

Ordinance No. 2020-11

**AN ORDINANCE TO VACATE A UTILITY EASEMENT
IN THE CITY OF LAFAYETTE, INDIANA**

Be it ordained by the Common Council of the City of Lafayette, Indiana:

Section 1: That the utility easement described in **EXHIBIT 1** attached hereto and made a part hereof is hereby vacated.

Section 2: That this ordinance shall be in full force and effect from and after its passage.

Finally passed and adopted by the Common Council of the City of Lafayette, Indiana upon this ____ day of _____, 2020.

Nancy Nargi, Presiding Officer

ATTEST:

Cindy Murray, Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the ____ day of _____, 2020.

Cindy Murray, Clerk

This Ordinance approved and signed by me on this ____ day of _____, 2020.

Tony Roswarski, Mayor

ATTEST:

Cindy Murray, Clerk

Council Sponsor: Bob Downing

EXHIBIT 1

A part of the Southeast Quarter of Section 23, Township 23 North, Range 4 West, in Fairfield Township, Tippecanoe County, Indiana, described as follows: Commencing at the Northwest corner of the Southeast Quarter of said Section 23, said point being marked by a Bernsten Monument; thence South $01^{\circ}02'32''$ East (Bearings are based on the Tippecanoe County Section corners as published) 1,049.50 feet along the West line of said Southeast Quarter; thence North $88^{\circ}57'28''$ East 40.00 feet to the Northwest corner of a tract of land owned by Helen Noah as recorded in Deed Record 71, Page 869 on 04/26/1971 in the Office of the Recorder of Tippecanoe County, Indiana, and the Southwest corner of a tract of land owned by B & M Properties, LLC as recorded in Document Number 0019037 on 09/01/2000 in the Office of said Recorder, and the point of beginning of this description; thence North $01^{\circ}02'32''$ West 20.00 feet along the West line of the B & M property; thence North $88^{\circ}57'28''$ East 160.00 feet to the West line of a 20 foot Sanitary Sewer Easement; thence South $01^{\circ}02'32''$ East 20.00 feet along the West line of said Easement to the North line of the Noah property; thence South $88^{\circ}57'28''$ West 160.00 feet along the North line of the Noah property to the point of beginning and containing 0.073 of an Acre.

WAIVER OF PUBLIC HEARING WITHIN THIRTY (30) DAYS

The undersigned hereby waives its right under Indiana Code § 36-7-3-16 and Indiana Code § 36-7-3-12 to a public hearing within thirty (30) days of the filing of the undersigned's Petition to Vacate a utility easement and agree that the Lafayette Common Council may hold such public hearing at its next regularly scheduled Common Council meeting on May 4, 2020.

The Church of Christ at Lafayette, Inc.

By: Steven C. Prashow
(written)
STEVEN C. PRASHOW
(printed)
Its: ELDER
(title)

STATE OF INDIANA)
)SS:
COUNTY OF TIPPECANOE)

Before me, the undersigned, a Notary Public in and for said County and State, this 6 day of April, 2020, personally appeared The Church of Christ at Lafayette, Inc., by Steven C. Prashow its ELDER, and acknowledged the execution of the foregoing instrument.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:
4/30/2025

Jennifer German
(written)
Jennifer German
(printed) NOTARY PUBLIC
Resident of Carroll County

NOTICE OF A PUBLIC HEARING

Notice is hereby given that on the 4th day of May, 2020, at 6:30 p.m., the Common Council of the City of Lafayette, Indiana, will meet in the City Council Chambers, Lafayette City Hall, 20 N. 6th St., Lafayette, Indiana, to consider Ordinance 2020-11, An Ordinance to Vacate a Utility Easement in the City of Lafayette, Indiana, described as follows:

A part of the Southeast Quarter of Section 23, Township 23 North, Range 4 West, in Fairfield Township, Tippecanoe County, Indiana, described as follows: Commencing at the Northwest corner of the Southeast Quarter of said Section 23, said point being marked by a Bernsten Monument; thence South 01°02'32" East (Bearings are based on the Tippecanoe County Section corners as published) 1,049.50 feet along the West line of said Southeast Quarter; thence North 88°57'28" East 40.00 feet to the Northwest corner of a tract of land owned by Helen Noah as recorded in Deed Record 71, Page 869 on 04/26/1971 in the Office of the Recorder of Tippecanoe County, Indiana, and the Southwest corner of a tract of land owned by B & M Properties, LLC as recorded in Document Number 0019037 on 09/01/2000 in the Office of said Recorder, and the point of beginning of this description; thence North 01°02'32" West 20.00 feet along the West line of the B & M property; thence North 88°57'28" East 160.00 feet to the West line of a 20 foot Sanitary Sewer Easement; thence South 01°02'32" East 20.00 feet along the West line of said Easement to the North line of the Noah property; thence South 88°57'28" West 160.00 feet along the North line of the Noah property to the point of beginning and containing 0.073 of an Acre.

