

BEFORE THE COMMON COUNCIL
THE CITY OF CHARLESTOWN, INDIANA
ORDINANCE NO. 2020-OR-11

AN ORDINANCE ESTABLISHING CONDITIONS AND REQUIREMENTS

OF MAINTNENANCE AND USE OF PUBLIC RIGHT-OF-WAYS AND EASEMENTS

WHEREAS, pursuant to Indiana Code § 36-5—2 et seq., the Common Council of the City of Charlestown, Indiana (the Council) is the city legislative body and the Mayor is the City executive; and,

WHEREAS, pursuant to Indiana Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the city; and,

WHEREAS, the Council finds it necessary to establish conditions and requirements for the maintenance and use of public right of ways and easements; and

WHEREAS, the council finds it necessary to establish conditions and requirements for the issuance of right-of-way and easement permits and fee's to ensure work is performed in a manner that is the least disturbing to the public or damaging to the city's infrastructure; and

WHEREAS, the Council finds that the adoption of this Ordinance is necessary to protect the public health, safety, and welfare.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Charlestown, Indiana the following:

Section 1: Any person, firm, or corporation now owning, operating or hereafter installing and operating any utility within the right-of-way of any street or easement in the City of Charlestown, or any person, firm or corporation doing any repair in any street right-of-way or easement shall do so only in accordance with the terms and condition of this Ordinance.

Section 2: Permit Requirement(s)

(a) Any and all work in a right-of-way that is not included in the limits of and otherwise permitted construction project shall require a Right-of-Way (ROW) permit from the City of Charlestown Building and Safety Department. A project that requires and does not have a ROW permit shall be subject to a stop work order. A reinstatement fee of four hundred dollars (\$400.00) shall be incurred by the person, corporation, firm, owner, or operator performing and or responsible for the right-of-way/easement work being done in defiance of any stop work order issued. The fee incurred must be satisfied prior to any ROW permit being issued. No permit will be required for normal maintenance activities not requiring excavation in the right-of-way or easement or blocking of traffic.

(b) For new construction, a utility shall submit two sets of project construction plans at the time of filling an application for a permit. Plans will not be required for routine maintenance and service installation.

(c) The construction plans will be promptly reviewed, and a permit will be issued within three (3) working days after submitting the plans, or written comments submitted for revision of the plans to be made by the utility. Revisions will be limited to those areas affecting City facilities and/or traffic or pedestrian flow and protection. The utility will be responsible for the engineering and design of its project and the integration of its maintenance and construction responsibilities.

(d) No permit shall be issued until the permittee has presented a utility location request number as assigned by the local utility locating service which meets the required 72 hours notification requirement, except for in cases of emergencies as defined by this ordinance.

(e) In order to expedite the issuance of a permit, a permit may be issued with conditions and work hours initialed on the face of the permit in lieu of requiring revisions in the plans. Upon issuance of the permit, one set of project plans shall be marked approved and returned to the utility service.

(f) For all work conducted in the right-of-way or easement belonging to the State of Indiana, the permittee shall meet all State of Indiana Department of Transportation (INDOT) permitting requirements prior to the issuance of a ROW permit from the City of Charlestown. Proof of State of Indiana approval must be submitted with any pertinent City of Charlestown, Indiana ROW permit application.

(g) For any work conducted in any federally owned right-of-way or easement, the permittee shall meet all federal guidelines and permitting requirements prior to the issuance of a ROW permit from the City of Charlestown, Indiana. Proof of approval from the administrator of any federal land, right-of-way and/or easement must be submitted with any pertinent City of Charlestown, Indiana ROW permit application.

Section 3: Definition of Right-Of-Way or Easement

The term "Right-Of-Way" or "Easement" means all of that area presently used, owned, or dedicated to or by the City of Charlestown, Indiana Department of Transportation (INDOT) and/or the Federal Government for a street, including sidewalks, curbs, gutters, driveway aprons, and all other areas of the right-of-way or easement whether or not physically incorporated in the street.

