

MAY 15, 2023

REGULAR SESSION

The LaGrange County Commissioners met in Regular Session on Monday, May 15, 2023, in their meeting room, County Office Building, 114 W. Michigan Street, LaGrange, Indiana, 46761, at 8:30 a.m., with the following present: Commissioners, Mr. Terry A. Martin, Mr. Kevin R. Myers and Mr. Peter A. Cook; and LaGrange County Auditor, Kathryn Hopper. Mr. Terry Martin, President, called the meeting to order and led in saying the Pledge of Allegiance to the Flag. Mr. Kevin Myers made a motion to adopt the proposed agenda with flexibility. Mr. Peter Cook seconded the motion and it carried unanimously.

PROPERTY ISSUE AT 3530 N 920 W, SHIPSHEWANA, INDIANA

Mr. Tony Manns, County Attorney, explained that a shed and camper are in the right of way at 3530 N 920 W, Shipshewana, Indiana. The property owner is Karen Shafer. Mr. Kevin Myers made a motion to authorize the County Attorney to send a demand letter to the property owner to remove the items. Mr. Peter Cook seconded the motion and it carried unanimously.

HEALTH OFFICER SALARY

Mr. Tony Manns, County Attorney, explained that the Health Officer would like a pay increase. Mr. Peter Cook made a motion to give a positive recommendation to the County Council for a salary of \$24,000. Mr. Kevin Myers seconded the motion and it carried unanimously.

ORDINANCE CREATING A PERMITTING PROCESS TO REGULATE PROJECTS ON LAGRANGE COUNTY RIGHT-OF-WAYS.

Mr. Tony Manns, County Attorney, presented the following Ordinance for consideration:

**COUNTY OF LAGRANGE
ORDINANCE NO. 2023-05-15-A**

**AN ORDINANCE CREATING A PERMITTING PROCESS TO REGULATE PROJECTS ON
LAGRANGE COUNTY RIGHT-OF-WAYS.**

WHEREAS, the Board of Commissioners of the County of LaGrange ("Commissioners") on behalf of LaGrange County, Indiana ("County"), desires to provide for the health, safety, and well-being of all people in the County as they use the County's right-of-ways;

WHEREAS, the Commissioners have found that persons have been performing unauthorized work on its right-of-ways, jeopardizing the County's interests;

WHEREAS, the Commissioners desire to regulate projects performed on County right-of-ways by providing, among other things, for the issuance of permits granting authority to perform work thereon and by ensuring the subsequent restoration of the right-of-ways;

WHEREAS, pursuant to Indiana Code ("IC") § 36-9-2-7, the Commissioners may regulate the use of public ways;

WHEREAS, pursuant to IC § 8-1-2-101, the Commissioners may regulate the manner in which a public utility occupies the County's right-of-ways;

WHEREAS, pursuant to IC § 36-8-2-4, the Commissioners may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare;

WHEREAS, the Supreme Court of the State of Indiana has determined in *Tomlinson vs. City of Indianapolis* that "the power to regulate implies the power to license and to exact a reasonable fee for such license";
and

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WHEREAS, pursuant to IC 36-1-3 ("Home Rule"), the County has all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute, and may exercise such powers to the extent that the power: (i) is not expressly denied by the Indiana Constitution or by statute; and (ii) is not expressly granted to another entity.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

SECTION I – NAME

The name of this ordinance is the "County Right-of-Way Permit Administration Ordinance," or "Administration Ordinance" when the context is obvious.

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – DEFINITIONS

A. Meaning. Whenever the following terms are used in this ordinance, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires otherwise.

1. "Administrator" means the person designated by the Commissioners to administer this ordinance; the term includes any other person to whom the administrator has delegated a portion of his or her duties under this chapter to the extent of such delegation.
2. "Applicable law" means this ordinance, all laws, constitutions, regulations, codes, ordinances, rules, orders, permit terms, license terms, authorizations, judgments, injunctions, writs, and decrees of any government or quasi-government entity having jurisdiction over the Department, the project, or the right-of-way, especially the Indiana Department of Transportation and the Indiana Manual of Uniform Traffic Devices.
3. "Application" means the form and other required documentation that is submitted on behalf of a respective owner to acquire a permit to perform work on a right-of-way.
4. "Bond" means a bond procured from a surety in conjunction with an application as may be required by this ordinance; the term includes a permit bond, a performance bond, a maintenance bond, a utility bond, a construction bond, and/or a right-of-way bond.
5. "Department" refers to the County Highway Department, including any engineering division, however either may be constituted.
6. "Driveway" means the tangible portion of a public right-of-way that provides direct vehicle access to real property; the term includes a farm's field entrance.
7. "Emergency" means a condition that poses a clear and immediate danger to life or health, or of a significant loss of property, or that requires immediate repair or replacement in order to restore service to a customer.
8. "Enforcement ordinance" means the Right-of-Way Permit Enforcement Ordinance.
9. "Facility" means any tangible thing, other than naturally occurring substances, located on a right-of-way; the term especially includes, but is not limited to, wires, pipes, switches, other equipment, etc. that belong to a public or private utility.

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10. "Officer" means any competent authority that enforces this ordinance including, but not limited to the Commissioners, the Administrator, the Engineer, the Highway Supervisor, the County Attorney, the Prosecutor, or a law enforcement agent.
11. "Owner" means the person on whose behalf a respective application has been submitted; the term also includes:
 - a. for purposes of communication, the applicant;
 - b. in the case of an entity, the entity's principals;
 - c. in the case of an entity substantially owned by another entity, the other entity's principals; *and*
 - d. if the person has died or has been dissolved, the person's legal representatives, successors, and assigns;

except where any such inclusion would create a substantial injustice.

12. "Permit" means the nonexpired written authorization obtained from the Administrator in accordance with this ordinance prior to beginning work on a right-of-way or driveway; it allows the permittee to lawfully perform work on that part of the right-of-way or driveway pursuant to its terms.
13. "Person" means any individual or entity, such as, but not limited to, a partnership, firm, joint venture, limited liability company, corporation, cooperative, association, joint stock company, business trust, trust, estate, or governmental entity; the term also includes any legal representatives, agents, and permitted assigns except where such inclusion would create a substantial injustice.
14. "Project" means any action that involves the placement, modification, maintenance, or restoration of a facility or driveway on a right-of-way, or the substantial modification of the natural features of a right-of-way, each usually pursuant to a permit.
15. "Principal" means, with regard to a bond, the owner who submitted that bond with a respective application and/or received a respective permit.
16. "Right-of-Way" includes the entire width of any highway, street, road, alley, or path, including any easement, sidewalk, curb, or shoulder thereof, under the jurisdiction of the County or in which the County has a legal interest; provided, however, that the term does not include a drainage easement.
 - a. "On," with respect to a right-of-way, includes on, in, over, above, under, through, or along the right-of-way.
17. "Work" means to organize, finance, supervise, or contribute labor to a project with the explicit, general, or implied consent of the owner, or to attempt to do any such activity.

B. Arbiter. The Commissioners shall have the final authority in adjudicating the meaning of these terms.

C. Enforcement Ordinance. For purposes of the enforcement ordinance, "Art. I, Sec. III and IV of the Administration Ordinance" means, collectively, the Definitions, Scope, Purpose, and Miscellaneous sections of this ordinance.

SECTION IV – SCOPE

- A. Regulatory Limitations. Nothing in this ordinance shall be construed to regulate any person to the extent that person is:
1. working on a right-of-way on behalf of the County; *or*
 2. an officer enforcing this ordinance on behalf of the County.

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B. Contracts.

1. Nothing in this ordinance shall be construed to limit the right of the County and another person to enter into and abide by a special contract.
2. Where this ordinance conflicts with the terms of a contract entered into by the County, the terms of the contract control with respect to that person and any facility that is the subject of the contract.
3. If an act would be considered a violation under this ordinance or the enforcement ordinance but is specifically allowed in the contract, the act is instead not a violation.

C. Independence. A “permit” or “license” of any type issued by another County department does not fulfill the requirements of this ordinance.

D. No Waiver. Nothing in this ordinance shall be construed to limit the right of the Commissioners to bring a civil action against any person to recover any damages sustained as a result of a violation of this ordinance or other applicable law.

E. Limitation of Liability. By issuing a permit, the County in no way guarantees the safety of any person who works on the right-of-way.

F. Judicial Review. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may be applicable to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the County or such related parties are provided by law.

SECTION V – PURPOSE

A. The purposes of this ordinance are:

1. to protect the County right-of-ways and adjoining streets and lands;
2. to protect the facilities of the County, public utilities, and other persons who have been granted a permit;
3. to protect County citizens and visitors who travel the right-of-ways;
4. to ensure uninterrupted and unimpeded provision of County and third-party services;
5. to coordinate the administration of multiple ongoing projects; *and*
6. to ensure financial accountability for damage caused during a project.

SECTION VI – ADMINISTRATOR

B. Position. The Commissioners hereby establishes the position of Right-of-Way Permit Administrator to administer the provisions of this ordinance. A person appointed as Administrator may have other regular or partial employment with the County.

C. Ex Officio Appointment. Except as otherwise provided by this chapter, the County Engineer shall serve as the default Administrator. To the extent that the County Engineer would have been the Administrator but is otherwise unavailable, the Highway Supervisor shall serve as the Administrator.

D. Appointment by Motion. Notwithstanding Subsection (B), the Commissioners may instead appoint a different Administrator by motion.

