

**WHITELAND TOWN COUNCIL  
ORDINANCE NO. 2026-02**

**AN ORDINANCE AMENDING AND ADDING NEW PROVISIONS TO CHAPTER 95  
OF THE WHITELAND TOWN CODE TO PROVIDE FURTHER DIRECTION ON  
PERMITTING, APPLICATIONS, AND PROCEDURES, FOR USE OF AND  
CONSTRUCTION IN THE TOWN'S RIGHT OF WAY**

WHEREAS, Chapter 95 of the Whiteland Town Code provides general regulations for permitting, applications, and bonding for persons operating within the Town of Whiteland's (the "Town") right of way; and

WHEREAS, the Whiteland Town Council (the "Council") desires to amend the Whiteland Town Code to provide further direction and clarification on permitting, applications, and procedures, for use of and construction in the Town's right of way.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whiteland, Indiana, as follows:

Section 1. Section 95.01 of the Whiteland Town Code is hereby amended to read as follows:

**§ 95.01 PERMIT REQUIRED BEFORE DISTURBANCE OF TOWN  
RIGHT OF WAY.**

Any work within the Town's right-of-way which disturbs pavement, curb or gutter, driveway entrances, sidewalks, landscaping, or grassed areas, requires a permit issued by the Town. Aerial utility work that does not disturb or encroach on the Town's right-of-way is exempt from permitting except that all traffic detours or lane closures must be approved in writing by the Building Commissioner prior to the traffic detour or lane closure commencing. Further, if existing utility poles are not owned by the permittee, then written consent shall be required by the owner granting permission for the new aerial installation with said written consent to accompany the permit application. Permits shall be valid for one (1) year from date of issuance.

Section 2. Section 95.02 of the Whiteland Town Code is hereby amended to read as follows:

**§ 95.02 APPLICATION PROCEDURE FOR PERMIT.**

(A) A permit shall be issued only upon a written application submitted to the Building Commissioner or his/her designee signed by the contractor or person desiring to work within the Town's right-of-way and full payment of the application fee. An application fee of \$250.00 shall accompany each permit application. If the application includes disturbances in more than one location (i.e., multiple directional boring sites), an additional \$25 fee shall be required per location. The

permittee and any contractor or subcontractor performing the work are jointly responsible for the work completed. The application shall describe the following:

- (1) The parcel number and common address (as applicable) where the disturbance to the Town's right-of-way is proposed to occur along with engineered construction plans and maintenance of traffic plans (if applicable).
- (2) The purpose for the disturbance to the Town's right-of-way.
- (3) The date proposed date of the disturbance to the Town's right-of-way.
- (4) The date all work is anticipated to be completed.
- (5) A registration list of all contractors and subcontractors that will be working under the permit.
- (6) Any other information as reasonably requested by the Building Commissioner or his/her designee to evaluate the scope of work.

(B) In granting any permit, the Building Commissioner or his/her designee may attach such other additional conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to:

- (1) Limitations on the period of one year in which the work may be performed;
- (2) Restrictions as to the size and type of equipment commensurate with the work to be done;
- (3) Designation of routes upon which materials may be transported;
- (4) The place and manner of disposal of excavated materials;
- (5) Limitations on when work may be performed such as holidays, weekends, etc;
- (6) Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public, or any portion thereof; and
- (7) Regulations as to the use of the streets in the course of the work.

Section 3. Section 95.02 of the Whiteland Town Code is hereby amended to read as follows:

**§ 95.03 BONDING AND INSURANCE REQUIRED; TOWN INDEMNIFIED.**

(A) The permittee shall provide a surety bond from a company licensed to do business in the State of Indiana in the amount of \$10,000 in favor of the Town for each project, covering a period of two years from the date the work is completed, that, in consideration for being permitted to make such disturbance to the Town's right-of-way such permittee, contractor or person shall leave the street, sidewalk, alley or right-of-way in as of good condition as when the work commenced, and that he/she will, at all times, keep the place where such disturbance is made properly guarded by day and lighted by night so as to sufficiently warn travelers of the disturbance. Permittees performing multiple projects or right-of-way disturbances within the Town on a yearly basis may post a \$25,000 replenishing blanket right-

