

ORDINANCE NO. 2023-18

**AN ORDINANCE AMENDING TITLE 8 OF THE FERDINAND MUNICIPAL
CODE REGARDING REQUIREMENTS AND STANDARDS FOR
EXCAVATING IN A PUBLIC STREET RIGHT-OF-WAY**

WHEREAS, the Town Council has determined a need to establish and enforce requirements and standards for excavating within the public street rights-of way located within the Town, and to ensure compliance therewith;

NOW THEREFORE, BE IT ORDAINED THAT:

Title 8 shall be revised and amended to read: "Street And Drainage Design And Excavating Standards", and shall contain a new Chapter 8.20, which shall provide as follows:

1. Any person or entity, prior to excavating within any public street right-of-way, shall fully complete, date, sign, and deliver to the Town for approval, the Application incorporated herein and attached hereto as Appendix A.
2. Any Application made shall be approved only upon acceptance of a surety bond to be filed by the petitioner, payable to the Town of Ferdinand. The amount of such bond to be determined by the Town Council in consultation with the Street Superintendent, based upon the project involved with security acceptable to the Town Council. The bond shall obligate the petitioner to restore the street, right of way or utility line to its original condition and obligate the petitioner to pay any damages inflicted, caused, or in any way occasioned by the petitioner to any street, right of way, utility line, or any private person, firm, or corporation. Petitioner will be released from the agreement and the bond will be discharged upon satisfactory report of the Street Superintendent after inspection.
3. All of the requirements and standards as set forth in the Application are adopted and incorporated herein and shall constitute and be the requirements and standards of the Town as if fully set forth in this Ordinance.
4. No Application shall be approved by the Street Superintendent without the verbal or written approval of the members of the Town Council after review of the Application and the scope of work by all department heads.
5. Upon approval of the Application, the applicant shall fully comply with all of the requirements and standards as set forth in the Application and which are incorporated herein.
6. Any person or entity violating any provision of this Ordinance may be subject to a fine, as determined by the Town Council, not to exceed Two Thousand Five Hundred Dollars (\$2,500.00). Additionally, the Town may require that corrective action be taken to obtain full compliance with this Ordinance. Additionally, the Town may impose special restrictions or require guarantees for approval of future application requests.

7. In the event the Town files legal action to obtain payment of any fine, or to obtain corrective relief, or to prevent continuing or future violations of this Ordinance, or to recover any damages caused the Town as a result of any violation, then the Town shall also be entitled to recover its costs and attorney fees.

8. The provisions of this Ordinance are applicable only to public street rights-of-way and not any other utility or other easement owned by the Town which is outside of any public street right-of-way. Nothing contained herein shall be construed as adversely affecting any other contractual right of the Town or any other party.

9. Where the Town Council finds that unreasonable hardship or impracticality may result from strict compliance with this Ordinance, it may vary or modify the standards so that substantial justice may be done and the public interest served.

10. If any provision of this Ordinance or the application thereof is held invalid, the invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared severable. This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

11. The Application/Appendix A has been amended to reflect these changes and the revised application should be substituted and attached hereto.

PASSED AND ADOPTED by the Town Council of the Town of Ferdinand, Indiana, this 21 day of September, 2023.

TOWN COUNCIL OF THE
TOWN OF FERDINAND, INDIANA


KENNETH J. SICARD, President


RON WEYER, Member


DEBRA JOHNSON, Member

ATTEST:


TAMARA M. MILLER, Clerk-Treasurer

APPENDIX A

TOWN OF FERDINAND

STANDARDS FOR EXCAVATING IN A PUBLIC RIGHT-OF-WAY

To the Town of Ferdinand
Ferdinand, IN 47532 (812) 367-2280

APPLICATION DATE: _____ 20____ **PROPOSED DATE OF WORK** _____

I hereby make application for PERMIT to: (Check one.)

- ____ A. Cut along the Town Roadway _____
Describe the type of trench work being done. Check one or all that apply.
____ 16" or wider Specify _____ Trencher _____ Knife _____ Bore _____
- ____ B. Cut or bore in the Town Roadway. _____

Prior to any work being performed, I understand my responsibilities are as follows:

1. I will notify the Indiana Underground Protection Service (Holy Moley) at 800-382-5544 at least two (2) working days prior to the start of any work. Any emergency being performed by Town of Ferdinand utilities will be exempt of the two day working day notice prior to the start of work.
2. I will contact the Town of Ferdinand Street Dept. at least two (2) days prior to the start of any work. If a road is to be closed or interfere with traffic in any way, I must make the Street Dept. aware of it at this time. Ferdinand Street Dept. will notify the local law enforcement agency as deemed necessary. I will inform the Street Department when the road will be cleared.
3. I understand if after receiving this permit, there is utility line, conduit or wire, gas, water, electric, sanitary or storm sewer damaged or destroyed, I may be held monetarily responsible. The Town of Ferdinand will not be held responsible for any charges or fines due to a damaged line or utility.
4. I am aware of the minimum depths required for my installation:
**Telephone lines-18" TV Cable-18" Gas-24" Electric-primary-48", service-36" Fiber optic-48"
Sewer-18"**

