

ORDINANCE NO. 41 2024

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS
OF CLARK COUNTY, INDIANA, PROHIBITING
MOTORIZED VEHICLES FROM BEING USED ON THE
MONON SOUTH TRAIL AND REGULATING OTHER
CONDUCT ON THE MONON SOUTH TRAIL WITHIN
THE UNINCORPORATED AREAS OF THE COUNTY**

WHEREAS, I.C. 8-4.5-6-4 permits the legislative body of a county to adopt ordinances that regulate the use or operation of recreational trails.

WHEREAS, the Board of Commissioners of Clark County, Indiana (“Board”) is the legislative body of Clark County, Indiana (“County”).

WHEREAS, Radius Indiana, Inc. (“Radius”) is the owner of certain parcels of real estate in the Counties of Lawrence, Orange, Washington, and Clark, a portion of which is located within the unincorporated areas of the County, and has granted the State of Indiana, Department of Natural Resources (“DNR”) a perpetual conservation easement to monitor and enforce such conservation easement pursuant to I.C. 32-23-5 (the “Conservation Easement”).

WHEREAS, the Conservation Easement was recorded in: (a) the Office of the Recorder of Lawrence County, Indiana on February 22, 2023 as Instrument No. 2023001128; (b) the Office of the Recorder of Orange County, Indiana on March 3, 2023 as Instrument No. 20230510; (c) the Office of the Recorder of Washington County, Indiana on February 23, 2023 as Instrument No. 20230566; and (d) the Office of the Recorder of Clark County, Indiana on February 23, 2023 as Instrument No. 202304045.

WHEREAS, the Conservation Easement that was recorded in the County is incorporated by reference herein.

WHEREAS, Radius has requested that the County adopt an ordinance prohibiting motorized vehicles or motorized off-road vehicles from being used on, over, and across the portion of the real estate described in the Conservation Easement that is located within the unincorporated areas of the County (the “Real Estate”), including without limitation, golf carts, snowmobiles, dune buggies, all-terrain vehicles (including but not limited to ATVs and UTVs), mopeds, or motorcycles.

WHEREAS, the County adopting this Ordinance is necessary for Radius to comply with the terms and conditions of the Conservation Easement.

WHEREAS, the Real Estate is part of the Monon South Trail being overseen by Radius, which will consist of a 57-mile public recreational trail traversing through and connecting the City of Mitchell, Indiana with Orange, Washington, Clark, and Floyd Counties.

WHEREAS, the Board, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served by the Real Estate warrants the adoption of this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLARK COUNTY, INDIANA, AS FOLLOWS:

1. The foregoing recitals are fully incorporated herein by reference.
2. The use of motorized vehicles or motorized off-road vehicles on, over, and across the Real Estate, including without limitation, golf carts, snowmobiles, dune buggies, all-terrain vehicles (including but not limited to ATVs and UTVs), mopeds, or motorcycles, is hereby prohibited except for the following circumstances: (a) the use of such vehicles by DNR, Radius, and/or the County that are necessary for the construction or maintenance of multi-use recreational trail and visitor facilities improvements allowed under the Conservation Easement; (b) for the ecological management of the Real Estate as allowed under the Conservation Easement; (c) the use of electric bicycles or electric foot scooters as allowed under the Conservation Easement; (d) the use of certain personal conveyance devices or vehicles used to access the Real Estate by persons with disabilities; and (e) the use of such vehicles by law enforcement or emergency services.
3. The County hereby establishes 20 mph as the speed limit for the Real Estate. It shall be a violation of this Ordinance for anyone to use any permissible vehicles, equipment, or devices in excess of 20 mph on, over, and across the Real Estate.
4. While on the Real Estate, individuals shall not: (a) destroy any real or personal property; (b) harm or hunt wildlife; (c) promote or sell commercial products; or (d) camp overnight.
5. The County's staff is hereby authorized and directed to post any signs on or adjacent to the Real Estate that are necessary to enforce this Ordinance.
6. A person that violates a provision of this Ordinance may be punished by a fines or penalties as provided in the County's Traffic Control Ordinance or as provided in any other applicable County Ordinances, and as provided pursuant to Indiana Code.
7. To the extent any County ordinances or resolutions conflict with this Ordinance, the provisions contained within this Ordinance shall control and supersede those provisions.

8. If any part of this Ordinance shall be held invalid or unenforceable, such part shall be deemed severable, and the invalidity thereof shall not affect the remainder of this Ordinance, which shall remain in full force and effect.

9. This Ordinance shall be in full force and effect upon its passage, approval, and any publication required by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the Board of Commissioners of Clark County, Indiana this 19th day of December, 2024.

BOD

Commissioner

Jack [Signature]

Commissioner

Absent

Commissioner

Attest:

Danny Yost

Name: Danny Yost

Title: Clark County Auditor

EXHIBIT A

RECORDED CONSERVATION EASEMENT

(attach)