Section 4: Definition of Emergency and Emergency Cut Permit

The term "emergency" shall mean the repair of a utility which may be made to restore service to avoid property damage., or to eliminate danger to the public. Notice of an emergency pavement cut shall be given to the City of Charlestown Director of Streets or if contact cannot be made with the Director of Streets then contact must be made with the City of Charlestown Building Commissioner by telephone during normal business hours. If the cut is made after normal business hours, then notification shall be given at the beginning of the next business day. An application will be made for a permit for all emergency cuts within seventy-two (72) hours after the cut has been made. All other provisions of this ordinance shall apply to emergency cuts.

Section 5: Street Cut

No person, firm, or corporation shall cut or dig in the City for the purposes of connection with water, sewer, gas, phone, cable, telecommunications or other mains or pipes in said streets, or for any other purpose by digging or cutting more than half-way across such street until the half

which has been cut or dug up shall have been back-filled or plated over with street traffic plates so that one-half of the passageway of the street shall always remain open and free for the uninterrupted passage of traffic.

Exceptions from section 4 of this ordinance must be approved in writing by the City of Charlestown, Indiana, Director of Streets.

Section 6: Relocation of Utilities

In the event of abandonment, widening, repair, installation, construction, or reconstruction by or for the City of Charlestown, Indiana, the Indiana Department of Transportation (INDOT) and/or Federal Government of any road, bridge, culvert, traffic signal, street light, water distribution system, sewage system, storm drain system, or any other City facility within a street right-of-way or easement, the owner of any utility shall move, relocate and/or renew such facility upon request by the City of Charlestown, when necessary for public safety and welfare and when a suitable site is available, all at the cost and expense of the owner of such utility. The City will give as much advance notice to be affected utilities as possible to facilitate their planning. The affected utilities shall have 90 days upon notice by the City of Charlestown to relocate their utility service. Failure to move the utility service as requested will result in a \$1,000 per day fine, and should the City be forced to take action to move the affected utility as requested, the cost for such relocation service will be incurred by the utility.

Section 7: Maintaining of Safeguards, Barriers, Lights & Work Hours of Activity Permitted

Every person, firm or corporation making or causing to be made any construction ditch or any other excavation, road maintenance, utility maintenance, or utility construction in a street right-of-way and/or easement shall do so in a careful, prudent and professional manner so as to properly safeguard and protect the work site and to prevent injury to persons or property in at least the following manner:

(a) Must comply with the Indiana Department of Transportation (INDOT) Work Zone Traffic Control Guidelines, and the Indiana Manual of Uniform Traffic Control Devices, as well as those safeguards listed in the following paragraphs 5(b), 5(c), 5(d) and 5(e) of this ordinance.

(b) By placing of substantial and adequate barricades in, around and along the sides of the work area.

(c) By providing and maintaining adequate light to disclose to the public the existence of any construction in the street, whether night or day.

(d) During the nighttime, to place at least one blinking light at the end of work area and The placing of other blinking lights spaced at intervals recommended for traffic speed within and adjacent to the construction.

(e) When necessary (as deemed by the City of Charlestown Director of Streets) adequately trained traffic control personnel to direct traffic in a safe, prudent, and professional manner.

Section 8: Lane Restrictions

Per the Indiana Department of Transportation (INDOT) traffic control standards, and in compliance with the Indiana Manual on Uniform Traffic Control Devices, prior to the issuance of a City of Charlestown ROW permit, a traffic maintenance plan must be filed with the City of Charlestown Director of Streets and approved by the City of Charlestown Engineer.

Section 9: Excavation, Back-Filling, and Restoration of Service

(a) All ROW excavation within five (5) feet of the right-of-way and or easement must be backfilled with materials approved by the City of Charlestown Engineer and/or Director of Streets, and must be free from cinders, ashes, refuse, vegetable organic matter, boulders, rocks or stones, wet material, or other materials which renders same unsuitable to obtain a firm and compact cover for the installation. **(See attachment A and B)**

(b) Design and procedures for the installation of back-fill must first be approved in writing by the City of Charlestown Engineer and/or the City of Charlestown Director of Streets.