of-way bond, to be renewed annually (and replenished as necessary to immediately maintain the \$25,000 bond amount), in lieu of right-of-way bonds for each individual project location in addition to providing the Town a certificate of insurance in the following minimum limits: Public Liability Bodily Injury Insurance (per occurrence): \$1,000,000; Public Liability Insurance (per occurrence): \$1,000,000; Automobile Public Liability Bodily Injury (per occurrence): \$1,000,000; State minimum requirements for worker's compensation. (B) The permittee shall immediately indemnify and hold harmless the Town, its officers, boards, commissions, agents and employees, from any lawsuits, claims, causes of action, judgments and liens arising out of any act or omission by the permittee, or any of its officers, contractors, subcontractors, agents or employees, in connection with the permit and construction, operation, disturbance, or removal of any street, sidewalk, alley, or other right-of-way. Such indemnity shall include reasonable attorney's fees, expert fees, court costs, and any other expenses arising therefrom or incurred in connection therewith.

Section 4. Section 95.04 of the Whiteland Town Code is hereby amended to read as follows:

#### **§ 95.04 PERMITTEE'S RESPONSIBILITIES.**

The Town will contact the permittee for any required adjustments or corrections to the work performed in the right-of-way regardless of whether the permittee performed the work or subcontracted and assigned the work. Prior to the commencement of the work, the permittee shall:

(A) Locate: It is the responsibility of permittee to call in a ticket to Indiana 8-1-1 to allow for any and all utilities in the area to properly mark their utilities prior to commencing the work.

(B) Notify property owners: The permittee must notify property owners that will be impacted by the work. Notification may include either USPS mailing or door hangers on doors of impacted property owners generally describing the project and providing an anticipated timeline for beginning and completion.

(C) Request inspections: In all cases, the permittee for a street cut shall notify the Building & Planning Department at least 24 hours prior to the work will commence so a pre-construction inspection of the right-of-way can be made. The permittee shall notify the Building & Planning Department upon temporary completion (made pursuant to the provisions of this Chapter) or permanent completion of right-of-way restoration for an additional inspection.

(D) Provide as-built drawings: Prior to scheduling an inspection of completed work, the permittee shall provide as-builts drawings stamped by a design professional for review and approval by the Building Commissioner or its designee which shall include: (a) Exact depths and location of the placement of the new product and (b) A photo of each sewer lateral showing the placement of the product either above or below the lateral.

(E) Maintain settlements of work. Upon completion of the project the permittee shall maintain and make good all settlements of work for a period of not less than two (2) years, and shall be liable for all damages, including personal injury or death, resulting from failure to complete proper restoration work.

Section 5. A new Section 95.05 of the Whiteland Town Code shall be added as follows:

**95.05 STREET CUTS AND NEW PAVEMENT**

(A) Open Cuts. No permit to make an opening or excavation in or under a paved street shall be granted to any person within five (5) years after the completion of any paving or resurfacing thereof. Paved streets that have been resurfaced within five (5) years will be subject only to bore and jack of the street unless authorized in writing by the Building Commissioner or his/her designee.

(B) Saw Cut. All pavement cuts shall be saw cut in a straight manner and shall be made at right angles or parallel with the centerline of the pavement, where practical. All pavement is required to be saw cut to a five (5) inch minimum depth. If diagonal excavations or saw cuts are necessary, the Building Commissioner or his/her designee shall mark the pavement or right-of-way indicating the limits of restoration required to close the permit. Edges of broken pavement shall be squared off and trimmed to neat, straight lines.

(C) Emergency Openings. Pavement less than 5 years old may be cut in emergency situations as determined by the Building Commissioner or his/her designee.

Section 6. A new Section 95.06 of the Whiteland Town Code shall be added as follows:

**95.06 WORKMANSHIP WARRANTIES, GENERAL WORKSITE RESPONSIBILITIES, AND REPAIRS**

(A) The permittee or his/her contractors or subcontractors shall have a copy of the permit on the job site at all times. All right-of-way repairs shall be warrantied for a period of two (2) years following close-out of the permit. Should the condition of any pavement patch or other repair become such that additional pavement or other improvements are in jeopardy of failure, the permittee shall be responsible for an area larger than the original repair.