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- E. Delegation of Powers. The Commissioners hereby delegate to the Administrator all authority and powers necessary to administer this ordinance, subject to applicable law. The Administrator may delegate, in turn, any power and duty to another public servant, as appropriate, while retaining ultimate responsibility therefor. The Commissioners retain jurisdiction to be the final authority on all right-of-way permits.
- F. Duties. The duties of the Administrator with respect to the permitting process for right-of-way projects include:
1. creating, modifying the application form;
 2. establishing a fee schedule and insurance and bonding requirements;
 3. reviewing applications for completion and compliance and evaluating their merits;
 4. coordinating information and concerns with various County departments;
 5. communicating with owners and third-party utilities;
 6. issuing and administering permits, including their terms and conditions;
 7. requesting appropriate street closures and restrictions from the Commissioners or the state department of transportation, as appropriate;
 8. authorizing temporary signage and use of County amenities related to the project;
 9. inspecting and monitoring projects; *and*
 10. enforcing the Enforcement Ordinance as warranted.

SECTION VII – APPLICATION

- A. Responsibility. No person shall work on a right-of-way, including as part of a driveway project, without first having filed an application with the Administrator and then acquiring the respective permit therefor.
- B. Form Creation and Contents.
1. Protocols. The Administrator shall create, develop, implement, and update a permitting process and application form for the various needs of persons relating to this ordinance and make the application form available at the Highway Department.
 2. Form. The Administrator may request on, or as part of, an application:
 - a. the date the application has been submitted and, if applicable, resubmitted;
 - b. contact information for the owner, including full legal name, principal agent, mailing address, telephone number(s), and email address;
 - c. proof of an applicant's authority to act on behalf of the owner to the extent the applicant is acting in an agency capacity;
 - d. details about the project including, but not limited to: the site location, the location of buried facilities, proposed use, start and end dates, the nature of the work, heavy equipment used, depth of trench, and the type of road surface to be cut;
 - e. all pertinent information that may relate to the safe and efficient operation of the right-of-way and the owner's facilities;
 - f. full site plans and specifications of the proposed project, of all existing and proposed facilities, and restoration activities;

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- g. a survey and/or legal description of any property and/or specific area thereon that would be subject to the permit;
 - h. an appropriate indemnification statement;
 - i. a list of desired highway closings or restrictions and a contingency plan in case such a request is denied in whole or in part;
 - j. a traffic management plan; *and/or*
 - k. such other permit-related information as the Administrator may reasonably require.
- C. Waiver Powers. The Administrator may waive any irregularities in a particular application or the application process generally.
- D. Updates. The owner must notify the Administrator as soon as practicable before the project commences concerning any information on the submitted application that has become materially outdated or obsolete.

SECTION VIII – FEES

A. Fee Schedule.

- 1. The Administrator may create and administer a fee schedule to recoup some or all of the costs that the Administrator reasonably anticipates in the management and review of the permit process and of all costs reasonably associated with degradation of a project site as a result of a proposed project.
- 2. The fee schedule shall be posted in one or more prominent, publicly accessible places within the Department. The Administrator shall make the fee schedule available on the Department web site, if feasible.

B. Scope of Fees.

- 1. The fees charged pursuant to this ordinance shall be designed to cover or defray the costs related to: developing the application form; processing and reviewing permit applications; creating and maintaining information on a geolocation mapping system or program; inspecting and monitoring project sites; maintaining, supporting, protecting, or moving user facilities during work on the right-of-ways; determining the adequacy of right-of-way restoration; correcting work inadequately performed; the administration and enforcement of this ordinance or the Enforcement Ordinance; and other legal and administrative costs the County may incur in managing the provisions of this ordinance.
- 2. In setting the fees, to the extent possible, the amounts in the fee schedule should approximate the average respective costs actually incurred over the recent past for similarly situated owners.
- 3. The fees charged pursuant to this ordinance shall not be designed to generate income.
- 4. The Administrator shall conduct periodic permit process reviews to ensure this goal is being met and adjust the fee schedule accordingly for new applications.

C. Advance Payment. The Administrator may set, modify, charge, and collect an application fee upon submission of the application, regardless of whether a permit is ultimately issued.

D. Processing Fee. The Administrator may set, modify, charge, and collect a reasonable fee related to the costs of processing another fee assessed pursuant to this ordinance.

E. Fees Doubled. Except for work performed on an emergency basis in accord with this ordinance, the application fee shall be doubled with respect to any project in which the right-of-way has been disturbed without a respective permit, and the fee must be paid before the owner should be permitted to perform additional work.

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- F. Exclusivity. The fees charged by this section shall be in addition to any other fee or cost required by other County departments (e.g., drainage permit from the Drainage Board).
- G. Nonrefundable. All fees and fines collected pursuant to this ordinance are nonrefundable.
- H. Fee Waiver. The Administrator may waive or partially refund a fee in appropriate cases for good cause.
- I. Fund Deposits. All fees charged pursuant to this section shall be accounted for by the Administrator and deposited into the Motor Vehicle Highway Fund upon collection.

SECTION IX – INSURANCE AND BONDING

- A. Prohibition. The Administrator shall not issue a permit that would enable a person to seriously damage a right-of-way or drain without sufficient financial safeguards.
- B. Policy; Waiver. The Administrator may require insurance and/or a bond in accordance with this section or, except to the extent it would violate Subsection (A), waive such requirements, but shall treat all similarly situated owners uniformly. The Administrator may waive a bond requirement if the owner already has a bond on file that would also provide sufficient coverage with respect to the new permit.
- C. General.
 - 1. Standard. Any required bond or insurance policy must be in a standard format acceptable to the Administrator and provided by a surety or insurer authorized to do business in the State of Indiana that has an A.M. Best rating of A-VII or better.
 - 2. Pre-Approval. Any required bond or insurance policy need not be purchased until after approval of the application but must be purchased before issuance of the permit.
 - 3. Beneficiary. Any required certificate of insurance or bond must show “LaGrange County, Indiana” as the respective beneficiary or obligee. Failure to state the name in this manner, however, shall not, per se, void the certificate or bond.
 - 4. Duration. The insurance policy and bond must remain in full force and effect and without material change throughout the project, notwithstanding any extension thereto.
 - 5. Applicable Law. The insurance policy and bond must be interpreted in accord with the laws of the State of Indiana.
- D. Insurance.
 - 1. Specific Policy Limits. The owner must acquire coverage in the amount of One Million Dollars (\$1,000,000.00) each occurrence for bodily injury and property damage and must acquire umbrella coverage of at least Two Million Dollars (\$2,000,000.00).
 - 2. Deductible. The owner must pay any deductible or retention incurred under any insurance policy purchased pursuant to the Contract Documents.
- E. Bond.
 - 1. Form. The Administrator may stipulate and/or provide the form of any bond, including its enforcement. The bond must be acknowledged by the principal and surety in a notarized statement. The bond must be construed as a statutory bond and not as a common law bond. Any provision in the bond that conflicts with applicable law must be deemed deleted therefrom and all provisions that bring the bond into conformance with applicable law shall be deemed incorporated therein.
 - 2. Authority. An attorney-in-fact who signs a bond must affix a current power of attorney that bears the seal of the company and shows the agent’s authority to execute the bond.

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3. Restoration Requirement; Failure to Perform.

- a. The bond must guarantee, whether by its own terms or in reference to this ordinance or the terms of the permit, that the principal and/or surety must restore the project site to a condition substantially equal to or better than in all respects it had been immediately before the project had begun, and that the principal and/or surety must also remedy all defects in materials or workmanship arising out of or relating to the project in the one (1) year that immediately follows the date of written notice to the Department that the project has been completed or abandoned. A court shall broadly construe a provision of any such bond towards the finding of such a guarantee where possible.
 - b. If, upon notice, the principal and/or surety should fail to restore a damaged highway in the manner and to a condition satisfactory to the Administrator or should fail to satisfactorily and timely complete all repairs required by the Administrator, the Administrator may perform or cause to be performed such restoration. In such event, the principal and/or surety shall be jointly and severally liable to the County for the cost incurred by the Department in performing the restoration, and the County may collect upon the bond.
4. Notice to Surety. By becoming a surety to the owner, the surety thereby waives any notice from the County or the Department of any change to the application or permit.

F. Driveway Projects.

1. Any bond required for a driveway project must be in the amount of Ten Thousand Dollars (\$10,000).
2. Notwithstanding anything in this subsection to the contrary, the owner may satisfy all bonding requirements of this subsection by placing Fifteen Thousand Dollars (\$15,000.00) in escrow with the County. The County shall owe no interest on any such escrowed amounts. The escrowed amounts shall be returned to the owner upon satisfactory performance of the requirements of this ordinance. The County may pay itself from any escrowed amount for any work it performs or causes to be performed on the right-of-way to bring a driveway project into compliance.

