

SHORT TITLE: AN ORDINANCE OF THE BOARD OF COMMISSIONERS, COUNTY OF ADAMS, STATE OF INDIANA, ESTABLISHING FEES FOR DRIVEWAY ACCESS, PIPE INSTALLATIONS AND FIELD ACCESS

WHEREAS, Indiana Code § 36-1-3 et seq. confers upon local units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government;

WHEREAS, the Board of Commissioners, County of Adams, State of Indiana desire to adopt regulations and fee schedules to promote uniform costs for driveway access, pipe installation and field access on public roadways of Adams County;

WHEREAS, the Adams County Highway Department has established procedures and forms concerning driveway access, pipe installation and field access;

WHEREAS, the Adams County Highway Department charges a fee for its services when there has been a driveway access, pipe installation or field access entrance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ADAMS, STATE OF INDIANA AS FOLLOWS:

Section 1. Definitions. The terms and definitions referenced in this ordinance are specific to this ordinance. The terms and definitions shall not have universal meaning in any other ordinance unless specific reference has been made to this ordinance and the term to be incorporated into another ordinance.

A. "*Costs*" shall mean the cost for the Adams County Highway Department to perform the excavation and to provide any necessary stone or dirt for the driveway or field access being installed. Costs shall mean any costs determined by market values at the time the Adams County Highway Department provides its services.

B. "*Driveway Access*" shall mean any existing access point from a public road in Adams County that allows egress and ingress to a property for residential purposes.

C. "*Field Access*" shall mean any access point from a public road in Adams County that allows egress and ingress to a property for agricultural purposes.

D. "*Landscaping*" shall mean the vegetative growth on private property that has been planted or installed to enhance the visual and aesthetic appearance of the property, and it shall also mean any ornamental objects, auxiliary drainage pipes, tile or other conduits that have been located on private property to enhance the visual and aesthetic appearance and/or drainage of the property.

E. "*New Construction Driveways*" shall mean a new access required on a public roadway to permit access therefrom onto private property in which new improvements are to be made, constructed or erected upon said private property.

F. "*Non-Compliance*" shall mean a Driveway Access that is not compliant with this Ordinance or other ordinances of Adams County that regulate Driveway Access for public safety, and it shall also mean a landowner's failure to comply with the terms of the permit issued by the Adams County Highway Department for New Construction Driveways, Driveway Access, Field Access and/or Pipe Installation.

G. "*Permit Fees*" shall mean the fee charged by the Adams County Highway Department to process requests for new tile and drainage installed across the public roadways of the Adams County. The Permit Fees shall be Three Hundred Twenty and 00/100 Dollars (\$320.00) for installations across gravel public roadways and Five Hundred Twenty and 00/100 Dollars (\$520.00) for installations across chip and seal or paved public roadways. Permit Fees may be increased annually by the Adams County Highway Department upon approval by the Adams County Commissioners.

H. "*Pipe Installation*" shall mean an installation of any pipe or tile under public roads located in Adams County that allow for water drainage to occur.

Section 2. Process.

A. Permit Application Process.

i. The Adams County Highway Department shall maintain at its office location permit applications that each landowner and/or contractor performing work related to the New Construction Driveways, Driveway Access, Field Entrances and Pipe Installation must complete.

ii. At the time the landowner and/or contractor files a completed permit application the applicable Permit Fees shall be due and payable to the Adams County Highway Department.

iii. The Adams County Highway Department will review the completed permit application and either approve the application and issue a Permit or deny the application.

a. The Adams County Highway Department may place a condition on an issued Permit to establish type of material that shall be used as backfill and the size of pipe to be installed.

b. The landowner or the contractor shall be responsible for moving or removing any Landscaping that is located near the site where the work to create a New Construction Driveway, Driveway Access, Field Entrance is to take place.

c. Permits issued by the Adams County Highway Department shall be valid for a period of one (1) year following the date the Permit is issued. Failure to complete the New Construction Driveway Access, Field Entrances and/or Pipe Installation within one (1) year following the date the Permit is issued shall result in a new application and Permit Fee being filed with the Adams County Highway Department.

B. Coordination with Landowner/Contractor. The Adams County Highway Department shall contact the landowner/contractor, whomever has been designated on the permit application, concerning the materials required to be used.

C. Inspection. The Adams County Highway Department shall inspect the New Construction Driveways, Driveway Access, Field Entrances and/or Pipe Installation and determine whether each New Construction Driveway, Driveway Access, Field Entrances and Pipe Installation complies with the Permit requirements and conditions.

i. In the event that New Construction Driveways, Driveway Access, Field Entrances and/or Pipe Installation does not comply with the Permit requirements and conditions or is in Non-Compliance with this ordinance, the Adams County Highway Department shall send notice to correct to the Land Owner and allow twenty (20) days for the Land Owner to cure the Non-Compliance. If, after twenty (20) days the Land Owner fails to cure the Non-Compliance, then the Adams County Highway Department shall cure the Non-Compliance and issue a bill to the Land Owner for the labor and materials expended to cure.

ii. In the event that the Land Owner does not cure the Non-Compliance and does not pay the Adams County Highway Department for its labor and materials to cure the Non-Compliance, then the Highway Department shall have the right to assess a tax lien pursuant to Section 4 herein against the Land Owner's property.

D. Adams County Not Responsible for Damages. The Adams County Highway Department and/or contractor shall be responsible for damage or destruction of Landscaping, locating any utilities or identifying environmental, historically or archeologically sensitive areas or other restricted areas. Adams County and the Adams County Highway Department shall have no liability for damage to Landscaping, utility services or for failure to identify environmentally, historically or archeologically sensitive areas or disturbing any environmentally, historically or archeologically sensitive areas in the performance of its services related to the permit application.

Section 3. Indemnification. The Adams County Highway Department and Adams County shall be indemnified by the landowner for any damage to utility services or disturbing any Landscaping, environmentally, historically or archeologically sensitive areas in the performance of its services related to the permit application, including, but not limited to, business interruption and loss of income.

Section 4. Tax Lien. If the landowner presents a check that is returned "Not Paid"/"Insufficient Funds" or fails to pay the Adams County Highway for curing any Non-Compliance, then the labor and materials provided by the Adams County Highway Department shall be certified to the Adams County Auditor by the department head for the Adams County Highway Department for the Costs the Adams County Highway has incurred to provide the labor and material, including any administrative costs associated therewith that have not been paid. The Adams County Auditor shall place the certified amount on the tax duplicate against the real estate and the amount shall be collected as taxes are generally collected and when collected and deposited into the Adams County General Fund, then subsequently transferred to the Adams County Highway Fund.

Section 5. Effective Date. This ordinance shall become effective on January 1, 2018.

ADOPTED, by the Board of Commissioners, County of Adams, State of Indiana, this 7th day of November, 2017 AM, by a vote of 3 ayes and 0 nays.

BOARD OF COMMISSIONERS COUNTY OF ADAMS
Kim Fruechte, Commissioner, District #1
Rex Moore, Commissioner, District #2
Doug Bauman, Commissioner, District #3

Attested by: Kristy Stuckey/Deputy Auditor
Mary Bery, Auditor,
County of Adams, State of Indiana