

CHAPTER 90: STREETS AND SIDEWALKS

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EXCAVATIONS

§ 90.01 PURPOSE.

The purpose of this subchapter is to establish guidelines pertaining to excavation on public lands.
(Prior Code, § 6-106-1)

§ 90.02 SCOPE.

(A) Be it ordained by the County Commissioners of Tipton County, Indiana that it shall be unlawful for any person, firm or corporation to excavate, grade, plow or in any way disturb any road, street, alley, sidewalk or right-of-way or other public place for any purpose whatsoever without first procuring a permit therefor, executing a bond to cover all damages occasioned by the excavation and restoring the place where the excavation has been done in a good condition and after the manner provided for by the terms of this subchapter, provided this subchapter shall not apply to excavations made under contract with or by order of the County Commissioners through its proper officials.

(B) The definitions in this chapter apply throughout this title.

Permit: Construction in the right-of-way Permit issued by the Tipton County Board of Commissioners.

Permittee: Any individual, contractor, utility, or company performing work within the County right-of-way.

Permitor: Tipton County, Board of Commissioners.

All work performed below grade by Permittee within County right-of-way shall be by open trench methods, and the Permittee shall be responsible for all the cost of repairing, replacing, and/or restoring to working order any tile drains or other structures disturbed by their work. The Permitor may at its discretion allow the Permittee to use alternative methods of installation due to differing site conditions, or as a method of installation under roadways, driveways, small structures, ponds, and any other structure. Any request for use of alternative methods shall be submitted as part of the Permit application.

The following conditions and or requirements must be met by Permittee before any permit is issued, and shall supersede any other like conditions or requirements found in this title.

1. A map of the proposed project shall be submitted to the County Engineer, County Highway Superintendant and the County Surveyor for comment. Map shall be to a legible scale and show all drive, road and ditch crossings along with the existing road right-of-way as they pertain to the proposed project.

2. A notification by mail to all property owners that the proposed project will cross (on both sides of the road or right-of-way) at least 21 days before commencement. An affidavit shall be supplied to the County Surveyor stating when and to whom the notifications were sent.

3. Notification shall contain a map showing the impact to the landowner, along with the opportunity to meet with the installer prior to construction to share information.

4. Use of the bond for repairs or replacements will be recommended by the County Surveyor, County Engineer or County Highway Superintendant to the Tipton County Board of Commissioners.

(C) The Permitor shall designate an agent to serve as an inspector and be present during all the time the Permittee is working in the county's right-of-way. The Permittee shall reimburse Tipton County for all of the direct labor costs of the inspector on a monthly force account basis. Should the Permittee desire to work in more than one location, additional inspectors will be provided by the county at the Permittee's expense. The Permitor may at its discretion waive the requirement for an inspector. Any request for a waiver shall be submitted as part of the Permit application.

§ 90.03 PERMIT APPLICATION.

Any person, firm or corporation desiring to dig, trench or make other excavation in or under any street, alley, sidewalk or right-of-way or other public place shall make application for a permit to trench, dig or excavate in or under any street, alley, sidewalk or right-of-way or public place which application shall be presented to the County Engineer for approval; and if approved by the County Engineer, then he or she shall issue a permit thereof). Stating therein the period of time for which the same is issued. The permit shall be numbered and dated and shall state the time the same is to run and specifically describe the street, alley, sidewalk or right-of-way or public place where the work is to be done and describe in detail the work to be done. The County Engineer shall keep on file all applications and a record of all permits granted by him or her. All permits issued in compliance with the terms of this section of this subchapter shall be made in duplicate, the original of which shall be retained by the County Engineer and a copy given the applicant for the permit. (Prior Code, § 6-106-3) (Am. Ord. passed 7-1-87)

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§ 90.04 BOND PROVISIONS.

(A) Whenever any application is approved, the Highway Superintendent shall require the applicant to provide a bond in a sum to be fixed by the County Commissioners of Tipton County in an amount to be governed by the character of the work to be done, but at no time to be fixed at a sum less than \$5,000, guaranteeing that the place where the work is to be done shall be restored to a good condition (including any tile drains) and in the manner provided for by the provisions of this subchapter. The bond shall remain in full force for a period of five years from the date of the completion of the permittee's work to assure that no hidden damage to drains or other county structures occurs. No permit shall be issued by the Highway Superintendent until the bond has been filed with and approved by the Tipton County Commissioners.