SECTION X – ASSURANCES

A. Scope. Any certification or covenant made under this section must also be made on behalf of each other owner.

B. Certifications. The owner, by submitting its application, certifies that:

1. it has familiarized itself with, and intends to comply with, all applicable law, including this ordinance, and all other regulations, ordinances, orders, standards, permit terms, other agency license terms, and rules of any government, judicial, or quasi-government entity having jurisdiction over the project;
2. it has communicated with the Administrator over any questions it may have concerning the application approval and permitting process;
3. it will bear any and all risks and costs relating to the project;
4. it will comply with all applicable law, including the permit, and acquire all necessary easements, rights-of-entry, and permits of other jurisdictions;
5. it does not have any personal interest, direct or indirect, that would give rise to a conflict of interest in the application approval and permitting process that has not been disclosed in writing to the Administrator;

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6. all information and any assertions contained in the application are true and correct to the best of its knowledge; *and*
 7. it has the right and power to submit an application and its submitting representative is fully authorized to submit the application on its behalf.
 8. Financial Responsibility. The owner shall bear any and all risks and costs relating to and in compliance with the project, including, but not limited to, the relocation of facilities, indemnifying other persons against damage or loss to their facilities; obtaining all other necessary permits, licenses, and authority; restoring the project site; and paying all fees required by any other town, city, county, state, or federal rules, laws, or regulations.
 9. Applicable Law. The owner shall comply with all applicable law, acquire all other applicable licenses or easements or rights-of-entry, adhere to all terms and conditions of the permit, and follow all instructions from the Administrator before, during, and after the project.
- C. Indemnification. By applying for a permit, the owner agrees to indemnify, hold harmless, and defend the County its officers, employees, representatives, and agents, boards, departments, related municipal corporations, assigns, or any person identified in interest therewith, whether individually or jointly, from and against any and all claims, liabilities, fees, fines, penalties, damages, punitive damages, injuries, deaths, liens, costs, expenses, lost wages or benefits, and attorneys' fees (including paralegal fees), and any amounts paid in good faith arising from any threatened or pending claim, demand, action, suit, settlement, or judgment, whether any such amount is known or unknown, and whether past, present, or future, arising out of or resulting from the issuance of the permit or the work on the right-of-way. In the event the bodily injury, death, or damage to property is due to the sole willful misconduct or gross negligence of the County, then and only then shall the owner not be liable.
- D. Forum. By applying for a permit, the owner covenants to file any action arising from, or relating to, this ordinance or any insurance contract, bond, or permit resulting therefrom in any way either in the state courts located in LaGrange County or the United States District Court for the Northern District of Indiana, Fort Wayne Division; to submit to the exclusive jurisdiction of such courts; and to waive any right of transfer therefrom.

SECTION XI – APPROVAL OR DENIAL

- A. Consideration. The Administrator may approve an application or deny a permit under this ordinance. In order to determine whether to approve an application, the Administrator may consider all evidence available.
- B. Good Faith. The Administrator shall act in good faith and without undue delay in considering and responding to each application.
- C. Denial. The Administrator may deny or restrict a permit for any application:
1. that fails to provide complete responses, sufficient details, or all required documents;
 2. that contains a material misrepresentation or misleading statement;
 3. that does not include the required application fee, insurance, or bond;
 4. for which the owner or applicant is not legally competent to enter into contract;
 5. for the owner's perceived lack of professional or financial responsibility;
 6. for calendaring conflicts with other permittees or County events;
 7. that is deemed unsuitable for structural, design, safety, or emergency reasons;

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8. for which, absent sufficient evidence of commensurate proactive measures by the owner, a permit granted thereto will materially:
 - a. endanger or interfere with surrounding pedestrian or vehicular traffic;
 - b. subject the surrounding area to an unreasonable degree of noise or exposure to rubbish or hazardous materials;
 - c. limit County resources;
 - d. compromise proper police, fire, ambulance, and/or other emergency service;
 - e. create a public nuisance;
 - f. otherwise endanger the safety of persons or the protection of property; *or*
 - g. violate other applicable law;
 9. because the owner owes outstanding fines, fees, deposits, or costs to the County;
 10. because the Administrator has reasonably determined that the owner has previously worked on a right-of-way that resulted in County or third-party damages attributable to the owner that have not been satisfied;
 11. because the Administrator has determined that within the previous three (3) years the owner has worked on a right-of-way for which a permit had not been obtained or has committed two (2) or more separate and material violations of this ordinance; *and/or*
 12. for other good cause for which an appropriate remedy does not exist.
- D. Notice.
1. If the Administrator should approve an application, the Administrator shall notify the owner in writing thereof, communicate the amount of the fees and bonds required, and state the permit restrictions that will be imposed (if any).
 2. If the Administrator should deny a permit, the Administrator shall communicate to the owner in writing the specific reason(s) for the denial.
 3. Rather than denying a permit outright, the Administrator may notify the owner in writing to allow the owner to clarify any perceived deficiency in the application.
 4. Except for an application the Administrator deems frivolous, where a permit has been denied for project-related time, place, and manner reasons, the Administrator shall inform the owner of the most approximate circumstances that would be required in the Administrator's view to permit the project.
 5. Failure by the owner to receive the notice shall not operate to compromise the power of the County to deny any permit.
 6. The Administrator shall add a copy of each notice to the application file.
- E. Resubmission. Any owner who has been denied a permit may resubmit the application with any deficiencies corrected. The filing date of a resubmitted application relates back to the original filing date.
- F. Fee. If the Administrator should deny a permit, the application fee shall not be returned; however, no application fee shall be required for a resubmitted application unless the Administrator should determine that one or more of the applications was frivolous.

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- G. Passive Denial. If the owner has not received an approval of an application or a denial of a permit within ten (10) days after an application has been filed or within three (3) days before the listed start date of the project in the application, whichever is earlier, then the application shall be considered denied unless the Administrator provides good cause as to why a decision has not yet then been made and the owner is willing to accept an agreed-upon amount of delay in making the determination.

SECTION XII – PERMITS

- A. Function. A permit issued by the Administrator allows the owner to work on a County right-of-way subject to the limitations of the permit and other applicable law.
- B. Restrictions. The Administrator may impose any number of reasonable restrictions on the permit, which shall be prominently displayed thereon. Restrictions include, but are not limited to, location, materials, size, project days, duration, and procedures.
- C. Issuance. The Administrator shall issue a permit to the owner after all of the following have occurred:
1. the Administrator has approved the respective application;
 2. a certificate of insurance and/or bond has been filed that conforms to this ordinance;
 3. the owner agrees to any permit restrictions that will be imposed and continues to meet all conditions and covenants made as part of the approved application; *and*
 4. no substantive, unaddressed application updates have been filed.
- D. Scope. A permit is valid only for the area of the right-of-way(s) specified in the permit. No permit issued shall be construed as authorization from the Department to work on a right-of-way in disregard to the rights of other persons.
- E. Driveway Specifications. The Administrator may designate the width, location, materials, and standards (including adjacent culvert standards) of driveway construction and reconstruction.
- F. Copy. The owner must keep a copy of the permit at the project site at all times. The Administrator shall add a copy of the permit as issued to the application file.
- G. Voidness. Any permit issued based on false or intentionally misleading information in an application is null and void.
- H. Nontransferable. Except among owners of the same project, a right-of-way permit may not be knowingly transferred to another person.
- I. Waiver. The Administrator may waive and/or impose reasonable accommodations for de minimus violations of the permit or this ordinance at his or her discretion.

SECTION XIII – PROJECT REQUIREMENTS

- A. Work Notice. The owner must notify the Department in writing at least seven (7) days before beginning the project and within seven (7) days after the project has been completed.
- B. Third-Party Notice. No person shall work on a right-of-way without having first notified all persons who have facilities in the right-of-way within twenty-five (25) feet of any portion of the project site.
- C. Prevailing Conditions. Except in the case of an emergency and with the approval of the Administrator, the owner must not perform work on any right-of-way when conditions are unreasonable for such work.
- D. No Interference. No person shall interfere with the facilities of another person unless expressly permitted by the Administrator or the respective facility's owner.

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- E. Public Welfare. The owner must keep the project site safe at all times and take care to avoid unnecessary damage to vegetation.
- F. Traffic Obstructions. Except as prudent to maintain a safe project site or as permitted by the Administrator, no person shall obstruct traffic.
- G. Nuisances Prohibited. No person shall let a project become a public or attractive nuisance.
- H. Drains. No person shall obstruct the County's drains nor allow erosion thereon.
- I. Particles. The owner must practice standard dust control measures and remove all excess dirt, rock, debris, and garbage resulting from the project.
- J. Inspection. The owner must permit the Administrator to fully inspect the project site at all reasonable times when work is ongoing.
- K. Restoration. The owner must restore the project site to a condition substantially equal to or better than in all respects it had been immediately before the project had begun.
- L. As-Built Drawings. The owner must provide the Administrator with a set of "as-built" drawings and maps after Project completion showing the precise location of all facilities.
- M. Driveway Limitations. For good cause, the Administrator may limit the number of new driveways on any property and may require that an existing driveway be removed in order to permit the construction of a new one.
- N. Records. The owner must keep a copy of all records relating to the project for two (2) years after its completion.

SECTION XIV – EMERGENCIES

- A. Owner Notice. The owner, whether or not a permit has expired, shall immediately notify the Administrator of any event that it considers to be an emergency with regard to the owner's facilities. The owner may proceed to take whatever actions are necessary in order to respond to the emergency.
- B. Department Notice. In the event that the Administrator becomes aware of an emergency regarding the owner's facilities, the Administrator may attempt to contact the owner. In addition, the Administrator may take whatever action is deemed necessary in order to respond to the emergency, the cost of which shall be borne by the owner whose facilities occasioned the emergency.
- C. Application. Within three (3) days after the occurrence of an emergency, the owner must apply for a new permit, pay the fees associated therewith, and take all steps necessary to otherwise make the steps taken during the emergency conform with applicable law.