**** NOTE: Any buried utility will be required to be placed no closer than two (2) feet, in any direction, of a Town drainage structure such as a bridge, pipe or culvert.**

5. I understand that prior to any excavation work, all hard surfaced roads (asphalt, chip/seal or concrete) shall be saw cut to a minimum depth of four (4) inches.
6. All excess excavated material shall be removed from the right-of-way. Excavation shall meet all required safety standards and shall be barricaded to protect the public.
7. I hereby agree to use flowable fill material throughout the fill area directly under and two (2) feet beyond each side of the road surface. This fill will come within four (4) inches of the original surface on all hard surfaced roads when at this time I will repave the fill area. (See section #9.) This fill will come to within eight (8) inches on all rock roads where I will fill with eight (8) inches of compact #53 stone. **Only those materials approved by the Ferdinand Street Dept. will be permitted in these fill areas.** A list of specifications of these materials can be acquired at the Town Office or from the Street Superintendent.

For your convenience, a list of approved fill materials and their suppliers are as follows:

Open Trench fill: IMI Central Concrete Supply
la. QUICKSET: 1204 la. RAPIDSET

NO OTHER FILL WILL BE ACCEPTABLE UNTIL IT IS TESTED AND MEETS SPECIFICATIONS SET IN THE TOWN OF FERDINAND STREET DEPARTMENT STANDARDS AND POLICY (AVAILABLE ON TOWN WEBSITE)

ALL FILL OUTSIDE THE TWO (2) FOOT AREAS OF THE ROADWAY shall use the excavated material in compacted lifts.

8. I understand that unusually large excavations MAY be subject to alterations of this permit at the Street supervisors discretion. If any excavation is larger than twenty-five (25) cubic yards, the applicant may request an exception to the use of flowable fill.
9. I agree to replace the road surface to match the existing surface. Asphalt and chip/seal roads will be resurfaced with three (3) inches of HAC base and one (1) inch of HAC surface. All rock roads shall be resurfaced with eight (8) inches of #53 stone.
10. I understand that I have five (5) working days from the day work begins, to repave the road surface. If I cannot repave the fill area immediately after filling the cut area, I will cap off the fill area with #53 stone and maintain it until the time I can repave this area. If I am unable to repave this area within the 5-day period, I will notify the Street Superintendent at the time work begins, to inform him of that fact and accept all charges for the replacement of said road surface.
11. I agree to continually maintain a debris free roadway. Any form of dirt, mud or other foreign substance will be immediately removed from the roadway throughout the duration of the project.
12. I agree to maintain an open ditch in the Town right-of-way throughout the duration of the project.
13. I understand that any equipment used to backfill along a Town street will be equipped with either rubber tires or rubber tracks. **The applicant may request an exception to be granted for the use of steel tire or steel track machine to be permitted on a Town street.**
14. I agree that any sod removed will be replaced in a satisfactory manner to the Street Superintendent.
15. I agree to erect and maintain all necessary barricades, detours, detour signs and warning lights required to safely direct traffic over or around the part of the road where the above described work is to be done so long as the work in any way interferes with traffic.
16. I agree to move or remove any structures installed under this permit, at applicant's own expense, should traffic conditions or road improvement necessitate and when requested to do so by the Street Superintendent.
17. I agree to assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the work contemplated in the application.
18. I agree that said work will not interfere with any existing structure along or across said Town road, without permission from the owner of said structure.
19. I agree to stop said work at any time upon request of the Street Superintendent.
20. I agree that any pipe, tile, culvert or other material used in connection with this work will meet the specifications of the Street superintendent as to size and quality.
21. If any hydrant water or tank water is necessary, I will contact the Water Superintendent and formally request such temporary water, at least 24 hours in advance.
22. I will provide a surety bond in the amount deemed appropriate given the scope of the project with security acceptable to the Town Council.
23. I will restore the street, right of way or utility line to its original condition and pay any damages inflicted, caused or in any way occasioned by me to any street, right of way, utility, line or any private person, firm or corporation.
24. I will not start work until I have an approved permit in hand.

I realize that failure to comply with these procedures and requirements may cause: a fine; the work to be stopped; removal of any installation; claims for damages; and rejection of future applications or special conditions being imposed thereon.

WORK DESCRIPTION

Name of Town road affected by this cut or bore _____

The type of road surface where the cut or bore is to be made _____

The opening to be made will be _____ feet long in the right-of-way.

The opening to be made will be _____ feet long and _____ feet wide in the road surface.

Give brief description of work to be performed: _____

Name of Company: _____

Complete Address: _____

Phone Number(s): _____

Email Address: _____

Representative Signature: _____

Application and scope of work has been reviewed by all department heads: _____

Town Council has given its verbal or written approval of application: _____

A surety bond in the amount of \$ _____ is required due to the nature and scope of the project.

Approved By: _____
Town of Ferdinand--Street Superintendent