(B) The permittee shall agree to indemnify and hold Tipton County harmless from any loss, damage, claim or lawsuit (including attorney's fees) incurred or suffered by reason of any activity of the permittee, its agents, employees, contractors and subcontractors and shall provide Tipton County with proof of liability insurance, with reputable company or companies covering Tipton County and the permittee, with limits of not less than \$1,000,000. Further, the permittee shall furnish the Tipton County Engineer with certificates proving worker's compensation coverage for the permittee or any of its subcontractors. No permit shall be issued until all proofs of insurance coverages are approved by the Tipton County Commissioners.

§ 90.05 PERMIT EXTENSIONS.

The holder of any permit issued granting permission to dig, trench or excavate in or under any street, alley, sidewalk or right-of-way or public place, as provided by this subchapter, shall complete the work and repair the place or places where the work was done within the time specified in the permit. The County Engineer, however, may extend the time for the completion of the work for which the permit was granted.

§ 90.06 EXCAVATION SPECIFICATIONS

(A) All trenches and excavated places in hard surfaced Roads, Streets, Alleys or Sidewalks shall be backfilled with "flowable fill" to the subgrade. Similar material to the existing (i.e. hot mix asphalt, cold mix asphalt, concrete, or chipseal) will then be used to reconstruct the surface. The edges of the excavation will be saw cut to form a straight line the full depth of the existing surface material. The final patch will be a smooth surface, if settling occurs the contractor will be required to rework the excavation. If concrete is needed it shall be Class "A" concrete as specified by Indiana Department of Highways Standard Specifications dated 1985 with all revisions. Before work begins the permittee shall call the County Highway Superintendant to inspect the project. At the time of road closure the Tipton County Sherriff's Department must be contacted with the location of the work to be performed. The dispatcher will then issue a warning by radio of such closing. At the time of reopening follow the same procedure.

(B) After the inspection has been made, the permittee shall complete the work so that the place where excavated will conform to the street, sidewalk or alley where the excavation was made as originally improved. All of the work shall be done to the acceptance and satisfaction of the County Engineer, provided, in the event the excavation be made in a street, alley, sidewalk or right-of-way or other public place paved with cement concrete, then the trench shall be filled with wall tamped stone to the level of the original sub-grade, which work shall be duly inspected by the County Engineer, after which the cement pavement shall then be repaired with Class "A" concrete as specified by Indiana Department of Highways Standard Specification dated 1985.

(C) In cases where a tile drain is cut, crushed or in any other way disturbed so as to render the same in unsatisfactory working order, the permittee shall cause the drain to be repaired or re-routed according to the design and specifications of the Tipton County Engineer. The permittee shall immediately notify the inspector or in his or her absence, the Tipton County Engineer, of any tile drains or county structures struck

during the work.

(Prior Code, § 6-106-6) (Am. Ord. passed 7-1-87)

§ 90.07 DRIVEWAY CONSTRUCTION.

Be it further ordained that before any person, firm or corporation shall cut through any curb, sidewalk or right-of-way or lawn for the purpose of constructing a driveway or for any other purpose, the person, firm or corporation shall first secure a permit from the County Engineer and shall give bond in the same manner and same amount as herein provided for in the case of other excavations and shall take the steps to protect the county, its citizens and other persons from injury and damages by the placing of warning signals and by doing such other acts as is hereinafter provided for in connection with all excavations.

(Prior Code, § 6-106-7) (Am. Ord. passed 7-1-87)

§ 90.08 POWER OF COMMISSIONERS.

In addition to any other powers vested in it by law, the Commissioners shall have the power to:

(A) Issue orders or rules as may be necessary from time to time to effectuate the purposes of this subchapter and to enforce the same by all appropriate administrative and judicial proceedings;

(B) Advise, consult and communicate with other local governmental units, agencies of the state, industries, businesses, interstate or interlocal agencies and the federal government and with interested persons and groups; and

(C) Do any and all acts which may be necessary for the successful prosecution of the policy of this subchapter and such other acts as may be specifically enumerated herein.

(Prior Code, § 6-106-8) (Am. Ord. passed 7-1-87)

§ 90.09 ENFORCEMENT.

