

ORDINANCE NO. 2017- 16
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE TO ESTABLISH THE TOWN OF ZIONSVILLE, INDIANA,
AS A BROADBAND READY COMMUNITY
FOR THE
TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

WHEREAS, the Town of Zionsville seeks to promote private investment in broadband infrastructure, and

WHEREAS, the Town of Zionsville seeks to be designated as a Broadband Ready Community (“BRC”) pursuant to IC § 5-28-28.

NOW, THEREFORE, the Town of Zionsville adopts the following Ordinance establishing Zionsville as a Broadband Ready Community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA, AS FOLLOWS:

Section 1. **Permit Defined.** As used in this chapter, "Permit" means any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a project.

Section 2. **Project Defined.** As used in this chapter, "Project" means the construction or deployment of wireline or wireless communications facilities to provide communications services (as defined in IC 8-1-32.5- 3) in the Town. A component of the “Project”, for purposes of this Ordinance, and ultimately permitting, does not include the placement / replacement of an electric meter in association with a “Project”. Use / replacement of electric meter(s) is permissible when associated with a “Project”, however, as the use of / replacement of an electric meter is not considered a part of the “Project”; it will require, while exempt from municipal permit fees, the issuance of a separate Improvement Location Permit (and inspections) as identified in the Town of Zionsville Zoning Ordinance (§ 195.01), as may be amended from time-to-time. Further, a component of the “Project”, for purposes of this Ordinance, and ultimately permitting, does not include the placement / replacement of hard scape/built environment improvements in association with a “Project”. Placement / replacement of hard scape/built environment elements is/are permissible when associated with a “Project”, however, as the placement/replacement of hard scape/built environment elements is/are not considered a part of the “Project”; it will require, while exempt from municipal permit fees, the issuance of a separate Permit (and inspections) as required under §53.02 of the Code of Ordinances and reflected in **Exhibit 1**, as may be amended from time-to -time.

Section 3. Applicable Project Standards. Notwithstanding any other provision of the Town's ordinance, regulation, policy or practice, the following shall apply to a Project:

The Town shall:

- (a) Appoint a single point of contact for all matters related to a Project;
- (b) Establish procedures to allow all forms, applications, and documentation related to a Project to be filed or submitted and signed by electronic means;
- (c) Review and approve or reject all applications for a Permit related to a Project within ten (10) business days after an application is filed or submitted;
- (d) Assure that after an application is approved pursuant to subsection 3(a), any inspections, including any additional necessary approvals, related to a Project will occur in a timely and expeditious manner.
- (e) Establish a procedure to promote broadband adoption in the Town after the Town is certified as a Broadband Ready Community, including:
 - 1) Identifying a single point of contact in charge of broadband adoption in the Town; and
 - 2) an assurance that each communications service provider that already provides broadband services in the Town will be notified that the Town is applying to be a Broadband Ready Community; and
 - 3) an assurance that the Town will work with communications service providers to promote broadband adoption in the Town all without discriminating among communication service providers with respect to promoting broadband adoption in the Town or imposing a fee on communications service providers to fund promotion of broadband adoption in the Town.

Section 4. Procedures and Processes. The Town of Zionsville shall adopt adequate processes and procedures to implement the provisions of Sec. 3. Processes and procedures established hereunder may not do the following:

- (a) Require an applicant to designate a final contractor to complete a project;
- (b) Impose a fee to review an application or issue a permit for a Project;
- (c) Impose a seasonal moratorium on the issuance of permits for a Project;
- (d) Discriminate among communications service providers or utilities with respect to any action described in this section or otherwise related to a project, including granting access to public rights-of-way, infrastructure and poles, river and bridge crossings, and any other physical assets owned or controlled by the Town of Zionsville. However, in no case shall any communication service provider or communication utility locate infrastructure within the north-south right of way of Main Street,

between the north right of way of Sycamore Street and the south right of way of Ash Street described in Exhibit 2 to this Ordinance.

Section 5. Applicability. This Ordinance shall apply to the installation of new Broadband facilities and associated Projects, or significant expansions of capacity, as well as the repair and/or in-kind replacement of any existing broadband facilities and shall exempt all Projects from fees identified within Section 195.01 of the Town of Zionsville Zoning Ordinance.

Section 6. Savings Clause: If any title, section, subsection, phrase, clause, sentence, or word of this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 7. Construction of Clause Headings: The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the clause to which they appertain.

