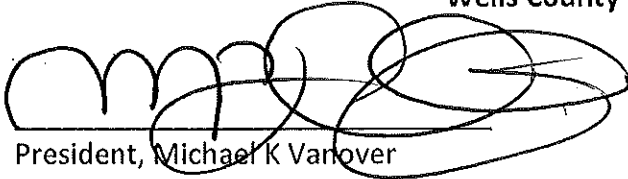
XII. Enforcement

Failure to procure a permit prior to the commencement of work by any individual shall be actionable by the County and the County shall retain any and all remedies at law at its disposal.

XIII. Effective Date: This ordinance shall be effective and in full force and effect on

January 30, 2023

Wells County Commissioners



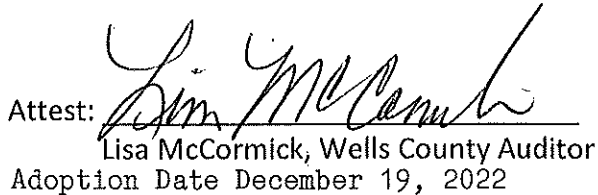
President, Michael K Varover



Vice President, Blake Gerber



Jeff Stringer

Attest: 

Lisa McCormick, Wells County Auditor
Adoption Date December 19, 2022

This instrument was prepared by the Wells County Attorney, Colin Z. Andrews, Andrews & Crell P.C. I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Lisa McCormick