(A) Whenever the Commissioners have reason to believe that a violation of any provision of this subchapter or a rule or regulation issued pursuant thereto has occurred, it may cause a written notice

to be served upon the alleged violator or violators. The notice shall specify the provisions of the ordinance, rule or regulation alleged to be violated and the facts alleged to constitute a violation thereof and may order that the necessary corrective action be taken within a reasonable time. Any order shall become final unless, no later than five days after the date the order is served, the person or persons warned therein may request in writing a hearing before the Board. In lieu of the order the Board of Commissioners may require that the alleged violator or violators appear before them for a hearing at a time and place specified in the notice to answer the charges complained of or the Commissioners may initiate appropriate action for the recovery of a penalty pursuant to § 10.99.

(B) After any hearing held pursuant to division (A) of this section, the Commissioners shall affirm, modify or rescind its order or issue an appropriate order or orders for the prevention, abatement or control of the violation involved. The order shall prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing or abating the violation(s).

(C) Nothing in this subchapter shall prevent the Commissioners from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(Prior Code, § 6-106-9) (Am. Ord. passed 7-1-87)

§ 90.10 MARKING OF EXCAVATION SITE.

(A) Any person, firm or corporation digging, trenching or excavating in or under any street, alley, sidewalk or right-of-way or any public place or cutting through any curb, sidewalk or right-of-way or lawn for the purpose of constructing a driveway or for any other purposes under and by virtue of any permit issued in accordance with this subchapter shall cause flares to be placed in conspicuous places along and in front of the trenches or excavations or places cut through for the purpose of constructing a driveway or for any other purpose from sunset each evening until sunrise the following morning.

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(B) It shall be the duty of any person or persons trenching or excavating in or across any street or alley or cutting through any curb, sidewalk or lawn for the purpose of constructing a driveway or for any other purpose or placing any obstruction in or across any street or alley in the county to indicate the driveway across the trenches or excavations or place cut through or between the obstructions in the street or alley by placing and maintaining a white light conspicuously on each side of the clear and safe driveway and at the end of the trenches or excavations places cut through or obstructions; flares shall be kept burning from sunset each evening until sunrise the following morning during every night the trench, excavation or obstruction is allowed to remain.

(C) It shall be unlawful for any person to take down or remove during the night any signal or flare placed by a builder, contractor or any other person at or near any trench or excavation for the purpose of giving notice or warning of the obstruction.

(Prior Code, § 6-106-10) Penalty, see § 90.99

§ 90.11 OBSTRUCTION REMOVAL.

It shall be unlawful for any person who may have prosecuted any work or caused or permitted any work to be done under a permit to dig or trench in any street, alley, sidewalk or right-of-way or other public place to neglect to remove any obstruction to the free use of any street, alley, sidewalk or right-of-way or other public place occasioned by the work within 48 hours after the condition of the work for which the permit was issued will permit traffic over the same.

(Prior code, § 6-106-11) Penalty, see § 90.99

OBSTRUCTION FREE ZONES FOR HIGHWAYS, STREETS AND ROADS

§ 90.25 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY. Tipton County, the Tipton County Highway Department and/or the Tipton County Board of Commissioners.

COUNTY EXECUTIVE. The Board of Commissioners of Tipton County.

DIRECTOR. The Director of Highways of Tipton County.

OBSTRUCTION. Any mailbox, light pole, headwall, basketball goal post, rock, tree or other structures or obstructions located in an area defined as an obstruction free zone.

OBSTRUCTION FREE ZONE. The roadside border area along county highways and typically includes the entire right-of-way and provides enough obstruction free zones to prevent fixed object collisions.

RIGHT-OF-WAY. The platted, dedicated and/or apparent right-of-way of any highway, street or road in Tipton County for public use; the use and control of such being made by the county executive.

SECRETARY. The Tipton County Auditor who serves as Secretary to the County Executive (Board of Commissioners).

(Ord. 98-11, passed 12-14-98)

§ 90.26 MAILBOXES. (A) General.

(1) The location and construction of mailboxes shall conform to the rules and regulations of the U.S. Postal Service as well as to the standards established herein by the county and set forth in this subchapter.

(2) A mailbox or other structure that conforms to the following criteria will be considered acceptable unless, in the judgment of the Director of the Tipton County Highway Department, the