Copies are filed and available with the Lafayette City Clerk's Office, 20 N. 6th St., Lafayette, Indiana.

Cindy Murray, City Clerk

PUBLISH: April 16, 2020

PUBLISH: April 23, 2020

STATE OF INDIANA)
) SS: BEFORE THE COMMON COUNCIL
COUNTY OF TIPPECANOE) OF LAFAYETTE, TIPPECANOE COUNTY,
) INDIANA

**PETITION TO VACATE A UTILITY EASEMENT
IN THE CITY OF LAFAYETTE, INDIANA**

COMES NOW The Church of Christ at Lafayette, Inc., an Indiana non-profit corporation (“Petitioner”), and hereby respectfully petitions the Common Council of the City of Lafayette, Indiana to vacate a platted utility easement located in the City of Lafayette, Tippecanoe County, Indiana more particularly described herein, and in support states as follows:

1. This petition is filed pursuant to Indiana Code § 36-7-3-16 which states that platted easements may be vacated in the same manner as public ways and public places pursuant to Indiana Code § 36-7-3-12.
2. The Petitioner is the owner of the property commonly known as 511 N Creasy Lane, Lafayette, Indiana, having State Identification No. 79-07-23-401-004.000-004 (“Easement Real Estate”). The Petitioner took title to the Easement Real Estate as Lafayette Church of Christ. The Church of Christ at Lafayette, Inc. and Lafayette Church of Christ are one and the same.
3. The Petitioner is the owner of the adjacent property to the south of the Easement Real Estate, which said property is commonly known as 445 N Creasy Lane, Lafayette, Indiana, and has State Identification No. 79-07-23-401-005.000-004 (“Petitioner Adjacent Property”).
4. Attached hereto and made a part hereof as **EXHIBIT A**, is a copy of a document entitled Sanitary Sewer Easement Descriptions February 23, 2001 and recorded as Document No. 2001017258 in the Office of the Recorder of Tippecanoe County on July 6, 2001 (“Easement Plat”). The Easement Plat shows a 20’ utility easement located on the Easement Real Estate (“Utility Easement”). The legal description for the Utility Easement is set forth in **EXHIBIT B** attached hereto and made a part hereof (“Easement Area”).
5. On the Easement Plat, the Easement Real Estate is marked “1”, the Petitioner Adjacent Property is marked “2”, and the Easement Area is marked “3” and shown with hatch-marks.
6. The Utility Easement is located within the corporate boundaries of the City of Lafayette, Indiana. A copy of this petition was provided to the City Engineer’s Office prior to filing.
7. The Petitioner hereby requests that the Utility Easement be vacated for the reason that the Petitioner intends to build a church building on the Easement Area.
8. The Petitioner has been informed by the City Engineer’s Office of the following: there is no public infrastructure in the Easement Area; the sewer main located in the Easement Area is private and previously served two residential customers, but has been abandoned and the properties previously served

by the sewer main are now owned by the Petitioner; and the vacation of this Utility Easement will not impact the City's system or have an adverse impact on any other private party.

9. The following is a list of the names and addresses of all owners of land abutting the Utility Easement and/or nearby properties that may have an interest in this petition:

- a. The Church of Christ at Lafayette, Inc., 405 N Creasy Lane, Lafayette, IN 47905;
- b. City of Lafayette, 20 N 6th Street, Lafayette, IN 47901;
- c. Jonathan Ryan Christenberry and Nicole Lee Christenberry, 316 Winesap Drive, Lafayette, IN 47905;
- d. The 320 Winesap Drive Trust, Victor Isbell, Trustee, P.O. Box 663, Westfield, IN 46074;
- e. Thomas Summer, 312 Winesap Drive, Lafayette, IN 47905;
- f. Hugo and Rosa Renteria, 402 Winesap Drive, Lafayette, IN 47905;
- g. Richard Michael Dionne and Andrea Hatch, 308 Winesap Drive, Lafayette, IN 47905;
- h. Michael W. McCool and Cheryl A. McCool, 300 Winesap Drive, Lafayette, IN 47905;
- i. Michael Morgan McCalment and Stephanie McCalment, 304 Winesap Drive, Lafayette, IN 47905;
- j. Kelly A. McGill, 523 N. Creasy Lane, Lafayette, IN 47905; and
- k. E.W. Chambers and Salvacion C Trustees, 406 Winesap Drive, Lafayette, IN 47905.