SECTION XV – ADMINISTRATIVE APPEALS

- A. Grievances.
 - 1. In the case of a permit denial, restriction, revocation, or other alleged adverse action from the Administrator or other non-judicial officer, the owner may file a grievance with the Administrator, which may be orally or in writing, in person or remote.
 - 2. If the Administrator determines that the adverse action was made in error, then the Administrator shall reply to the owner in writing acknowledging the error and provide appropriate relief under the circumstances.

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3. If the Administrator determines that the adverse action taken was just, then the Administrator shall reply to the owner in writing reaffirming the action and communicating the right of the owner to file an appeal in accord with this section.
- B. Appeals. Any owner who fails to resolve a grievance with the Administrator may file an appeal thereof with the Commissioners through the office of the Auditor within thirty-five (35) days of the final adverse action by the Administrator. The appeal must be signed and dated by the owner and state the underlying facts, the adverse action taken, the substance of the grievance, and the desired relief.
- C. Filing Fee. The Auditor shall charge and collect in advance a nonrefundable filing fee of Fifty Dollars (\$50.00) for each appeal filed pursuant to this section, which fee shall be deposited into the General Fund.
- D. Scheduling. The Auditor will add the matter to the meeting agenda for the then-next regularly scheduled Commissioners' meeting that is at least seven (7) days later. The Auditor shall communicate with the owner the date, time, and location of the meeting at which the appeal will be considered. If both the Commissioners and the owner agree, the date of the meeting may be expedited.
- E. Record. The Auditor shall promptly gather a full record of the application, the grievance, the appeal, and all related communications and shall promptly submit them to the Commissioners and the County Attorney for review.
- F. Consideration. The Commissioners may consider an appeal filed at the meeting indicated and make a final ruling on the issues raised. The owner has no right to address the Commissioners either personally or through counsel, though the Commissioners may invite any person to speak on the matter.
- G. Decision. The decision of the Commissioners is final, and the Auditor shall promptly communicate to the owner in writing the grounds, terms, and/or conditions upon which the decision is based.

SECTION XVI – REPEAL OF PRIOR LAW

- A. Repeal. The Commissioners hereby repeal Ordinances 2003-10-6B and 2020-09-08 D in their entirety.
- B. Continuance.
 1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
 2. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, such provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
 3. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically directed otherwise.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

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SECTION XVII – MISCELLANEOUS

A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.

B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.

C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.

D. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.

E. Effective Date. This ordinance shall be effective upon adoption.

Mr. Peter Cook made a motion to approve the Ordinance. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

ORDINANCE ESTABLISHING VARIOUS WEIGHT, SIZE, AND USE RESTRICTIONS FOR VEHICLE OPERATION ON COUNTY HIGHWAYS, AND CREATING PERMITTING PROTOCOLS FOR EXCEPTIONS THEREFOR.

Mr. Tony Manns, County Attorney, presented the following Ordinance for consideration:

**COUNTY OF LAGRANGE
ORDINANCE NO. 2023-05-15-B**

AN ORDINANCE ESTABLISHING VARIOUS WEIGHT, SIZE, AND USE RESTRICTIONS FOR VEHICLE OPERATION ON COUNTY HIGHWAYS, AND CREATING PERMITTING PROTOCOLS FOR EXCEPTIONS THEREFOR.

WHEREAS, the Board of Commissioners of the County of LaGrange (“Commissioners”), on behalf of LaGrange County, Indiana (“County”) desires to provide for the health, safety, and well-being of all people in the County as they use the County’s highways and bridges;

WHEREAS, oversize vehicles in the County can endanger the public safety and impede the smooth flow of traffic on highways and bridges;

WHEREAS, vehicular wheel loads that exceed the load-carrying capacity of road pavements and road foundations can produce serious destruction and damage to the road pavements and road foundations, causing inconvenience to the traveling public and necessitating excessive and expensive road repairs and maintenance;

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WHEREAS, the load-carrying capacities of various County highways and bridges are insufficient to accommodate excessive use of heavy loads;

WHEREAS, pursuant to Indiana Code ("IC") § 36-9-2-7, the Commissioners may regulate the use of public ways;

WHEREAS, pursuant to IC § 9-20-1-3, the Commissioners may prohibit the operation of trucks or other commercial vehicles, and impose limitations as to the weight, size, or use on designated highways in the County's jurisdiction;

WHEREAS, pursuant to IC § 9-20-7-2, the Commissioners may reduce the gross vehicle weight allowed on a bridge, causeway, or viaduct if the County determines that serious damage to the structure or vehicle will result;

WHEREAS, pursuant to IC 9-21-1-2, the Commissioners may adopt by ordinance additional traffic regulations with respect to highways under its jurisdiction;

WHEREAS, pursuant to IC § 9-20-6-2, the Commissioners may create a permit process to monitor and regulate the operation of heavy vehicles on the highways in the County's jurisdiction as long as the Commissioners find that other traffic will not be seriously affected and the highway or bridge will not be seriously damaged;

WHEREAS, pursuant to IC § 9-20-6-2.5, the Commissioners may designate a route for the transporting of overweight divisible loads on or over County highways;

WHEREAS, pursuant to IC § 9-20-6-6, the Commissioners may create a permit process for transporting certain oversize trailers, semitrailers, and recreational vehicles operated from a manufacturing facility;

WHEREAS, pursuant to IC § 9-20-6-10, the Commissioners may require a bond or other security of a permit owner to demonstrate the owner's responsibility;

WHEREAS, the Supreme Court of the State of Indiana has determined in *Tomlinson vs. City of Indianapolis* that "the power to regulate implies the power to license and to exact a reasonable fee for such license"; and

WHEREAS, pursuant to IC 36-1-3 ("Home Rule"), the County has all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute, and may exercise such powers to the extent that the power: (i) is not expressly denied by the Indiana Constitution or by statute; and (ii) is not expressly granted to another entity.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

ARTICLE I – NAME

The name of this ordinance shall be the "Vehicles Requiring Oversize/Overweight Management Ordinance," or the "VROOM Permitting Ordinance" where the context is obvious.

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – DEFINITIONS

A. Meaning. Whenever the following terms are used in this ordinance, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires otherwise.

1. "Administrator" means the person designated by the Commissioners to administer this ordinance; the term includes any other person to whom the Administrator has delegated a portion of his or her duties under this chapter to the extent of such delegation.

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2. "Applicable law" means this ordinance, all laws, constitutions, regulations, codes, ordinances, rules, orders, permit terms, license terms, authorizations, judgments, injunctions, writs, and decrees of any government or quasi-government entity having jurisdiction over the Department, the nonstandard vehicle, or the highway, especially the Indiana Department of Transportation and the Indiana Department of Revenue.
3. "Application" means the form and other required documentation submitted on behalf of the respective owner to operate a nonstandard vehicle pursuant to this ordinance.
4. "Bond" means a bond procured from a surety or another form of satisfactory security received in conjunction with an application under this ordinance.
5. "Bridge" includes the terms "small structure," "causeway," and "viaduct" and refers, as appropriate, to all such structures in the County.
6. "Emergency" means a condition that poses a clear and immediate danger to life or health, or of a significant loss of property, or that requires immediate repair or replacement of a public electric, gas, water, or telephone utility in order to restore service to a customer.
7. "Enforcement ordinance" means the VROOM Enforcement Ordinance.
8. "GVW" stands for "gross vehicle weight," and such measurement represents the combined total combined weight of the vehicle and any attached trailers including, but not limited to, the weight of the cargo, chassis, body, engine, fluids, and fuel.
9. "Highway" means the entire width between the boundary lines of every way, street, road, alley, right-of-way, path, or easement under the jurisdiction of the County or in which the County has a legal interest.
10. "Department" refers to the County Highway Department, including any engineering division, however either may be constituted.
11. "Nonstandard vehicle" means an oversize vehicle or an overweight vehicle.
12. "Officer" means any competent authority that enforces this ordinance including, but not limited to the Commissioners, the Administrator, the Engineer, the Highway Supervisor, the County Attorney, the Prosecutor, or a law enforcement agent.
13. "Operate" means, with respect to a vehicle, to drive it, to move it, to attempt to drive or move it, or to knowingly permit it to be driven or moved (related term: operation).
14. "Operator" means a person who operates a nonstandard vehicle.
15. "Oversize vehicle" means a vehicle for which the height, width, or length exceeds the amount permitted by this ordinance absent a permit.
16. "Overweight vehicle" means a vehicle for which the weight, including per-axle weight, exceeds the amount permitted by this ordinance absent a permit.
17. "Owner" means any person on whose behalf the respective application is submitted; the term also includes:
 - a. for purposes of communication, the applicant;
 - b. in the case of an entity, the entity's principals;
 - c. in the case of an entity substantially owned by another entity, the other entity's principals; *and*

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- d. if the person has died or has been dissolved, the person's legal representatives, successors, and assigns;

except where any such inclusion would create a substantial injustice.

18. "Permit" means the nonexpired written authorization obtained from the Administrator in accordance with this ordinance that allows a nonstandard vehicle to be operated pursuant to the issued terms.
19. "Person" means any individual or entity, such as, but not limited to, a partnership, firm, joint venture, limited liability company, corporation, cooperative, association, joint stock company, business trust, trust, estate, or governmental entity; the term also includes any legal representatives, agents, and permitted assigns except where such inclusion would create a substantial injustice.
20. "Superload" means a nonstandard vehicle that, when including its load, has a:
 - a. width exceeding sixteen (16.00) feet;
 - b. height exceeding fifteen (15.00) feet;
 - c. length exceeding one hundred ten (110.00) feet; *or*
 - d. weight exceeding one hundred twenty thousand (120,000.00) pounds GVW.