(c) Trench cut width shall be kept to the minimum width necessary to install and properly place flowable fill around any pipe or new installation. If rock or adverse soil conditions are encountered and shoring is required, then the trench cut shall be of sufficient additional width to provide for the protection of the workers and proper installation of the pipe or other structure.

Excavations shall comply with applicable Department of Labor, Safety and Health Standards and guidelines for excavations.

(d) Asphalt pavement shall be neatly saw cut on each side one (1') foot wider than the trench opening. The pavement and base material shall be replaced according to the specification set forth by the City of Charlestown Engineer. All seams must be cleaned and tack-coated to provide a seamless joint to the surrounding pavement. No cold patch shall be used except for temporary patching which will be maintained by the contractor for the duration until HMA pavement can be installed.

(e) Concrete pavement shall be neatly saw cut and the whole disturbed panel shall be removed and replaced. There will need to be at least two (2) feet of undisturbed soil on each side of the excavation to allow the concrete patch to bridge the excavation. The new concrete patch shall be installed using Class A concrete. The finish is to match the existing finish of the surrounding pavement. All concrete patches shall be treated with a curing compound

(f) Ditches disturbed by excavating shall be properly graded, seeded, and blanketed To allow for positive drainage. The blanket needs to be approved by the City of Charlestown Engineer and/or Director of Streets.

(g) All drain, water, sewer, electric or gas pipes shall be installed in any street, sidewalk Or easement of the City of Charlestown so that the pipe will be buried at a depth not less than three (3) feet.

Exception may be made where required by unusual conditions and must be approved by the City of Charlestown Engineer and/or Director of Streets.

(h) When soil conditions permit and there are no conflicting utilities, gas, water, sewer, telephone, cable.etc., service lines shall be installed through a jacking or boring process. Sewer lines may be installed through a jacking or boring process. In the event the jacking or boring procedure attempt is unsuccessful, then the pipe may be installed using an open cut approved by the City of Charlestown Engineer and/or Director of Streets.

(i) Before back-fill of any cuts in streets or street right-of-way, the utility contractor shall request an inspection by the City of Charlestown Engineer and/or Director of Streets.

(j) Any cost for core drilling or any other testing procedures required for the performance of any inspection by the City of Charlestown Engineer and/or Director of Streets shall be incurred by the permittee.

(k) Grass areas that are disturbed shall have a minimum of 6" of aggregate free soil installed and seeded (equal to or better than existing areas). The stabilization needs to be completed within fourteen (14) days from the date of completion of the install and/or repair.

(l) No cuts will be permitted to be opened if, in the opinion of the City of Charlestown Director of Streets, the cut cannot be backfilled, and resurfacing restored within a reasonable amount of time, or if the traffic flows cannot be maintained. Exceptions will be made for emergencies as defined

Section 10: Final Inspection

Upon the completion of all installation or repairs, a final inspection by the City of Charlestown Engineer and/or Director of Streets shall be scheduled by the permittee. If all work and stabilization is completed to the sole satisfaction of the inspector and stabilization has been maintained for no less than twenty-one (21) days, the inspector shall sign off on the release of the permit. The release of the permit does not release the contractor from the settling and germination requirements of 70% germination.

Section 11: Right to Withhold Release

If the inspector deems the craftsmanship or quality of work to be questionable, the City reserves the right to withhold the release for up to one (1) year from the date of final inspection.