Section 8. Repeal of Conflicting Ordinances: The provisions of all other Town ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

Section 9. Severability: If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

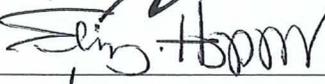
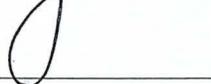
Section 10. Duration and Effective Date: The provisions of this Ordinance shall become and remain in full force and effect upon adoption and publication according to Indiana Law and until its repeal by ordinance.

DULY PASSED AND ADOPTED this 19th day of December, 2017, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

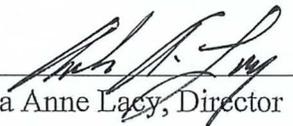
TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA

YEA

NAY

	Signature	Signature
Josh Garrett, President		
Bryan Traylor, Vice-President		
Elizabeth Hopper, Member		
Jason Plunkett, Member		
Thomas Schuler, Member		
Kevin Spees, Member		
Susana Suarez, Member		

I hereby certify that the foregoing Ordinance was delivered to Town of Zionsville Mayor Timothy R. Haak on the 19th day of December 2017, at 9:00 A.m.

ATTEST: 
Amelia Anne Lacy, Director
Department of Finance and Records

MAYOR'S APPROVAL


Timothy R. Haak, Mayor

12.19.2017
Date

MAYOR'S VETO

Timothy R. Haak, Mayor

Date

§ 53.02 CONSTRUCTION WITHIN THE PUBLIC RIGHT-OF-WAY OF A STREET, ALLEY, SIDEWALK OR BICYCLE/PEDESTRIAN PATHWAY.

(A) It shall be unlawful for any person, business concern or corporation to perform any construction activity within the Urban Service District public right-of-way of any public street, bicycle or pedestrian pathway or alley within the confines of the Urban Service District corporate limits of the Town, without first obtaining a permit for such act and posting a bond for compliance with the further requirements of this section.

(B) A permit application for such construction activity shall be submitted to the Zionsville Street and Stormwater Department for review, and must be approved by the same prior to the commencement of construction activities. The application fee shall be \$25 which shall be deposited in the Motor Vehicle Highway Fund of the Town. The fee may be waived at the discretion of the Superintendent of the Street and Stormwater Department ("Superintendent"). The form of permit application may be amended from time to time provided it is consistent with the terms identified herein.

(C) At the time of application for the permit required in division (B) above, the applicant shall submit security in the form of a bond satisfactory to said Superintendent in the sum of at least \$1,000 to insure restoration of the area disturbed as a result of such construction activity as hereinafter specified. Higher bond amounts may be required at the discretion of the Superintendent based upon the scope of the work, and the bond requirement may be waived at the discretion of the Superintendent. Entities performing work repeatedly within rights of way may file a perpetual permit bond with the Town in an amount determined by the Superintendent.

(D) (1) Any street cut, trench, access pit or other construction activity accomplished under this permit shall be restored per applicable specification(s) as set out in the town's construction standards or as directed by the Superintendent. Restoration per applicable specification shall be accomplished within five working days of completion of the principal work activity for which the permit was issued. It shall be the permit holder's responsibility to temporarily restore and maintain vehicle and/or pedestrian access and safety of any cut, trench or access pit pending final restoration. Acceptance of temporary and final restorations and, ultimately, release of surety, shall be subject to approval by the town.

(2) Restoration methods and materials are set out in the town's construction standards as follows:

- (a) Asphalt pavement: specification figures P-18, P-19, P-20;
- (b) Concrete pavement: specification figures P-18, P-19, P-20; and
- (c) Sidewalks/pathways: specification figures P-18, P-21.

Note: flowable fill may be substituted for granular backfill upon written approval by the Superintendent.

(E) Any sod, planting or other landscaping materials or features disturbed as a consequence of the work under this permit shall be restored in kind. Acceptance shall be subject to approval by the town.

(F) (1) The permit holder shall be responsible to provide, erect and maintain any necessary signs, barricades, lights and/or other warning devices required to safely direct vehicular and pedestrian traffic over, around or through the work site, and to protect vehicles and pedestrians from any work site hazard.

(2) In the event a two-way, two-lane roadway is restricted to one lane, traffic-control personnel may be required.

(G) The permit holder shall assume all responsibilities for any injuries or damages to persons or property resulting directly or indirectly from the work provided for under the permit.

(H) The permit holder shall notify the Town Street Department prior to commencement, and upon completion, of the work provided for under the permit.

(I) The bond posted in compliance with this section shall not be released for a period of three years from the date of completion of the work and shall not be released without written acceptance of restoration by the Town Street Department.