B. Arbitrator. The Commissioners shall have the final authority in adjudicating the meaning of these terms.

SECTION IV – SCOPE

C. Highway Limitations. This ordinance only applies to the highways and bridges in the unincorporated areas of the County; provided, however, that except to the extent of any specific delegation of power by a state regulatory authority to the County, the regulation of vehicles on I-80/90, US-20, SR 3, SR 5, SR 9, SR 120, or any other state road is beyond the scope of this ordinance.

D. Regulatory Limitations. Nothing in this ordinance shall be construed to regulate:

1. a vehicle operated by the State, the County, or another Indiana municipality;
2. a vehicle operated by a volunteer fire department;
3. a vehicle operated by a public utility or medical facility for an ongoing emergency;
4. a vehicle operated for ongoing highway or bridge construction;
5. a registered recovery vehicle towing a disabled vehicle by shortest route;
6. the hauling of construction equipment to a destination point within the County if such load has a width of less than 13 feet, 6 inches;
7. a farm vehicle loaded with produce;
8. farm drainage machinery; *nor*
9. a bus that is no more than 45 feet long.

E. Contracts.

1. Nothing in this ordinance shall be construed to limit the right of the County and another person to enter into and abide by a special contract.
2. Where this ordinance conflicts with the terms of a contract entered into by the County, the terms of the contract control with respect to that person and any facility that is the subject of the contract.
3. If an act would be considered a violation under this ordinance or the enforcement ordinance but is specifically allowed in the contract, the act is instead not a violation.

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- F. Independence. A “permit” or “license” of any type issued by another County department does not fulfill the requirements of this ordinance.
- G. Closed Highways. Nothing in this ordinance shall be construed to allow a nonstandard vehicle travel on a closed road, even with a nonstandard vehicle permit.
- H. No Waiver. Nothing in this ordinance shall be construed to limit the right of the Commissioners to bring a civil action against any person to recover any damages sustained as a result of a violation of this ordinance or other applicable law.
- I. Limitation of Liability. By issuing a permit, the County in no way guarantees the safety of any person who operates a nonstandard vehicle on a highway or bridge.
- J. Judicial Review. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may be applicable to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the County or such related parties are provided by law.

SECTION V – PURPOSE

- K. The purposes of this ordinance are:

- 1. to protect County citizens and visitors who travel the highways and bridges;
- 2. to prevent damage to vehicles and real property;
- 3. to protect the County highways, bridges, and drains from damage;
- 4. to protect the facilities of the County, public utilities, and other persons who have been granted a permit under the County Right-of-Way Permit Administration Ordinance;
- 5. to seamlessly integrate the general vehicle size and weight restrictions under state law and have them apply to County highways and bridges as well;
- 6. to ensure financial accountability for damage caused during a project; *and*
- 7. to help coordinate permitted activities to ease Department review and enforcement.

SECTION VI – GENERAL RESTRICTIONS

- A. Size Limitations. An oversize vehicle is a vehicle that, when including its load, has a:

- 1. width exceeding eight (8) feet, six (6) inches;
- 2. height exceeding thirteen (13) feet, six (6) inches;
- 3. length exceeding forty (40) feet, zero (0) inches for a single vehicle; *or*
- 4. length exceeding sixty (60) feet, zero (0) inches for a two-vehicle combination.

- B. Weight Limitations. An overweight vehicle is a vehicle that has a GVW exceeding:

- 1. eighty thousand (80,000.00) pounds total;
- 2. twelve thousand (12,000.00) pounds on a steering axle;
- 3. twenty thousand (20,000.00) pounds on a single axle; *or*
- 4. thirty-four thousand (34,000.00) pounds on a tandem axle.

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C. Load Limitations.

1. Each vehicle load must be placed such that it reduces to a minimum the excess weight over the dimensions provided in this section.
2. No vehicle load may extend more than six (6) inches beyond the side of any fender.

D. Timing Restrictions. No person shall operate a superload vehicle, a vehicle carrying a mobile home, or a vehicle that measures greater than ten (10) feet in width (exclusive of safety devices):

1. at night, which is defined for purposes of this section as thirty (30) minutes before sunrise or thirty (30) minutes after sunset;
2. on weekends;
3. on state holidays; *nor*
4. after 12:00 p.m. noon on the day before the following state holidays:
 - a. New Year's Day;
 - b. Memorial Day;
 - c. Independence Day;
 - d. Labor Day;
 - e. Thanksgiving Day;
 - f. Christmas Day.

E. Required Markings.

1. An oversize vehicle must be marked, to the same extent as would have been required had the oversize vehicle instead been operated on a road under the jurisdiction of the state of Indiana.
2. The owner of a nonstandard vehicle operated on a highway must display as directed by the Department any decal or tag that the Department may require and must remove the decal or tag before the permit expires. The Department may require that the owner pay for the cost of the decal or tag or make a deposit for the loan of a decal or tag.

F. Required Escort. An oversize vehicle must be accompanied by one or more escort vehicles to the same extent as would have been required had the oversize vehicle instead been operated on a road under the jurisdiction of the State of Indiana.

G. Weather. No person shall operate a nonstandard vehicle on a highway during foggy weather, or when other conditions limit general visibility to less than a quarter (¼) mile, or when the wind velocity exceeds twenty-five (25) miles per hour.

H. Notice. No person intending to operate a nonstandard vehicle on a County highway shall fail to notify the Department in writing at least forty-eight (48) hours in advance of such intent unless the operator has a single-day permit for the day of operation.

I. Superloads. A superload that weighs less than 200,000 pounds GVW may require a police escort depending on road conditions or bridge slowdowns. Superloads that weigh at least 200,000 pounds GVW require a police escort.

J. Blockage of Traffic.

1. No operator of a nonstandard vehicle shall block traffic on a highway or bridge.
2. No operator shall park a nonstandard vehicle on the shoulder or right-of-way.

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3. No operator shall use a highway shoulder, right-of-way, or horse-drawn vehicle lane, except to allow safe passage of oncoming traffic.
- K. Safety Maximums. The Department shall publish maximum dimensional standards for vehicles beyond which no permit may be issued for any vehicle in violation thereof.

SECTION VII – ADMINISTRATOR

- A. Position. The Commissioners hereby establishes the position of Nonstandard Vehicle Permit Administrator to administer the provisions of this ordinance. A person appointed as Administrator may have other regular or partial employment with the County.
- B. Ex Officio Appointment. Except as otherwise provided by this chapter, the County Engineer shall serve as the default Administrator. To the extent that the County Engineer would have been the Administrator but is otherwise unavailable, the Highway Supervisor shall serve as the Administrator.
- C. Appointment by Motion. Notwithstanding Subsection (B), the Commissioners may instead appoint a different Administrator by motion.
- D. Delegation of Powers. The Commissioners hereby delegate to the Administrator all authority and powers necessary to administer this ordinance, subject to applicable law. The Administrator may delegate, in turn, any power and duty to another public servant, as appropriate, while retaining ultimate responsibility therefor. The Commissioners retain jurisdiction to be the final authority on all nonstandard vehicle permits.
- E. Duties. The duties of the Administrator with respect to the permitting process for nonstandard vehicles include:
 1. causing appropriate signage to be purchased and erected;
 2. creating, modifying the application form;
 3. establishing a fee schedule and insurance and bonding requirements;
 4. reviewing applications for completion and compliance and evaluating their merits;
 5. coordinating information and concerns with various County departments;
 6. communicating with owners and third-party utilities with exposed facilities;
 7. issuing and administering permits, including their terms and conditions;
 8. determining appropriate nonstandard vehicle restrictions such as routes or load shifting;
 9. inspecting and monitoring nonstandard vehicles; *and*
 10. enforcing the VROOM Enforcement Ordinance as warranted.

SECTION VIII – APPLICATION

- A. Responsibility. No person shall operate a nonstandard vehicle without first having filed an application with the Administrator and then acquiring the respective permit therefor.
- B. Form Creation and Contents.
 1. Protocols. The Administrator shall create, develop, implement, and update a permitting process and application form for the various needs of persons relating to this ordinance and make the application form available at the Department.
 2. Form. The Administrator may request on, or as part of, an application:
 - a. the date the application has been submitted and, if applicable, resubmitted;
 - b. contact information for the owner, including full legal name, principal agent, tax, identification number, mailing address, telephone number(s), and email addat round-trip, quarterly, or annual permits are allowed by law;

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- c. the desired permit length, to the extent that round-trip, quarterly, or annual permits are allowed by law;
 - d. the name of any other individual or entity who is to operate the vehicle;
 - e. proof of the applicant's authority to act on behalf of the owner to the extent the applicant is acting in an agency capacity;
 - f. proof of ownership or possession of the vehicle;
 - g. the make, model, year, and VIN number of the nonstandard vehicle;
 - h. the license plate number and state of license of the nonstandard vehicle;
 - i. the type of nonstandard vehicle and trailer;
 - j. the gross vehicle weight and size dimensions of the nonstandard vehicle;
 - k. the origin, destination, and planned highway route(s);
 - l. the date(s) of operation of the nonstandard vehicle on County highways;
 - m. a copy of the operator's commercial driver's license;
 - n. a copy of the vehicle registration and lawful collision insurance that is current through the proposed dates of operation on the County highways;
 - o. a copy of the state overweight or oversize vehicle permit that is current through the proposed dates of operation on the County highways and that is issued by a state agency for travel on state roads unless the entirety of the applied-for route should be on County highways;
 - p. an appropriate indemnification statement; *and*
 - q. such other permit-related information as the Administrator may reasonably require.
- C. Processing Time. The Administrator may require that an application be submitted up to seven (7) business days in advance of any proposed operation on a highway or bridge in order to verify the structural capacity of such highway or bridge or to carefully consider the issues involved; provided, however, the review time for a superload shall instead be fifteen (15) days. The Administrator shall expediently process all applications received, taking into consideration the complexity or requested excesses of the application.
- D. Waiver Powers.
- 1. To the extent that the owner of a nonstandard vehicle can satisfactorily prove to the Administrator that the vehicle does not exceed, whether by rule or exception, the maximum size and weight limitations imposed by the State for operation of the vehicle on state roadways, the owner shall be considered free of the application and permitting requirements of this ordinance and the enforcement ordinance.
 - 2. The Administrator may waive any irregularities in a particular application or the application process generally.
 - 3. The Administrator may defer the production of requested documents during the initial application approval process, provided that a permit shall not be issued until the requested documents are provided.
- E. Updates. The owner must notify the Administrator as soon as practicable before the dates of operation concerning any information on the submitted application that has become materially outdated or obsolete.

