

AN ORDINANCE ESTABLISHING REGULATIONS FOR THE INSTALLATION OF UTILITIES IN ON OR OVER A COUNTY RIGHT-OF-WAY

WHEREAS, Henry County has the authority to enact regulations to promote the public health, safety and welfare; and,

WHEREAS, Henry County has determined that specific guidelines and regulations should be adopted regarding the installation of utilities in, under or over county roads and right-of-way.

NOW THEREFORE, BE IT ORDAINED that the Henry County Code is hereby amended to include new Sections 154.108 through 154.115, which are hereby adopted and made a part of the Henry County Code.

Section 154.108. For purposes of this section, the following terms are hereby defined:

a. utility. shall mean any privately, municipally, publically, or cooperatively owned system or facility for supplying communications, power, light, heat, electricity, gas, water, pipeline, sewer, sewage disposal, drain, or other like service, directly or indirectly to the public.

b. right-of-way: shall mean any county highway, roadway, street, or other land owned by Henry County, appropriated for Henry County, or within an easement for use in favor of Henry County as a public street, highway, walkway, thoroughfare, drainage or other public utility purposes.

c. person: shall mean any natural person, corporation, limited liability company, partnership or other organization.

Section 154.109. No person shall install or relocate any utility in, under or over any right-of-way unless such person has obtained a Utility Installation Permit issued pursuant to Section 154.110.

Section 154.110. A Utility Installation Permit may be issued by the Board of Commissioners of Henry County, or its designee. The Permit shall allow a person to install a utility in the location specified in the Permit and during the timeframe specified in the Permit.

Section 154.111. In order to obtain a Utility Installation Permit, a person must submit an application in the form prescribed by the Board of Commissioners of Henry County. The application for the Permit shall include the following:

a. Detailed plans and specifications showing the proposed location of the utility to be installed;

b. A visual depiction of the portions of roadways or other areas of right-of-way that will be disturbed, bored into, moved or otherwise altered during the installation;

c. A plan detailing the precautions that will be taken, including traffic control, to ensure public safety during installation;

d. A bond or other security in a sum sufficient to ensure that damage caused by the installation of a utility will be properly and timely repaired;

e. A description of the backfill and surface repair material that will be used following the installation of the utility; and,

f. One or more agreements in a form satisfactory to the Board of Commissioners of Henry County under which the applicant is bound to indemnify, defend and hold the County harmless from any damage to property or bodily injury caused in connection with the installation of a utility.

Section 154.112. The Board of Commissioners of Henry County, or its designee, shall issue a Permit authorizing the installation of a utility if the Board of Commissioners or its designee determines:

a. The location of a utility does not unreasonably interfere with the use or function of the right-of-way for travel, drainage or other public purpose;

b. Any placement of a utility under a traveled portion of the right-of-way will be located at a depth of not less than thirty-six (36) inches;

c. The bond or security is in a form and in an amount that is reasonably necessary to ensure that the right-of-way, following the commencement of installation, shall be repaired to a state that is reasonably satisfactory, functional and safe for its intended use;

d. The applicant has developed a plan for traffic control that will reasonably ensure the safety of the public during installation;

e. The applicant has executed all necessary agreements to indemnify Henry County from and against any claims for damage arising from the installation of a utility;

f. The installation of a utility as described in the application will not violate any other applicable provision of the Henry County Code or any applicable state or federal law or regulation.

Section 154.113. A person may post a blanket bond, insuring the repair of damage in connection with, or resulting from, all utility installation work performed by such person during a one-year period, in lieu of providing a bond in connection with each utility application as

described in Section 154.111(d) above. The blanket bond must be in a form and an amount reasonably satisfactory to the Board of Commissioners of Henry County, or its designee, and sufficient to ensure the proper repair of any damage caused during the installation of a utility in the county right-of-way by the applicant in connection with all of the applicant's proposed installations during the effective dates of the bond.

Section 154. 114. The Board of Commissioners of Henry County, or its designee, may issue a stop work order or other directive instructing a person to cease work in connection with the installation of a utility if such person is:

- a. Disturbing the right-of-way or taking any step to install a utility without first obtaining a Utility Installation Permit;
- b. Installing a utility in a location or in a manner not specified in a Utility Installation Permit; or,
- c. Installing a utility in a manner that materially deviates from the application for a Utility Installation Permit.

Section 154. 115 The provisions of this Ordinance shall not be applicable to work performed in connection with, or ancillary to, the installation of a Wind Energy Conservation System, as defined and regulated by §§ 154.095 through 154.107 of the Henry County Code, and all amendments thereto.

EFFECTIVE DATE: This Ordinance shall be effective upon passage and at the earliest date permitted by law.

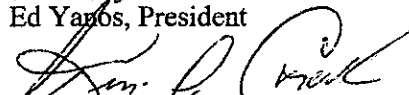
SEVERABILITY: Any provision contained in this ordinance, which is found by a court of competent jurisdiction to be unlawful or by operation of law, including subsequent legislative enactment, is rendered inapplicable, shall be omitted and the rest and remainder of this ordinance shall remain in full force and effect.

REPEALER: All ordinances that are in conflict with the terms of this Ordinance are hereby repealed as of the effective date of this Ordinance.

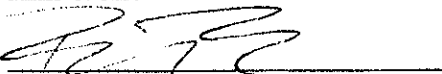
ADOPTED by the Board of Commissioners of Henry County, Indiana this 16th day of November, 2016, by a vote of 3 to 0.



Ed Yanos, President

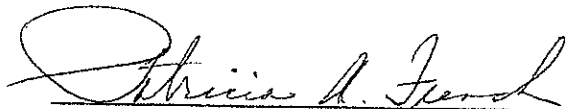


Kim Cronk



Butch Baker

Attest:


Patricia A. French, Auditor