(J) Violation of this section shall occur when any street, bicycle and pedestrian pathway or alley within the corporate limits of the town is disturbed as a result of construction activity without full compliance with the requirements of this section.
(1996 Code, § 7-60) (Ord. 2001-12, passed - -) Penalty, see § 53.99

Permit Application

Town of Zionsville, Indiana

Construction within the Public Right-of-Way of a Street, Alley, Sidewalk,
Bicycle/Pedestrian Pathway

Application Date: _____, 20____ Permit No. : _____

PERMIT INFORMATION

- ① Permit Fee: \$25.00
- ② Mandatory \$1,000 bond to be submitted with Permit Application, and remain in force and effect three (3) years from date of completion.

APPLICANT INFORMATION

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____
 Email: _____
 Contact Name: _____

LOCATION Provide detailed description of location at which work is to be performed

PURPOSE OF WORK Examples: install waterline, sanitary sewer, telephone, fiber optic cable

SCOPE OF WORK Open cut, directional boring, in pavement, off pavement, etc.

Length _____ Width _____ Depth _____

Date Work is Anticipated to Commence _____, 20____
Date Work is Anticipated to be Completed _____, 20____

Office Use Only

Permit Number: _____

Zionsville Street Department Approval:

Signature Date

Permit Fee: Paid Invoiced Waived
Ck#: _____ Inv. # SC- _____

\$1000 Bond: Received On-File Waived

Permit Application for Construction Within the Public Right of Way... (Con't)

AGREEMENTS

Per Title V, Chapter 53, §53.02 of the *Town of Zionsville Code of Ordinances*, applicant acknowledges and agrees to the following, as evidenced by signature below.

1. Any street cut, trench, access pit or other construction activity accomplished under this permit shall be restored per applicable specification(s) as set out in the *Town of Zionsville Construction Standards*. Restoration per applicable specification shall be accomplished within five (5) working days of completion of the principal work activity for which the permit was issued. It shall be the permit holder's responsibility to temporarily restore and maintain vehicle and/or pedestrian access and safety of any cut, trench, or access pit pending final restoration. Acceptance of temporary and final restorations, and ultimately, release of surety, shall be subject to approval by the Town of Zionsville. Restoration methods and materials are set out in the *Town of Zionsville Construction Standards* as follows:
 - A. Asphalt Pavement – Specification Figures P-18, P-19, P-20
 - B. Concrete Pavement – Specification Figures P-18, P-19, P-20
 - C. Sidewalks / Pathways – Specification Figures P-18, P-21

Note: Approved flowable fill may be substituted for granular backfill.
2. Any sod, plantings, or other landscaping materials or features disturbed as a consequence of the work under this permit shall be restored in kind. Acceptance shall be subject to approval by the Town of Zionsville.
3. The permit holder shall be responsible to provide, erect, and maintain any necessary signs, barricades, lights, and / or other warning devices required to safely direct vehicular and pedestrian traffic over, around or through the work site, and to protect vehicles and pedestrians from any work site hazard. In the event a two-way, two-lane roadway is restricted to one lane, traffic control personnel may be required.
4. The permit holder shall assume all responsibilities for any injuries or damages to persons or property resulting directly or indirectly from the work provided for under the permit.
5. The permit holder shall notify the Zionsville Street Department prior to commencement, and upon completion, of the work provided for under the permit.
6. A \$1,000.00 bond posted in compliance with Chapter 7, Article V, Section 7-60 of the *Town of Zionsville Code of Ordinances*, shall not be released for a period of three (3) years from the date of completion of the work and shall not be released without written acceptance of restoration by the Zionsville Street Department.
7. The permit holder shall be responsible for preventing illicit discharges from construction activities as proscribed by Title V, Chapter 50, §50.021 of the Town of Zionsville Code of Ordinances by implementing the necessary best management practices in accordance with Chapter 7 of the Stormwater Technical Standards Manual.