(B) The permittee or his/her contractors, subcontractors, employees, or agents shall not park vehicles or equipment on trails or sidewalks. Any sidewalk or trail damaged by a permittee or his/her contractors or subcontractors shall be replaced at the permittee's sole cost and expense, regardless of when the damage occurred.

(C) The permittee or his/her contractors or subcontractors are responsible the maintenance of traffic operations, including but not limited to flaggers, signage, and detour routes. Lane or full street closures require prior approval from the Building Commissioner or his/her designee. All work involving sidewalks or trails shall include signage and detour routes for pedestrians. Maintenance of traffic plans, if required, shall be submitted for approval by the Building Commissioner with the right-of-way permit application.

(D) Permittees engaging in horizontal drilling, trenching, directional boring, hand digging or plowing for installation of gas, telecom, or other underground lines are

responsible for locating all utility lines within its work area, including private lines such as sanitary sewer laterals and water service lines. Contractors or subcontractors performing the installation are required to locate the depths of each utility at least every one hundred (100) feet in the designated work area to prevent damage to other utilities. Locate flags are to stay in place until completion of the work, at which time the permittee or its contractor is to remove the flags and dispose of them properly. The Town does not maintain records of private utility lines, therefore it is the responsibility of the permittee to ensure that all service lines are located through appropriate means. This may include but is not limited to televising storm water lines and sanitary sewer mains to determine their location, followed by hydro-excavation to pinpoint both location and depth. Damage to any utility line shall be the sole responsibility of the permittee to repair immediately upon receipt of notice from the Town.

Section 7. A new Section 95.07 of the Whiteland Town Code shall be added as follows:

#### **95.06 RIGHT-OF-WAY WORK MINIMUM RESTORATION STANDARDS**

(A) Unless otherwise specified herein, all restoration and paving standards should match Indiana Department of Transportation (INDOT) standards.

(B) Asphalt patching shall consist of a minimum of 12 inches flowable fill and 1.5 inches of 9.5mm HAC surface as detailed in the “Town of Whiteland Typical Construction Guidelines and Details.”

(C) Concrete patching shall consist of a minimum of 4,000 lbs. concrete with appropriate anchors into the surrounding pavement as prescribed by the “Town of Whiteland Typical Construction Guidelines and Details”. Edges of patched areas shall be coated with an epoxy adhesive intended for concrete patching. Patched areas shall be barricaded for a minimum of seven (7) days, and the patch shall be treated with two (2) coats of a curing compound or a curing membrane.

(D) All excavated areas, outside of the pavement, shall be repaired with a minimum of six (6) inches of topsoil with a seed blanket installed. All areas shall be returned to pre-construction grading.

(E) Excavations within five (5) feet of the edge of pavement shall be filled with a granular backfill material with a minimum of six (6) inches of topsoil.

(F) In repairing or replacing sidewalk, driveway and curb, the permittee shall utilize the “Town of Whiteland Typical Construction Guidelines and Details.”

(G) Temporary restoration of non-pavement areas outside of the growing season shall be graded with mulch applied to minimize soil erosion.

(H) Any operations in the right-of-way not covered by the restoration specifications described herein or in INDOTs standards shall be restored in accordance with the instructions of the Building Commissioner or his/her designee.

Section 8. A new Section 95.08 of the Whiteland Town Code shall be added as follows:

## **95.08 TIME LIMIT TO FINAL RESTORATION**

Permanent restoration of the right-of-way shall be completed within fifteen (15) calendar days following completion of work for which a permit is issued, unless said work is completed between November 15 and April 15; any work completed during November 15 and April 15 shall have the right-of-way permanently restored no later than April 30 following the completion of the work. The permittee or his/her contractor or subcontractor shall ensure final restoration occurs in a timely manner.

Section 9. A new Section 95.09 of the Whiteland Town Code shall be added as follows:

## **95.09 UTILITY MAINTENANCE AND LINE POLLUTION**

This section applies to the initial installation as authorized by the permit issued to the permittee and applies to all utility service providers regarding the on-going maintenance of their facilities located in the public right-of way.

(A) Cables and conduit installations, placement and storage are required to follow all federal, state and local guidelines. The Town, for the purpose of this Chapter, has adopted the most recent guidelines and best practices of the National Electrical Safety Code (“NESC”) and all amendments/updates.