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SECTION IX – FEES

A. Fee Schedule.

1. The Administrator may create and administer a fee schedule to recoup some or all of the costs that the Administrator reasonably anticipates in the management and review of the permit process and of all costs reasonably associated with degradation of a project site as a result of a proposed project.
2. The fee schedule shall be posted in one or more prominent, publicly accessible places within the Department. The Administrator shall make the fee schedule available on the Department web site, if feasible.
3. To the extent that the owner of a nonstandard vehicle can satisfactorily prove to the Administrator that the fees
4. vehicle does not exceed, whether by rule or exception, the maximum size and weight limitations imposed by the State for operation of the vehicle on state roadways, the owner shall be considered free of the application and permitting requirements of this ordinance and the enforcement ordinance.

B. Advance Payment. The Administrator may set, modify, charge, and collect an application fee upon submission of the application, regardless of whether a permit is ultimately issued.

C. Processing Fee. The Administrator may set, modify, charge, and collect a reasonable fee related to the costs of processing another fee assessed pursuant to this ordinance.

D. Fees Doubled. The application fee shall be doubled with respect to any operation of a nonstandard vehicle on a County highway or bridge without a respective permit, and the fee must be paid before the operator should be permitted to continue operation.

E. Nonrefundable. All fees and fines collected pursuant to this ordinance or the VROOM Enforcement Ordinance are nonrefundable.

F. Fee Waiver. The Administrator may waive or partially refund a fee in appropriate cases for good cause.

G. Vehicle Uniqueness. Except as restricted by applicable law, the Administrator may require the owner to obtain a separate permit for each nonstandard vehicle operated, even if such vehicle is owned and/or operated by a person who holds a permit for another vehicle.

H. Fund Deposits. All fees charged pursuant to this section shall be accounted for by the Administrator and deposited into the Motor Vehicle Highway Fund upon collection.

SECTION X – INSURANCE AND BONDING

A. Prohibition. The Administrator shall not issue a permit that would enable a person to seriously damage a highway, bridge, or drain without sufficient financial safeguards.

B. Policy; Waiver. The Administrator may either require insurance and/or a bond in accordance with this section or, except to the extent it would violate Subsection (A), waive such requirement, but shall treat all similarly situated owners uniformly. The Administrator may waive a bond requirement if the owner already has a bond on file that would also provide sufficient coverage with respect to the new permit.

C. General.

1. **Standard.** Any required bond or insurance policy must be in a standard format acceptable to the Administrator and provided by a surety or insurer authorized to do business in the State of Indiana that has an A.M. Best rating of A-VII or better.
2. **Pre-Approval.** Any required bond or insurance policy need not be purchased until after approval of the application but must be purchased before issuance of the permit.

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3. **Beneficiary.** Any required certificate of insurance or bond must show “Board of Commissioners of the County of LaGrange, 114 W Michigan Street, LaGrange, IN 46761” as the respective beneficiary or obligee. Failure to state the name in this manner, however, shall not, per se, void the certificate or bond.
4. **Duration.** The insurance policy and bond must remain in effect at least thirty (30) days past the last effective date of its accompanying permit, such that any action begun by the owner or the Administrator within such time shall be fully binding upon the bond. At the end of the 30 days, if no damages have been identified, any bond shall be released to the principal.
5. **Applicable Law.** The insurance policy and bond shall be interpreted in accord with the laws of the State of Indiana.

D. Insurance.

1. **Specific Policy Limits.** The owner must acquire coverage in the amount of One Million Dollars (\$1,000,000.00) each occurrence for bodily injury and property damage, must acquire umbrella coverage of at least Two Million Dollars (\$2,000,000.00), and must acquire worker’s compensation, if required, in compliance with statutory limits.
2. **Deductible.** The owner must pay any deductible or retention incurred under any insurance policy purchased pursuant to the Contract Documents.

E. Bond.

1. **Form.** The bond must be in a standard format acceptable to the Administrator. The bond must be acknowledged by the principal and surety in a notarized statement. The bond must be construed as a statutory bond and not as a common law bond. Any provision in the bond that conflicts with applicable law must be deemed deleted therefrom and all provisions that bring the bond into conformance with applicable law shall be deemed incorporated therein.
2. **Restoration Requirement; Failure to Perform.**
 - a. The bond must guarantee, whether by its own terms or in reference to this ordinance or the terms of the permit, that the principal and/or surety shall return any highway, bridge, or drain damaged by the operation of a nonstandard vehicle of the owner to a condition substantially equal to or better than in all respects it had been immediately before the vehicle had been operated upon the highway or bridge. A court shall broadly construe a provision of any such bond towards the finding of such a guarantee where possible.
 - b. If, upon due notice, the principal and/or surety should fail to restore a damaged highway, bridge, or drain in the manner and to a condition satisfactory to the Administrator or should fail to satisfactorily and timely complete all repairs required by the Administrator, the Administrator may perform or cause to be performed such restoration. In such event, the principal and/or surety shall be jointly and severally liable to the County for the cost incurred by the Department in performing such restoration, and the County may collect upon the bond.
3. **Authority.** An attorney-in-fact who signs a bond must affix a current power of attorney that bears the seal of the company and shows the agent’s authority to execute the bond.
4. **Notice to Surety.** By becoming a surety to the owner, the surety thereby waives any notice from the County or the Department of any change to the application or permit.

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SECTION XI – ASSURANCES

- A. Scope. Any certification or covenant made under this section must also be made on behalf of each other owner of the respective nonstandard vehicle.
- B. Certifications. The owner, by submitting its application, certifies that:
1. it has familiarized itself with, and intends to comply with, all applicable law, including this ordinance, and all other regulations, ordinances, orders, standards, permit terms, other agency license terms, and rules of any government, judicial, or quasi-government entity having jurisdiction over the highway, bridge, or nonstandard vehicle;
 2. it has communicated with the Administrator over any questions it may have concerning the application approval and permitting process;
 3. it will bear any and all risks and costs relating to operation of the nonstandard vehicle;
 4. it will comply with all applicable law, including the permit, and acquire all necessary easements, rights-of-entry, and permits of other jurisdictions;
 5. it does not have any personal interest, direct or indirect, that would give rise to a conflict of interest in the application approval and permitting process that has not been disclosed in writing to the Administrator;
 6. all information and any assertions contained in the application are true and correct to the best of its knowledge; *and*
 7. it has the right and power to submit an application and its submitting representative is fully authorized to submit the application on its behalf.
- C. Indemnification. By applying for a permit, the owner agrees to indemnify, hold harmless, and defend the County its officers, employees, representatives, and agents, boards, departments, related municipal corporations, assigns, or any person identified in interest therewith, whether individually or jointly, from and against any and all claims, liabilities, fees, fines, penalties, damages, punitive damages, injuries, deaths, liens, costs, expenses, lost wages or benefits, and attorneys' fees (including paralegal fees), and any amounts paid in good faith arising from any threatened or pending claim, demand, action, suit, settlement, or judgment, whether any such amount is known or unknown, and whether past, present, or future, arising out of or resulting from the issuance of the permit or the operation of the nonstandard vehicle. In the event the bodily injury, death, or damage to property is due to the sole willful misconduct or gross negligence of the County, then and only then shall the owner not be liable.
- D. Forum. By applying for a permit, the owner covenants to file any action arising from, or relating to, this ordinance or any insurance contract, bond, or permit resulting therefrom in any way either in the state courts located in LaGrange County or the United States District Court for the Northern District of Indiana, Fort Wayne Division; to submit to the exclusive jurisdiction of such courts; and to waive any right of transfer therefrom.

SECTION XII – APPROVAL OR DENIAL

- A. Consideration. The Administrator may approve an application or deny a permit under this ordinance. In order to determine whether to approve an application, the Administrator may consider all evidence available.
- B. Good Faith. The Administrator shall act in good faith and without undue delay in considering and responding to each application.

