

Ordinance 2023-0605 A
AN ORDINANCE AMENDING ORDINANCE 2022-0307A
RELATING TO THE USE OF COUNTY ROADS
BY HEAVY VEHICLES

WHEREAS, the Board of Commissioners of Warren County ("Commissioners") enacted Ordinance 2022-0307A to regulate the use of and protect Warren County roads by wind energy companies and their agents transporting heavy equipment, by requiring a permit from the Warren County Highway Department, a designated route agreement, and a road bond or heavy haul bond to protect the condition of Warren County highways and roads;

WHEREAS, Indiana Code 9-20-1-3(c) authorizes local authorities to impose limitations as the weight, size, or use of trucks or other commercial vehicles on designated highways; and

WHEREAS, the Commissioners desire to expand the applicability of such regulations to all non-exempt vehicles having a gross weight in excess of 80,000 pounds, to broaden the scope of activities that are subject to such regulation, and to add penalties for violations of this Ordinance, to address non-wind energy company heavy vehicles damaging County roads without any permit, road bond or heavy haul bond, or designated route to protect County roads.

NOW THEREFORE, be it ordained by the Board of Commissioners of Warren County, Indiana that Ordinance 2022-0307A is hereby amended and replaced as follows:

1. **Application for Permit; Route(s).** Upon application by any person or entity ("Permittee") for a permit to use designated Warren County highways and roads by vehicles having a total gross weight in excess of 80,000 pounds at any time ("Heavy Vehicles"), the Warren County Highway Supervisor ("Supervisor") or his or her designee shall designate a route(s) ("Permitted Route(s)") for such Permittee to travel within Warren County where such Heavy Vehicles may be permitted, operated or used. The Permitted Route shall include County bridges, causeways and viaducts, and Supervisor is authorized to establish weight limits of less than 80,000 pounds pursuant to I.C. 9-20-7-2 if the Supervisor or his or her designee determines the maximum load is greater than the bridge, causeway or viaduct can sustain without serious damage or with safety to the vehicle, and such limitation is posted conspicuously on either end of the structure.

The term "Permittee" shall include the persons or entities who make such application and their agents, as well as the operators and/or owners of the Heavy Vehicles, and shall be read as broadly as possible to include all persons and entities involved in the use of the Warren County highway, roads, bridges and culverts to operate or use Heavy Vehicles, and all of whom shall be jointly and severally liable for any damages caused to Warren County highways, roads, bridges and culverts.

2. **Bond Requirement.** All County highways, roads, bridges, and culverts designated by the Supervisor in the Permitted Route(s) shall be bonded by the Permittee in an amount determined by the Supervisor based on type of road (gravel, paved, chip and seal), bridges or culverts and the current cost of repairs for such highways, roads, bridges, and culverts. A blanket bond is permissible, in the Supervisor's discretion, when an Applicant intends to use or operate Heavy Vehicles more than one (1) time in a calendar year, on more than one (1) project, or on more than

one (1) highway, road, bridge, or culvert as part of a larger project.

3. **Permit Fee.** Prior to any Permittee bringing any Heavy Vehicle into Warren County on County highways, roads and bridges, the Permittee shall pay a Heavy Vehicle Permit fee of \$3,000.00, per highway, road, or bridge, or individual project worksite, or project, as determined by the Supervisor, to cover the cost of routine repairs, inspecting, videotaping, and reimbursing other expenses incurred by the County. No part of the Permit Fee will be applicable to Extraordinary Damage described below.

4. **Designation and Signage.** County highways and roads designated by the Board of County Commissioners to have traffic restricted by gross vehicle weight shall be identified by ordinance. In accordance with Indiana Code 9-20-1-3(b) and (c), the Supervisor or his or her designee shall erect and maintain signs specifying the prohibitions and limitations of this Ordinance at each end of a part of any highway or road affected by this Ordinance. The Supervisor shall maintain, in his or her office, a copy of all highways and roads designated to have weight restrictions, which shall be available for public inspection during regular business hours.

5. **Exceptions.** Except as otherwise provided in the Warren County Code, or any other applicable restrictions codified in I.C. 9-20, et seq., the following vehicles with a gross weight in excess of 80,000 pounds are exempt from the weight restrictions set forth above:

- a. Local delivery vehicles;
- b. Refuse, garbage and/or recycling haulers when operating on county highways and roads in the ordinary course of business;
- c. Police, fire, ambulance, and other emergency service vehicles;
- d. Warren County Highway Department road and maintenance vehicles;
- e. United State Postal Service and/o other parcel-delivery service vehicles operating in the ordinary course of business;
- f. Farm trucks, farm trailers, farm semitrailer and tractors, or other covered farm vehicles as defined in I.C. 9-13-2-58;
- g. Farm wagons, as that term is defined in I.C. 9-13-2-77;
- h. Any vehicle which is the subject of a Heavy Vehicle Permit validly executed and in effect at the time of such operation; and
- i. Any school transportation vehicle when transporting students.

6. **Liability for Extraordinary Damage.** Pursuant to Indiana Code 9-20-18-11, for any damage caused, by the Permittee or any other person or entity ("Responsible Party"), to Warren County highways, roads, bridges and culverts beyond normal wear and tear, as determined by the Supervisor, the Responsible Party shall be liable for all such extraordinary damage, whether caused by the operation or transportation of Heavy Vehicles or Heavy Equipment or not. This section is intended to include all extraordinary damage to Warren County highways, roads, bridges, culverts and other property, regardless of whether Heavy Vehicles or Heavy Equipment is involved, and applies to any person or entity, or their agents, who own or operate any vehicle, equipment, machine, object or contrivance on Warren County highways, roads, bridges, culverts or other property, with or without a Permit, on or off a Designated Route, and includes but is not limited to vehicles, equipment, machinery, objects, or contrivances that are overweight, overwidth, overheight, or overlength. Such damage to any

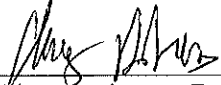
County highway, road, bridge, culvert or other property may be recovered in a civil action instituted in the name of the Warren County Board of Commissioners. Any measure of damage determined by the Supervisor to the County's highways, roads, bridges, culverts or other property under this section is prima facie evidence of the amount of damage caused thereby and is presumed to be the amount recoverable in any civil action therefor. The damages available under this section include the incident response costs, including traffic control, incurred by Warren County.

7. **Penalties.** A person or entity who violates the provisions of this Ordinance shall be fined Five Thousand Dollars (\$5,000.00). A separate violation will be deemed committed on each day on which a violation occurs or continues.

That this Ordinance shall be in full force and effective from and after its passage and adoption.

PASSED AND ORDAINED by the Board of Commissioners of Warren County, Indiana on this 5th day of June, 2023.


BOARD OF COMMISSIONERS OF
WARREN COUNTY



Clay Andrews, President

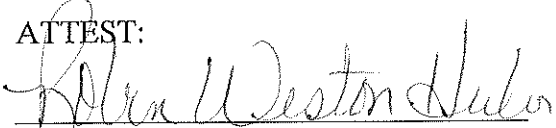


John Comer



Craig Greenwood

ATTEST:



Robin Weston-Hubner, Warren County Auditor