

ORDINANCE NO. 03-12-18-A

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY
AMENDING PROCEDURES FOR NON-ENFORCEMENT OF DRAINAGE EASEMENTS

WITNESS THAT:

WHEREAS, the Hamilton County Drainage Board has the duty to maintain drainage structures and ditches, within designated drainage easements and legal drains in Hamilton County; and,

WHEREAS, from time to time landowners petition the Drainage Board for a Non-Enforcement Permit to allow the landowner to undertake certain construction activities within the drainage easements located on the real estate of the landowner; and,

WHEREAS, many of the Non-Enforcement Permits on residential properties authorize the landowner to construct a fence on the landowner's property, which fence encroaches within the drainage easement on the property; and,

WHEREAS, from time to time, the contractor who installs the fence, does not exercise reasonable care, and constructs the fence in a location which is not permitted by the Non-Enforcement Permit; and,

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Hamilton County that any contractor who installs fences on private properties within drainage easements, shall be required to be a party to the application for non-enforcement and agree to certain terms, in the event that the fence is not constructed in the location approved on the Permit.

IT IS THEREBY ORDAINED by the Board of Commissioners of Hamilton County as follows:

1. The application for non-enforcement of drainage easements shall be amended to include an additional section which shall apply to the construction of fences within drainage easements.

2. The authorized representative of the contractor who is installing the fence shall be a signatory to the application, which is application is amended to include the following language:

The undersigned, as the authorized representative of the contractor seeking to install a fence within the regulated drainage easement described in this Non-Enforcement Application, agrees as follows:

- a. The undersigned is the duly authorized representative of _____ (printed name of contractor) which plans to install a fence within the drainage easement located on the property of the Landowner.
- b. The undersigned prior to the installation of the fence shall determine the location of the permitted encroachment of the fence, into the drainage easement.
- c. In the event the fence is constructed within the easement at a location which is not permitted by this Permit, the contractor shall be liable to the Landowner for the cost of relocating the fence.
- d. The undersigned acknowledges that the failure to comply with the terms and conditions of this Application may result in the filing of a civil complaint for an ordinance violation; have a judgment entered for One Thousand Dollars (\$1,000) for violation of the Ordinance; plus the costs of the Landowner to relocate the fence.

Signature

Printed

Contractor

Address

Contact Phone Number

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Subscribed and sworn to before me, a Notary Public this ___ day of _____, 20___, personally appeared the within named _____, as the authorized representative of the contractor and acknowledged the execution of the foregoing document.

WITNESS my hand and official seal.

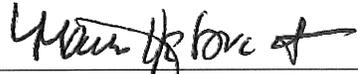
My Commission Expires:

Notary Public,
Residing in _____ County, Indiana

3. Any person who fails to comply with the terms of this Ordinance and fails to relocate a fence to comply with this Ordinance within thirty (30) days of written notice from the landowner, commits a Class C Infraction and may have a judgment entered of up to One Thousand Dollars (\$1,000), in addition to the costs of relocation of any part of the fence installed in violation of this Ordinance which shall be paid as restitution to the Landowner.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Hamilton County, by recommendation of the Hamilton County Drainage Board, this 12 day of March, 2018.

BOARD OF COMMISSIONERS
OF HAMILTON COUNTY



Mark E. Herbrandt

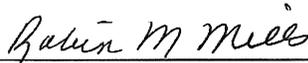


Steven C. Dillinger



Christine Altman

ATTEST:



Robin M. Mills, Auditor