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C. Denial. The Administrator may deny or restrict a permit for any application:

1. that fails to provide complete responses, sufficient details, or all required documents;
2. that contains a material misrepresentation or misleading statement;
3. that does not include the required application fee or bond;
4. for which the owner or applicant is not legally competent to enter into contract;
5. for the owner's perceived lack of professional or financial responsibility;
6. that is deemed unsuitable for structural, design, safety, or emergency reasons;
7. for which, absent sufficient evidence of commensurate proactive measures by the owner, a permit granted thereto, will materially:
 - a. limit County resources;
 - b. compromise proper police, fire, ambulance, and/or other emergency service;
 - c. otherwise endanger the safety of persons or the protection of property; *or*
 - d. violate other applicable law;
8. because the vehicle's load is or can be readily dismantled, reduced, or otherwise rearranged to come within, or more narrowly supersede, the legal limits for standard-sized vehicles;
9. because the vehicle is not owned by the owner or possessed pursuant to a bona fide lease or rental agreement;
10. because of unfavorable driving and traffic conditions, especially weather conditions;
11. because the route sought for travel is closed or otherwise unavailable;
12. because the owner owes outstanding fines, fees, deposits, or costs to the County;
13. because the Administrator has reasonably determined that the owner has previously operated a nonstandard vehicle that resulted in County or third-party damages attributable to the owner that have not been satisfied; *and/or*
14. for other good cause for which an appropriate remedy does not exist.

D. Notice.

1. If the Administrator should approve an application, the Administrator shall notify the owner in writing thereof, communicate the amount of the fees and bonds required, and state the permit restrictions that will be imposed (if any).
2. If the Administrator should deny a permit, the Administrator shall communicate to the owner in writing the specific reason(s) for the denial.
3. Rather than denying a permit outright, the Administrator may notify the owner in writing to allow the owner to clarify any perceived deficiency in the application.
4. Except for an application the Administrator deems frivolous, upon inquiry, the Administrator shall inform the owner of the most approximate circumstances that would be required in the Administrator's view to permit the project.
5. Failure by the owner to receive the notice shall not operate to compromise the power of the County to deny any permit.
6. The Administrator shall add a copy of each notice to the application file.

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- E. Resubmission. Any owner who has been denied a permit may resubmit the application with any deficiencies corrected. The filing date of a resubmitted application relates back to the original filing date.
- F. Fee. If the Administrator should deny a permit, the application fee shall not be returned; however, no application fee shall be required for a resubmitted application unless the Administrator should determine that one or more of the applications was frivolous.
- G. Passive Denial. If the owner has not received an approval of an application or a denial of a permit within the applicable review period, then the application shall be considered denied unless the Administrator provides good cause as to why a decision has not yet then been made and the owner is willing to accept an agreed-upon amount of delay in making the determination.

SECTION XIII – PERMITS

- A. Function. A permit issued by the Administrator allows a nonstandard vehicle to exceed the weight, size, or use restrictions of this ordinance subject to the limitations of the permit and other applicable law.
- B. Permit Contents. Each permit issued by the Administrator shall clearly set forth:
 - 1. the date or range of dates during which the permit is valid;
 - 2. the route(s) to be traversed for the duration of the permit;
 - 3. the maximum speed limit for the vehicle for the duration of the permit, if different;
 - 4. other reasonable restrictions as safety requires; *and*
 - 5. any other ordinance restrictions particularly waived by the permit.
- C. Issuance. The Administrator shall issue a permit to the owner after all of the following have occurred:
 - 1. the Administrator has approved the respective application;
 - 2. any required bond has been filed that conforms to this ordinance;
 - 3. the owner agrees to any permit restrictions that will be imposed and continues to meet all conditions and covenants made as part of the approved application; *and*
 - 4. no substantive, unaddressed application updates have been filed.
- D. Expiration. A permit whose duration is yearly shall expire on December 31 of the year for which the permit was issued.
- E. Town Routes. The designation of a route through an incorporated town, except where limited in such town to roadways on the state roadway system, shall be in consultation with the town's administrative officials and known local ordinances.
- F. Copy. The owner must keep a copy of the permit in the nonstandard vehicle at all times. The Administrator shall add a copy of the permit as issued to the application file.
- G. Voidness.
 - 1. Any permit issued based on false or intentionally misleading information in an application is null and void.
 - 2. Any violation of this ordinance shall automatically cause the permit to be void.
- H. Nontransferable. Except among owners and operators of the same nonstandard vehicle, a nonstandard vehicle permit may not be knowingly transferred to another person.
- I. Restrictions. The Administrator may impose any number of reasonable restrictions on a permit, which shall be prominently displayed thereon. Restrictions include, but are not limited to, days, times, load shifting, lights, escorts, signs, routes, speeds, and conditions.

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- J. Waiver. The Administrator may waive and/or impose reasonable accommodations for de minimus violations of the permit or this ordinance at his or her discretion.

SECTION XIV – ADMINISTRATIVE APPEALS

A. Grievances.

1. In the case of a permit denial, restriction, revocation, or other alleged adverse action from the Administrator or other non-judicial officer, the owner may file a grievance with the Administrator, which may be orally or in writing, in person or remote.
2. If the Administrator determines that the adverse action was made in error, then the Administrator shall reply to the owner in writing acknowledging the error and provide appropriate relief under the circumstances.
3. If the Administrator determines that the adverse action taken was just, then the Administrator shall reply to the owner in writing reaffirming the action and communicating the right of the owner to file an appeal in accord with this section.

- B. Appeals. Any owner who fails to resolve a grievance with the Administrator may file an appeal thereof with the Commissioners through the office of the Auditor within thirty-five (35) days of the final adverse action by the Administrator. The appeal shall be signed and dated by the owner and state the underlying facts, the adverse action taken, the substance of the grievance, and the desired relief.

- C. Filing Fee. The Auditor shall charge and collect in advance a nonrefundable filing fee of Fifty Dollars (\$50.00) for each appeal filed pursuant to this section, which fee shall be deposited into the General Fund.

- D. Scheduling. The Auditor will add the matter to the meeting agenda for the then-next regularly scheduled Commissioners' meeting that is at least seven (7) days later. The Auditor shall communicate with the owner the date, time, and location of the meeting at which the appeal will be considered. If both the Commissioners and the owner agree, the date of the meeting may be expedited.

- E. Record. The Auditor shall promptly gather a full record of the application, the grievance, the appeal, and all related communications and shall promptly submit them to the Commissioners and the County Attorney for review.

- F. Consideration. The Commissioners may consider an appeal filed at the meeting indicated and make a final ruling on the issues raised. The owner has no right to address the Commissioners either personally or through counsel, though the Commissioners may invite any person to speak on the matter.

- G. Decision. The decision of the Commissioners is final, and the Auditor shall promptly communicate to the owner in writing the grounds, terms, and/or conditions upon which the decision is based.

SECTION XV – REPEAL OF PRIOR LAW

- A. Repeal. The Commissioners hereby repeal both Ordinance 1958 (adopted May 19, 1958) and the ordinance adopted on May 18, 1970 on the transportation of buildings and mobile homes in their entirety.

B. Continuance.

1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

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2. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, such provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
 3. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically directed otherwise.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

SECTION XVI – MISCELLANEOUS

A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
 2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- D. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- E. Effective Date. This ordinance shall take effect on August 1, 2023.

Mr. Peter Cook made a motion to approve the Ordinance. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

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AN ORDINANCE ESTABLISHING ENFORCEMENT MECHANISMS FOR THE LAGRANGE COUNTY VEHICLES REQUIRING OVERSIZE/ OVERWEIGHT MANAGEMENT ORDINANCE.

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

COUNTY OF LAGRANGE
ORDINANCE NO. 2023-05-15-C

AN ORDINANCE ESTABLISHING ENFORCEMENT MECHANISMS FOR THE LAGRANGE
COUNTY VEHICLES REQUIRING OVERSIZE/ OVERWEIGHT MANAGEMENT ORDINANCE.

WHEREAS, pursuant to Indiana Code (“IC”) § 36-1-2-9, the Board of Commissioners of the County of LaGrange (“Commissioners”) is the legislative body on behalf of LaGrange County, Indiana (“County”);

WHEREAS, the Commissioners have adopted the VROOM Permitting Ordinance, which creates a permitting process to protect persons and property from overweight, oversize vehicles;

WHEREAS, the Commissioners desire the VROOM Permitting Ordinance be enforceable;

WHEREAS, pursuant to IC § 9-20-6-2, the Commissioners may create a permit process to monitor and regulate use of highways in the County’s jurisdiction;

WHEREAS, pursuant to IC § 36-9-2-7, the Commissioners may regulate the use of public ways;

WHEREAS, pursuant to IC § 9-20-1-3, the Commissioners may prohibit the operation of trucks or other commercial vehicles, and to impose limitations as to the weight, size, or use on designated highways in the County’s jurisdiction;

WHEREAS, pursuant to IC § 9-20-7-2, the Commissioners may reduce the gross vehicle weight allowed on a bridge, causeway, or viaduct if the County determines that serious damage to the structure or vehicle will result;

WHEREAS, pursuant to IC 9-21-1-2, the Commissioners may adopt by ordinance additional traffic regulations with respect to highways under its jurisdiction; *and*

WHEREAS, pursuant to IC 36-1-3 (“Home Rule”), the County has all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute, and may exercise such powers to the extent that the power: (i) is not expressly denied by the Indiana Constitution or by statute; and (ii) is not expressly granted to another entity.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

SECTION I – NAME

The name of this ordinance shall be the “Vehicles Requiring Oversize/Overweight Management Ordinance Enforcement Ordinance” or “VROOM Enforcement Ordinance.”