Section 12: Waiver of Permit Fee

The City of Charlestown may waive the permit fee for all work performed by a governmental agency, whether this work is performed by the employees of the government agency or by a private firm or corporation under contract with the governmental agency. However, such governmental agency or private firm or corporation under contract therewith shall not be relieved of the responsibility for obtaining a permit for the work covered in this ordinance

Section 13: Suspension of Permit

If a person performing construction fails to perform said construction in accordance with the conditions of the permit or the requirements of this ordinance or existing ordinances of the City of Charlestown, Indiana, the permit may be suspended and work stopped until such time as the person performing the work gives the City written assurances of their ability and intention to complete the work in accordance with the conditions of the permit, this ordinance and other ordinances of the City of Charlestown. The written letter of ability and intention will be delivered to the City of Charlestown Director of Streets. Any stop work order notice shall be delivered in writing to the representative of the person, firm or corporation performing the work and shall state the reasons for such notice.

Section 14: Surety

The City of Charlestown requires that prior to any issuance of a ROW permit, a surety or performance bond must be filed with the City which is satisfactory to the City to indemnify the City from any and all costs resulting from the failure of the applicant to satisfactorily complete the work. The Surety/Performance bond amount shall be determined by the estimated cost of excavation and street restoration as recommended by the City of Charlestown Engineer. Utilities operating under a franchise agreement with the City of Charlestown will be exempt from this requirement.

The City reserves the right to require a larger surety/performance bond if unusual conditions exist which may dictate higher than usual damages.

Section 15: Hold Responsible and Indemnification

The City shall hold the applicant directly responsible for all work performed under the permit.

Any person, firm, or corporation making a street cut or performing any construction work in the City of Charlestown will file with the City of Charlestown, evidence acceptable to the City that the person, firm or corporation making the cut and performing any construction work in the streets, right-of-way and/or easement of the City of Charlestown has sufficient expertise and ability to perform the work in a timely, prudent, safe and professional manner, and shall execute an indemnification and hold harmless agreement to the City of Charlestown, Indiana along with a certificate of insurance for personal and property in an amount determined by the City of Charlestown Engineer.

Section 16: Notifications

The City of Charlestown Engineer and City of Charlestown Director of Streets shall be notified a minimum of four (4) hours prior to starting all pavement repairs so that an inspector may observe the placement of the new patch material. Failure to notify the City Engineer or Director of Streets shall result in removal and replacement of such material with applicant responsible for the cost. Hours for this inspection shall occur during regular business hours.

Section 17: Schedule of Fee, Costs and Fines.

Activity Permit Filing Fee	\$50.00
Surety Requirement	As determined by the City of Charlestown Engineer.
Open Cut Maintenance Bond	As determined by the City of Charlestown Engineer
ROW Boring	\$50.00 + \$0.75 per lineal foot
ROW Open Cut	\$300.00 + \$5.00 per lineal foot
Stop Work Reinstatement Fee	\$400.00 each occurrence
Work Completed During Stop Work Order	\$500.00 per day
Failure to Relocate Utilities	\$1000.00 per day after 90-day notice

*ROW fees do not apply to repairs of existing sidewalks.

** Surety may include any of the following: Bond, Letter of Credit, or Certified Check.

Section 18: Refund of Fee's

If the work for which a permit has been issued is canceled, the City will refund the amount paid, if requested prior to the beginning of any work and no later than the date on which the permit expires. In lieu of refund, a credit for the permit may be given to the person, firm or corporation which may be applied against the cost of subsequent permits.

This Ordinance shall be in full force and effect upon its passage as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving Members of the Charlestown Common Council.