10. The following is a list of the names and addresses of utility companies serving Lafayette, Indiana and who may have an interest in this petition:

- a. Vectren, 2345 E Main Street, Danville, IN 46122;
- b. Comcast, 3465 South Street, Lafayette, IN 47905; and
- c. Duke Energy, 1000 E Main Street, Plainfield, IN 46168.

11. The proposed vacation of the Utility Easement will not hinder the growth or orderly development of the neighborhood in which the Utility Easement is located or any property to which the Utility Easement is contiguous.

12. The proposed vacation of the Utility Easement will not make access to any lands by means of public way difficult or inconvenient.

13. The proposed vacation of the Utility Easement will not hinder the public's access to any church, school, or other public building or place.

14. The proposed vacation of the Utility Easement will not hinder the use of a public way by the neighborhood in which the Utility Easement is located or to which it is contiguous.

15. Upon vacation of the Utility Easement, the Petitioner shall remain the owner of the real estate upon which the Utility Easement is located.
16. A proposed ordinance is attached hereto as **EXHIBIT C**.
17. Councilman Bob Downing has agreed to sponsor this Petition.

[The remainder of this page intentionally left blank]

WHEREFORE, the Petitioner prays for an ordinance vacating the Utility Easement in the form attached hereto.

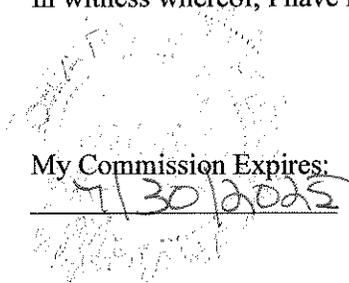
The Church of Christ at Lafayette, Inc.

By: Steven C. Prashon
(written)
STEVEN C. PRASHON
(printed)
Its: ELDER
(title)

STATE OF INDIANA)
)SS:
COUNTY OF TIPPECANOE)

Before me, the undersigned, a Notary Public in and for said County and State, this 6 day of April, 2020, personally appeared The Church of Christ at Lafayette, Inc., by Steven C. Prashon its Elder, and acknowledged the execution of the foregoing instrument.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.



My Commission Expires: 7/30/2025

Jennifer German
(written)
Jennifer German
(printed) NOTARY PUBLIC
Resident of Carroll County

This instrument prepared by:
Kevin J. Riley
Reiling Teder & Schrier, LLC
250 Main Street, Suite 601
P.O. Box 280
Lafayette, IN 47902-0280
Telephone: (765) 423-5333
Facsimile: (765) 423-4564
E-mail: kjr@rtslawfirm.com

EXHIBIT A

(Attached)

EXHIBIT B

A part of the Southeast Quarter of Section 23, Township 23 North, Range 4 West, in Fairfield Township, Tippecanoe County, Indiana, described as follows: Commencing at the Northwest corner of the Southeast Quarter of said Section 23, said point being marked by a Bernsten Monument; thence South $01^{\circ}02'32''$ East (Bearings are based on the Tippecanoe County Section corners as published) 1,049.50 feet along the West line of said Southeast Quarter; thence North $88^{\circ}57'28''$ East 40.00 feet to the Northwest corner of a tract of land owned by Helen Noah as recorded in Deed Record 71, Page 869 on 04/26/1971 in the Office of the Recorder of Tippecanoe County, Indiana, and the Southwest corner of a tract of land owned by B & M Properties, LLC as recorded in Document Number 0019037 on 09/01/2000 in the Office of said Recorder, and the point of beginning of this description; thence North $01^{\circ}02'32''$ West 20.00 feet along the West line of the B & M property; thence North $88^{\circ}57'28''$ East 160.00 feet to the West line of a 20 foot Sanitary Sewer Easement; thence South $01^{\circ}02'32''$ East 20.00 feet along the West line of said Easement to the North line of the Noah property; thence South $88^{\circ}57'28''$ West 160.00 feet along the North line of the Noah property to the point of beginning and containing 0.073 of an Acre.

EXHIBIT C

Ordinance No. _____

**AN ORDINANCE TO VACATE A UTILITY EASEMENT
IN THE CITY OF LAFAYETTE, INDIANA**

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Section 2: That this ordinance shall be in full force and effect from and after its passage.

Finally passed and adopted by the Common Council of the City of Lafayette, Indiana upon this ____ day of _____, 2020.

Nancy Nargi, Presiding Officer

ATTEST:

Cindy Murray, Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the ____ day of _____, 2020.

Cindy Murray, Clerk

This Ordinance approved and signed by me on this ____ day of _____, 2020.

Tony Roswarski, Mayor

ATTEST:

Cindy Murray, Clerk

Council Sponsor: Bob Downing

EXHIBIT 1

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