SECTION II – INCORPORATION

The Definitions, Scope, Purpose, and Miscellaneous sections of the VROOM Permitting Ordinance are hereby incorporated by reference as if fully set out herein except to the extent that they would conflict with this enforcement ordinance.

SECTION III – DEFINITIONS

Whenever the term “this ordinance” is used herein, it shall be construed to also refer to the VROOM Permitting Ordinance and the respective nonstandard vehicle permit.

SECTION IV – VIOLATIONS

A. Permit Violations. No person shall operate a nonstandard vehicle on a highway or bridge:

1. without having applied for a permit that the person is obligated to acquire or maintain pursuant to this ordinance;
2. without having updated any outdated information submitted as part of the application;

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3. pursuant to an expired or revoked permit;
 4. beyond or contrary to the terms of the permit;
 5. contrary to the information contained in the respective application;
 6. without a permit located in the immediate vicinity of the operator;
 7. contrary to any instruction on a sign that refers to a vehicle's class, type, size, weight, use, or number of axles;
 8. in a manner that endangers any highway, bridge, or drain, except as may occur through normal wear and tear;
nor
 9. in a manner that endangers the safety or welfare of any person.
- B. Fraud. No person shall submit an application or reply to an officer in a way that the person knowingly contains false or misleading information or otherwise in a fraudulent manner.
- C. Traffic Obstruction Prohibited. No person shall load, unload, or operate an oversize vehicle on a highway or bridge in a manner that unreasonably obstructs or impedes the operation of another vehicle, including a horse-drawn vehicle.
- D. Shoulder Delivery Prohibited. No person shall load, unload, or rearrange a load on a highway, right-of-way, or road shoulder absent specific authority to do so from a permit or instruction from a County law enforcement officer at the scene.
- E. Inspections. No person shall impede or interfere with an officer during a nonstandard vehicle inspection.
- F. Cooperation. No person shall fail to cooperate with the reasonable inquiries and orders of an officer with respect to this ordinance.
- G. Catchall. No person shall otherwise fail to comply with a provision or requirement of this ordinance or the terms of a permit.

SECTION V – ENFORCEMENT

- A. Authorization. The Sheriff's Office has a duty to enforce this ordinance; provided, however, that any officer may enforce the terms of this ordinance within the scope of his or her authority.
- B. Warning. An officer who has reasonable suspicion that a minor or easily corrected violation of this chapter has occurred may issue a verbal or written warning.
- C. Citations. An officer may issue a citation for an ordinance or state law violation or take other appropriate enforcement action.
- D. Permit Revocation. A permit issued is a privilege and not necessarily a right. An officer may alter, suspend, or revoke a permit, without fee refund, for failure to adhere to the terms of this ordinance. Nevertheless, an owner or operator whose permit is revoked in this manner may still act per the express direction of the officer.
- E. Detentions. An officer who has a reasonable suspicion that the vehicle is oversize or overweight without, or contrary to the terms of, a permit may:
1. detain, measure, and/or weigh the vehicle and/or the load along the highway;
 2. require the vehicle to be driven to the nearest suitable scale if such scale is within five (5) miles of the stop except as otherwise prohibited by law.
 3. have the operator of the vehicle shift the load so that it either complies with this ordinance or that any existing violation is less severe than before;

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4. cause the amount of excess weight or size to be removed from the vehicle, if such load can be removed safely (the part of the load so removed shall be cared for at the sole risk of the owner); *and/or*
 5. impound the vehicle in substantial conformity with the provisions of IC § 9-20-18.
- F. Notice to BMV. If the court having jurisdiction over a vehicle that is in violation of this ordinance should convict a person subject to the state carrier laws, the court shall immediately certify the conviction to the Indiana Bureau of Motor Vehicles.
- G. Court Enforcement. Proceedings for ordinance violation enforcement shall be in accord with IC 34-28-5. In lieu of entering into court proceedings, a person may pay to the Auditor the fines that would have been imposed by this ordinance.

SECTION VI – PENALTIES AND COSTS

A. Fines.

1. A person shall be liable to a fine of up to Five Hundred Dollars (\$500.00) for a first violation of this ordinance.
2. A person shall be liable to a fine of up to One Thousand Dollars (\$1,000.00) for a second violation of this ordinance.
3. A person shall be liable to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation of this ordinance.
4. A person shall be liable to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) for a violation of this ordinance if the violation is reckless or intentional and that causes injury to persons or damage to County property.

B. Permit Fee Doubled. Except in the case of an emergency, any owner who improperly operates a nonstandard vehicle without a permit must subsequently obtain a permit and pay double the permit application fee and any other fees required.

C. Costs. Any person found to have violated this ordinance shall be responsible for any costs, including reasonable attorney's fees, paralegal fees, and collection costs, to the extent allowed by law, borne by the County to prosecute or correct such violation.

D. Rules.

1. Each day in which a violation should continue shall constitute a separate violation.
2. For the purpose of determining whether a violation is a second, third, or subsequent violation under this section, a look-back period of three years from the date of the violation shall be used.
3. Any owner who is liable for a fine, fee, or costs relating to a violation of this ordinance is jointly and severally responsible for the fine, fee, or costs with each other owner of the nonstandard vehicle and any other person found to have caused a violation.

E. Time to Pay. Any fine or cost imposed pursuant to this ordinance shall be paid within sixty (60) days.

F. Fine and Cost Deposits. All fines and costs of prosecution collected pursuant to this ordinance shall be remitted to the General Fund within thirty (30) days of collection.

SECTION VII – EFFECTIVE DATE

This ordinance shall take effect on August 1, 2023.

Mr. Peter Cook made a motion to approve the Ordinance. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

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HIGHWAY DEPARTMENT – 2022 ANNUAL OPERATIONAL REPORT

Mr. Aaron Fugate, Highway Supervisor, presented the 2022 Annual Operational report for consideration and approval. Mr. Peter Cook made a motion to approve the report. Mr. Kevin Myers seconded the motion and it carried unanimously.

HIGHWAY DEPARTMENT – ON CALL REQUEST

Mr. Aaron Fugate, Highway Supervisor, requested to have two employees to be on call each week for Highway emergencies after work hours. A cell phone to use for the on call would be an additional cost. He is checking out the cost and options available. Mr. Peter Cook made a motion to pass on to the County Council with a positive recommendation. Mr. Kevin Myers seconded the motion and it carried unanimously.

RECORDER – PURCHASE OF READER/PRINTER

Mrs. Sheila Getz, County Recorder, presented a quote for a Pixel digital sensor reader/printer. The cost of the printer is \$3,575. The cost of software to clean up images is \$375. This would be paid for out of the Recorder's Perpetuation Fund. Mr. Kevin Myers made a motion to approve the purchase. Mr. Peter Cook seconded the motion and it carried unanimously.

LAGRANGE COUNTY ARTS COUNCIL

Ms. Mary Woodworth, President of the LaGrange County Arts, was present. The LaGrange County Arts is planning to hold an art show on June 24, 2023 and would like to use the Courthouse lawn and the parking lot at the Justice Center. The event will run from 10:00 a.m. to 4:00 p.m. They will be responsible for the clean-up of the area. Mr. Peter Cook made a motion to approve the use of the grounds. Mr. Kevin Myers seconded the motion and it carried unanimously.

PROCLAMATION – PEACE OFFICER APPRECIATION WEEK

Mr. Kevin Myers made a motion to approve a Joint Proclamation proclaiming May 14-20, 2023 as Peace Officer Appreciation Week. Mr. Peter Cook seconded the motion and it carried unanimously.

ACCOUNTS PAYABLE VOUCHERS

Mrs. Kathryn Hopper, County Auditor, presented the Accounts Payable Vouchers. Mr. Kevin Myers made a motion to approve the vouchers. Mr. Peter Cook seconded the motion and it carried unanimously.

APRIL 2023 FINANCIAL REPORT

Mrs. Kathryn Hopper, County Auditor, presented the financial statement for the month ending April 30, 2023, in the amount of \$46,419,119.23 and investments of \$21,495,000. Mr. Peter Cook made a motion to accept the report. Mr. Kevin Myers seconded the motion and it carried unanimously.

MINUTES

Mr. Peter Cook made a motion to approve the minutes of the April 17, 2023 and May 1, 2023, regular session meeting. Mr. Kevin Myers seconded the motion and it carried unanimously.

MEMORANDUM

Mr. Kevin Myers made a motion to approve the memorandum for the May 10, 2023, staff meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

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CORRESPONDENCE

LaGrange County Treasurer – April 2023 report

LaGrange County Drainage Board – Notice of Public Hearing for the #85 East Buck Creek

Indiana Department of Environmental Management – Notice of Approval, Artistic Dream LLC, 3925 N 850 W, Shipshewana, Indiana 46765, Permit Number 087-46124-00694

Indiana Department of Environmental Management – Notice of Approval, Schwartz Woodworking LLC, 4810 S CR 950 W, Millersburg, Indiana 46543. Permit Number 087-46101-00695

ADJOURNMENT

There being nothing further to come before the Board at this time, Mr. Kevin Myers made a motion to adjourn and meet on any subsequent day necessary to carry on the business of the Board. Mr. Peter Cook seconded the motion and it carried unanimously.


Terry A. Martin


Kevin R. Myers


Peter A. Cook

ATTEST:


Kathryn Hopper
LaGrange County Auditor