So Ordained this _____ day of _____, 2020

ALL OF WHICH IS RESOLVED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN, INDIANA upon this date: _____ day of _____, 2020

Bo Bertram
Bo Bertram

In Favor
✓

Opposed

Abstain

Ruthie Jackson
Ruthie Jackson

✓

B.J. Steele
B.J. Steele

✓

ABSENT
Brian Hester

J.T. Cox
J.T. Cox

✓

THIS ORDINANCE WAS APPROVED BY ME UPON THIS DATE: July 17 2020

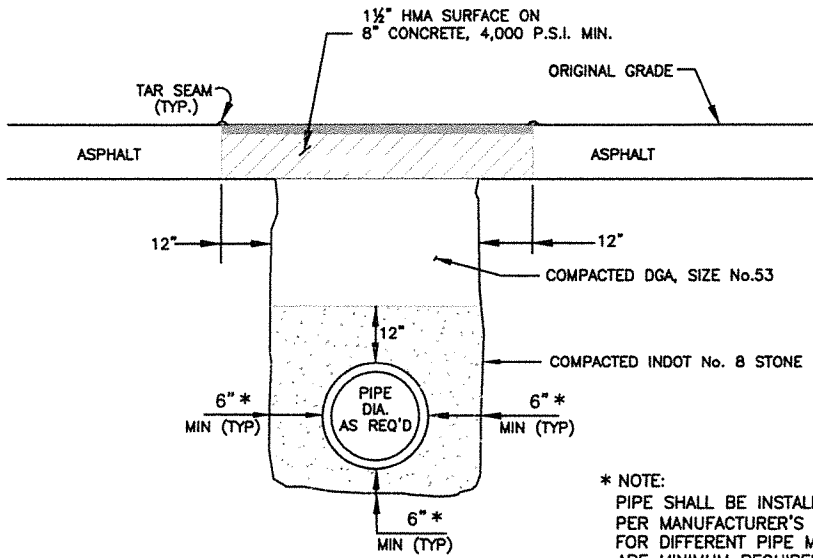
Treva Hodges
Treva Hodges, Mayor

ATTEST:

17-6-2020
Date:

Donna Coomer
Donna Coomer
City Clerk-Treasurer

Attachement "A"



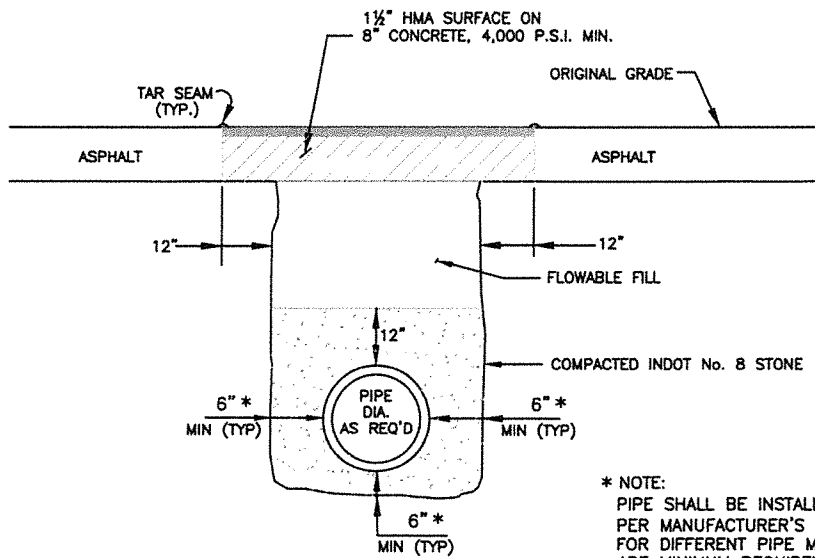
* NOTE:
PIPE SHALL BE INSTALLED, BEDDED AND BACKFILLED
PER MANUFACTURER'S GUIDELINES AND REQUIREMENTS
FOR DIFFERENT PIPE MATERIALS. DIMENSIONS SHOWN
ARE MINIMUM REQUIREMENTS.

PIPE BEDDING DETAIL IN PAVED AREAS

NO SCALE

(Type 1 Backfill)

Attachement "B"



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PER MANUFACTURER'S GUIDELINES AND REQUIREMENTS
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ARE MINIMUM REQUIREMENTS.

PIPE BEDDING DETAIL IN PAVED AREAS

NO SCALE

(Type 1 Backfill)