

**DEKALB COUNTY COMMISSIONERS  
AN ORDINANCE ESTABLISHING A POLICY FOR LANDOWNERS  
WHO ARE NOT A REGULATED PUBLIC UTILITY TO PETITION  
THE COUNTY HIGHWAY SUPERINTENDENT TO AUTHORIZE THE  
LANDOWNER TO OBTAIN A PERMIT TO BORE UNDER COUNTY ROADS  
OR TO CROSS CUT THROUGH COUNTY ROADS TO INSTALL CERTAIN PRIVATE  
UTILITIES DEKALB COUNTY ORDINANCE NO.2022-R-12  
DEKALB COUNTY CODE SECTION 4-1-1**

WHEREAS, public utilities doing business in DeKalb County, Indiana, are permitted to seek permission from the County to run utility lines through or under County Road Rights of Way; and

WHEREAS, those public utilities participate in a program that allows their utility lines to be located and marked through Indiana 811, which, when properly utilized, protects the public and the public utilities from injury and damages from excavating in areas where Indiana 811 locates a buried utility line; and

WHEREAS, a need exists for some landowners to run permitted private utilities, which poses a risk to the public since they are not discoverable by an Indiana 811 locate; and

WHEREAS, the County desires to require landowners to seek a permit to bore under County Roads and County Rights of Way or to cross-cut along those County Roads or County Rights of Way to install buried lines for water, electric, LP gas, natural gas, sanitary lines, TV and internet, and drain lines and storm water lines, but creating a policy to make said lines safe from being damaged or causing health hazards.

**NOW THEREFORE BE IT HEREBY ORDAINED BY THE DEKALB COUNTY COMMISSIONERS OF DEKALB COUNTY, STATE OF INDIANA AS FOLLOWS:**

**Section 1: Permit required.** Prior to any boring under or cross-cutting through any County Road Right of Way, the owner, or Contractor on behalf of the owner, shall obtain a permit from the DeKalb County Highway Superintendent.

- 1-1. It shall be unlawful for any landowner or entity to bore under or cross-cut through any County Road Right of Way for installation of a private utility without first securing a permit.
- 1-2. An application for a permit to bore under or cross-cut through any County Road Right of Way for installation of a private utility or utilities shall be made in writing to the DeKalb County Highway Superintendent.
- 1-3. Said permit application shall be accompanied by an application fee in the amount of:
  - 1-3-1. \$500.00 for an open cross-cut permit;
  - 1-3-2. \$100.00 for a bore under the County Highway Right of Way; but if the Highway Superintendent determines that signs must be erected on each side of the Highway Right of Way, the permit fee shall be \$200.00, plus the cost



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RECORDER OF DEKALB CO, IN  
LETA HULLINGER  
RECORDED AS PRESENTED  
FEE AMOUNT: 0.00**

of signs purchased on both sides of the road from the Highway Department, which signs must be in a straight line from one side on the back side of the County Road Right of Way to the back side of the County Road Right of Way on the other side of the County Road.

**Section 2: Depth of Utilities.** Any and all private utility for which permit has been obtained must provide, and the owner of the private utility line certifies, that the utilities must be run in a straight line across each County Road Right of Way, must run from one side of the County Road to the other side of the County Road on the back side of the Right of Way on each side, and must be buried at a minimum depth of sixty inches (60") below ground level. All open roadway cuts and Right of Way restoration must follow County Highway Right of Way specifications.

**Section 3: Signage.** At the outset of the work needed for installing materials for running private utility lines under a County Road Right of Way, or prior thereto, if the County Highway Superintendent requires signs on each side of the County Road Right of Way, such signs:

- 3-1. Must be constructed using ductile steel pipe post filled with three (3) feet of concrete at the bottom of the sign, with the sign a minimum of three (3) feet below grade and at least five (5) feet above grade, a distance from the backside of the County Road Right of Way on one side of the road to the back side of the County Road Right of Way on the other side of the County Road. "Back side of the right of way" means the maximum distance for the road right of way on each side of the County Road. The sign shall be of uniform size, 12" x 18" as required by the County Highway Department. Ductile post must be installed by permittee prior to the County Highway Department installing signs.
- 3-2. Said signs shall be acquired and erected by the County Highway Department with warning language on the sign furnished by the Highway Department warning all in the area of the location of private utility lines located within the County Road Right of Way in a straight line between the signs on both sides of the County Road Right of Way. The permittee shall pay a fee established by the County Highway Department to pay for the signs and printing on the signs, plus any miscellaneous costs incurred by the County Highway Department in addition to the permit fee.
- 3-3. After completion of the project by permittee, permittee shall be responsible for all maintenance and upkeep of the private utility line, the signs, the wording on the signs, and locations of the signs on both sides of the County Road, but the permittee must purchase all signs and lettering from the County Highway Department and arrange for the County Highway Department to erect signs as set forth in subsection 2-5 below. If signs are in need of replacing but are not timely attended to by the permittee, the County Highway Department may correct problems and bill the permittee for costs of new signage plus \$100.00.
- 3-4. Signs must be erected to mark the location on each side of the road where the utilities are run, which must be in a straight line.