Signature of Applicant: _____ Date _____

PERMIT NUMBER : _____



RIGHT OF WAY PERMIT

Construction within the Public Right of Way
Town of Zionsville, Indiana

Type of Permit (check all that apply):		<i>Incomplete forms will not be accepted</i>
<input type="checkbox"/> Excavation <input type="checkbox"/> Pole Line/Aerial <input type="checkbox"/> Drill/Bore <input type="checkbox"/> Driveway <input type="checkbox"/> Infrastructure/Road Cut <input type="checkbox"/> Other		
Project location (provide closest street address/intersection and attach map with work area details):		
Detailed project description, purpose and work done for:		
Estimated start date of construction:		Estimated end:
Signature of permit applicant:		Printed name of permit applicant:
Name of company organization:		Name and phone number of on-site contact:
Address (number and street, city, state, ZIP):		
Email address:		

-----APPLICANT DO NOT COMPLETE FORM BELOW THIS LINE-----

Received date:	GIS Entered: <input type="checkbox"/>	Inspection required: <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, see below)
Special Provisions:		
Approved:	Date:	Permit Number:
\$25.00 Permit fee: <input type="checkbox"/> Paid ck# _____ <input type="checkbox"/> Invoiced # SC- _____ <input type="checkbox"/> Waived		
Bond: <input type="checkbox"/> Received <input type="checkbox"/> On-file # _____ Amount \$ _____ <input type="checkbox"/> Waived		
<i>If Inspection(s) Required:</i> Call 317-873-4544 to schedule required inspections at least 24 hours in advance. All connections to public infrastructure must be inspected prior to backfilling or covering. See General Provision #5 on reverse side for other notification requirements.		
This permit expires: _____		

GENERAL PROVISIONS

By signing this application, the Applicant agrees to indemnify, defend, exculpate, and hold harmless the Town of Indiana, its officials and employees from any liability due to loss, damage, injuries, or other casualties of any kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way arising out of, or resulting from the issuance of this permit or the work connected therewith, or from the installation, existence, use, maintenance, conditions, repairs, alteration, or removal of any equipment or material, whether due in whole or in part to the negligent acts or omissions (1) of the Town of Zionsville, its officials, agents or employees; or (2) of the applicant, his or her agents, or employees, or other persons engaged in the performance of the work; or (3) the joint negligence of any of them; including any claims arising out of the Workmen's Compensation Act or any other law, ordinance, order, or decree. The Applicant also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed upon the Town of Zionsville in connection herewith in the event that the applicant shall default under the provisions of this paragraph.

1. All activities conducted under this permit shall be in accordance with Title V, Chapter 53, §53.02 of the *Town of Zionsville Code of Ordinances* and any other applicable standards.
2. Restoration per applicable specification shall be accomplished within five (5) working days of completion of the principal work activity for which the permit was issued.
3. All work described in the permit shall be subject to inspection by the Town of Zionsville and the permittee shall adjust or stop operations upon direction by any police officer or Town of Zionsville employee.
4. The permit may be rescinded at any time by the Town of Zionsville at its discretion or for noncompliance with any and/or all provisions of said permit.
5. The permittee shall notify the Town of Zionsville Street & Stormwater Department five (5) working days preceding the beginning of any work activity and shall notify the same that the work is complete within seven (7) days from completion of all work on this permit.
6. The permittee shall have the permit complete with any drawings and special provisions in their possession during work operations and will show said permit on demand, to any police officer or authorized Town of Zionsville employee.
7. The permittee shall erect and maintain all necessary signs, barricades, detour signs, and warning devices required to safely direct traffic over or around the part of the roadway where permitted operations are to be done so long as the work does not interfere with traffic, in accordance with Section "VI" of the Indiana Manual of Uniform Traffic Control Devices.
8. The permittee shall maintain vehicle and/or pedestrian access and safety of any cut, trench, or access pit pending final restoration. Acceptance of temporary and final restorations, and ultimately, release of surety, shall be subject to approval by the Town of Zionsville.
9. Approval of the permit application shall be subject to the permittee obtaining all necessary authorizations from other local authorities and complying with all applicable laws.
10. Work hours for activities under this permit shall be confined to the hours of 7:00 am until 7:00 pm, Monday through Saturday. Work outside of these hours shall be only conducted upon written approval from the Town of Zionsville.
11. The permittee shall provide a minimum \$1,000.00 bond posted in compliance with Title V, §53.02 of the *Town of Zionsville Code of Ordinances*, which shall remain in full force and effect for a period of three (3) years from the date of completion of the work.
12. The permit holder shall be responsible for implementing erosion and sediment controls and preventing illicit discharges from construction activities as proscribed by Title V, §50.021 of the *Town of Zionsville Code of Ordinances* by implementing the necessary best management practices in accordance with Chapter 7 of the *Stormwater Technical Standards Manual*.
13. No person shall be excluded from participation in, or denied the benefits of services on the basis of religion, race, color, national origin, sex, sexual orientation, gender identity, age, disability/handicap, low income status or limited English proficiency as protected with Title VI of the Civil Rights Act of 1964.

General Repair Details