(B) Aerial cables are to be properly secured overhead and are not to hang loose or be placed at ground level. Cables that are abandoned or inactive are to be raked out (removed) and properly disposed of.

(C) Cables transitioning from overhead to underground are to be secured within the proper pole riser guards with no loose cables hanging.

(D) Conduits rising out of the ground at a utility pole are to be fastened to the bottom of the utility pole within the first twelve inches (12”) from the ground and secured in six-foot (6’) intervals, and not dangling or swaying.

(E) Conduit arising out of the ground that is not secured to a utility pole or in a structure shall not lay loose on the ground. Proper barriers and signage within the first twelve inches (12”) from the ground and secured in six-foot (6’) must be placed around the riser conduit to prevent potential hazards or personal injury. The permittee or utility service provider must place conduit in the proper facilities within 7-14 days of completion of the work.

(F) Buried hand hold and vault-structures are to be installed at finish grade. Structures are to be in working condition. If utility structures are damaged, they must be repaired or replaced immediately. Damaged utility structures are a safety hazard and can potentially cause harm. Upon receiving notification, the permittee or utility service provider is to secure the structure and place proper barriers around the structure to prevent harm to the public. The permittee or utility service provider must place conduit in the proper facilities within 7-14 days of completion of the work.

(G) Vertical structures including but not limited to pedestals, cable housing units and cabinets that are damaged and inoperable must be replaced or removed. The

permittee or utility service provider is to secure the structure and place proper barriers and signage around the structure to prevent harm to the public. The permittee or utility service provider must place conduit in the proper facilities within 7-14 days of completion of the work.

(H) A line pollution violation is classified as non-compliance with any of the above requirements outlined in this subsection or any damaged, abandoned, loose, improperly secured cables, conduit, and utility structures within public right-of-way. Line pollution violation notices will be issued to the permittee if the violation is associated with work included in their open permit. Once the permit has passed final inspection and has been closed, a line pollution violation will be issued to the utility service provider.

Section 10. Section 95.99 of the Whiteland Town Code shall be amended to read as follows:

**§ 95.99 PENALTY.**

The failure to abide by any requirements of this Chapter shall be deemed a violation of the Town's ordinances.

- (A) Any person admitting a violation of, or found to have violated this Chapter may be fined up to \$500 per day for each day's violation.
- (B) Any person, firm, corporation, permittee or service provider violating any provision classified as line pollution is responsible for a civil infraction and is subject to a fine of five hundred dollars (\$500.00) per offense per day the line pollution violation is outstanding passed the date of compliance requested by the town, not to exceed two thousand five hundred dollars (\$2,500.00)
- (C) Any person found by a court to be in violation of this Chapter may be fined not more than \$2,500 for each violation.
- (D) All money received by the town clerk-treasurer of the Town from violators of all sections of this chapter shall be deposited in the general fund for the Town of Whiteland, all in accordance with the laws of the State of Indiana.
- (E) Each day such violation is permitted to continue may be deemed to constitute a separate violation.

Section 11. The provisions of all other ordinances or resolutions in conflict with the provisions of this ordinance are of no further force or effect.


Section 12. If any part of this ordinance is held to be invalid, such part will be deemed severable and its validity shall have no effect upon the remaining provisions of this ordinance.

Section 13. The provisions set forth in this ordinance shall become and remain in full force and effect (until their repeal by ordinance) on the date of adoption of this ordinance as evidenced by the signature of the executive as prescribed by Indiana Code § 36-5-2-10.

**[Remainder of page intentionally left blank.]**

DULY PASSED AND FINALLY ADOPTED on the 10<sup>th</sup> day of March, 2026, by a vote of 5 in favor and 0 against.

TOWN OF WHITELAND, INDIANA, TOWN COUNCIL

  
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Richard Hill, President


  
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Voting In Favor

Richard Hill, President

Voting Opposed

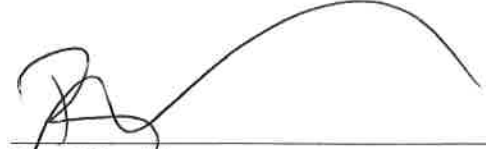
Richard Hill, President

  
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Deb Hendrickson, Vice President

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Tim Brown

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Attest:

  
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Jenny Roberts, Clerk-Treasurer

Makayla Rich, Deputy