- 3-5. Permittee is responsible for replacing signs when necessary in the opinion of the County Highway Superintendent, and are to be acquired and erected by the County Highway department at a cost of \$100.00 plus the costs of the signs.

**Section 4: If the permit is issued by the County Highway Superintendent:**

- 4-1. The permittee must assume liability and responsibility for complying with all permit requirements, including, but not limited to, permits for excavation, directional boring, cross-cut excavation, and repair;
- 4-2. In addition, permittee is responsible for any and all damages and injuries caused by permittee or anyone working in the area for permittee;
- 4-3. Permittee shall be responsible for and indemnify the County for any and all injury and damage caused by permittee or anyone working in the area for permittee.
- 3-4. Easement details and a legal description of the location of the utility must be submitted with the Affidavit and put into the County GIS through the County Office of Development Services at the cost of doing so, and must further be removed at permittee's expense when the owner seeks to abandon or remove said utility.
- 4-5. Permittee must cause, at permittee's cost, including recording costs, for an Affidavit to be recorded (signature of the permittee must be both acknowledged and be a sworn statement), and submitted for approval of the County Highway Department Superintendent before the line is crosscut or bored. The Affidavit must also state that reference to the utility in the Affidavit to be recorded must "run with the land." If the permittee ever sells the real estate served by the private utility or utilities, the deed of conveyance to the purchaser of the real estate must contain reference to the existence and location of the utility or utilities, and state that the utility must "run with the land."

**Section 5: Inspection by County Highway.**

- 5-1. Before any work pursuant to the permit may be done, the County Highway Department shall inspect the premises where the signage will be located and the boring or cross-cutting shall take place, and recommendations or requirements of the County Highway Department must be followed.
- 5-2. Any private line found in the County Right of Way must be brought to current County standards in accordance with this Ordinance.

**Section 6: Penalties. Any entity, person, firm, or corporation violating any provisions of this Ordinance shall be fined:**

- 6-1. For failure to secure a permit before commencing work, a fine of \$1,000.00 for the failure and \$500.00 per day until the permit is acquired; or if no permit is acquired, \$500.000 per day until any damage done to the County Road Right of Way is remedied to the satisfaction of the County Highway Superintendent;
- 6-2. In addition to the fine set forth in 5-1 above, the violator shall be responsible to pay the County's attorney fees plus court costs and any other expenses incurred in the enforcement of this Ordinance, including reasonable attorney's fees; and a separate

- offense shall be deemed committed on each day during or on which a violation occurs or exists;
- 6-3. Each day of the violation shall be considered a separate offense;
- 6-4. The Highway Superintendent shall have the authority to issue a stop work order on any project not being completed in strict conformance with any provision of this Ordinance;
- 6-5. The failure of any responsible party to abide by any order of the Highway Superintendent shall authorize the Highway Superintendent to sue in the name of the County and Department in any court of general jurisdiction for any injunctive relief, damages, attorney's fees, and to obtain such court orders as may be proper for the strict enforcement of this Ordinance.

**Section 7: Effective Date.** The effective date of this Ordinance shall be the date upon which this Ordinance is published as require by law.

**Section 8: Codification.** This DeKalb County Ordinance Number 2022-R-12 shall be codified in the DeKalb County Code as Section 4-1-1.

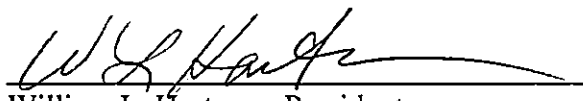
**THIS ORDINANCE NUMBER 2022-R-12 WAS PASSED AND ADOPTED AS DEKALB COUNTY CODE SECTION 4-1-1 BY THE DEKALB COUNTY BOARD OF COMMISSIONERS, INDIANA, ON THREE READINGS AS SET FORTH BELOW.**

READ AND PASSED ON FIRST READING: Monday, July 25, 2022.

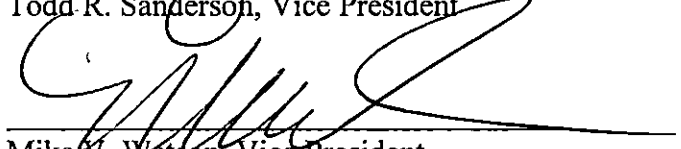
READ AND PASSED ON SECOND READING: Monday, September 12, 2022.

READ AND PASSED ON THIRD READING: Monday, September 12, 2022.

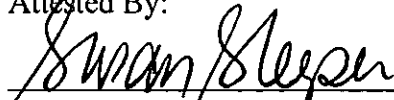
**DEKALB COUNTY COMMISSIONERS:**

By:   
William L. Hartman, President

  
Todd R. Sanderson, Vice President

  
Mike V. Watson, Vice President

Attested By:

  
Susan Sleeper, Auditor of  
DeKalb County, Indiana