

ORDINANCE 02_____

AN ORDINANCE ESTABLISHING STANDARDS AND CONDITIONS FOR THE ISSUANCE OF COUNTY HIGHWAY ROAD AND RIGHT-OF-WAY WORK PERMITS AND THE ESTABLISHING OF SERVICE CHARGES THEREFORE

WHEREAS, the Board of Commissioners of the County of Kosciusko has the power to regulate the use of public ways and rights-of-ways; and

WHEREAS, the Board of Commissioners has the authority to establish service charges reasonably related to the cost of services provided; and

WHEREAS, the Board of Commissioners has determined that it is desirable to regulate the “working” on the County Roads and the “working” within the County Road rights-of-way through the establishment of standards and through requiring permits and utilizing county services in the inspection of cuts made once a permit has been granted.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Kosciusko as follows:

- I. Definitions:
 - A. The term “Road” means the driving surface and refers to any type of surface such as asphalt, concrete, or gravel.
 - B. The term “Right-of-way” means 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” means any hard surface treatment on the road such as chip & seal, asphalt or concrete.
 - D. The term “County Highway Engineer” means the Kosciusko County Engineer / Superintendent.
 - E. The term “work” means any activity such as, but not limited to, excavating, cutting, digging, tearing, boring, installing, filling, drilling, and placing.
- II. Permit Charges: Prior to the commencement of any work in the right-of-way, a permit application shall be approved by the Kosciusko County Highway Engineer. A non-refundable \$40.00 fee must be submitted with the permit application.
- III. Application Procedures: Unless the County Highway Engineer determines that the permit application is for an entire project, a separate permit is required for each road.

Applicants shall covenant and agree faithfully to perform and discharge duties and

responsibilities required in the application. The County Highway Engineer shall have the authority to act upon the application and issue the permit unless some fact of circumstance known to him exists raising a question as to whether or not such permit should be issued, in which event he shall refer the application to the Board of Commissioners.

IV. Utility Work: 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 it is determined by the County Highway Engineer that it is not possible to bore under the pavement, the County Highway Engineer is authorized to approve cutting the pavement. Open cutting of the road shall be permissible in the case of gravel roads

V. Pole Work: In all instances where it is necessary to install or replace utility poles in the right-of-way, no permit is required.

The poles must be placed as far away as possible from the edge of the road pavement.

The person, firm or corporation that owns the pole is responsible to repair, to the satisfaction of the County Highway Engineer, any and all damages to the road pavement, the right-of-way, drainage swales, tiles, culverts or private property.

VI. Driveway Work: In all instances where it is necessary to install a new driveway in any county right-of-way, a permit is required.

The permit charge is waived for new drives that are installed in subdivisions with curb & gutters. In such instances, the back of the curb may be removed in accordance with the standard established by the County Highway Engineer. In no instance may the gutter be filled with concrete or asphalt.

No permit is required for improvements made to existing drive. Drive improvements include, but are not necessarily limited to:

- A. Replacement of existing culverts with a new, but same size culvert
- B. Paving of existing drives in accordance with Kosciusko County Road Standards

VII. Right-of-way 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 necessarily limited to the following:

- A. Any excavation in the right-of-way.
- B. Any filling, regrading, and / or contouring of the roadside ditch or a drainage swale.
- C. Any installing of tile in a roadside ditch or drainage swale.
- D. Any installing, repairing, or replacing of private tiles across or through the right-of-way.

- VIII. Surveying Work: In all instances where it is necessary for a Registered Land Surveyor or his appointee, to dig in the pavement and / or right-of-way for the purpose of conducting a survey, no permit is required.

The person, firm or corporation that is conducting the survey is responsible to repair, to the satisfaction of the County Highway Engineer, any and all damages to the road pavement, the right-of-way, drainage swales, tiles, culverts or private property.

Provided that the request is for 10 gallons or less of patch material, the County Highway Engineer is authorized to provide patch material to the person, firm or corporation that is repairing any hole in the pavement as a result of a legal survey. However, under no circumstance, is the County Highway Engineer obligated to provide patch material.

- 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 County Highway Engineer shall be notified. If required by the County Highway Engineer, a proper permit must thereafter be obtained.

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

Whenever open cutting of an existing road of is permitted, the applicant shall, upon completing the installation, backfill the trench with material as specified by the County Highway Engineer. All pavement joints must be sawed cut to a nice finished. 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. When any installation is commenced, the work shall be carried on expeditiously and without any unnecessary delay.

It shall be the duty of all holders of permits issued pursuant to this ordinance to erect proper warning signs, barricades and flares, and to provide flag-men or other appropriate warning devices commensurate with the risks involved throughout the progress of the work and all holders of permits shall indemnify and save Kosciusko 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.

- XI. Bond Requirements: Public Utilities operating under the jurisdiction of the Public Service Commission of Indiana, and recognized as Public Utilities by the laws of the State of Indiana, authorized to do business in Kosciusko County, Indiana, shall not be required to give any bond as a condition precedent to receiving a permit, but the

Board of Commissioners may require a performance bond from any other person, firm or corporation, in an amount commensurate with the scope of the proposed work and with surety to be approved by the Board of Commissioners.

- XII. Violations: No person, firm or corporation, shall be entitled to receive a permit pursuant to the terms of this ordinance if such person, firm or corporation has violated any of the terms or provisions of this ordinance subsequent to its effective date until and after such violation has been resolved to the satisfaction of the County Highway Engineer.

Failure by any person, firm or corporation to repair within 30 days of notification of any and all damages to the road pavement, the right-of-way, drainage swales, tiles, culverts or private property may be fined \$100.00 per calendar day with a maximum fine of \$1000.00.

- XIII. Effective Date: This ordinance shall be in full force and effect on passing by the Kosciusko County Board of Commissioners

- XIV. Passed and adopted by the Board of Commissioners of the County of Kosciusko this _____ day of _____, 2002.

BOARD OF COMMISSIONERS, Kosciusko
County

Avis Gunter, Member

Bradford Jackson, Member

Ronald Truex, Member

Attest: Sue Ann Mitchell
Kosciusko County Auditor