

ORDINANCE NO. 5-05

TO AMEND CERTAIN PORTIONS OF THE UNIFIED ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA, DESIGNATING THE TIME WHEN THE SAME SHALL TAKE EFFECT.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, THAT ORDINANCE NO. 32-97 IS HEREBY AMENDED AS FOLLOWS:

Section 1: Renumber **UZO Section 4-11-9** to **4-11-10**. Insert new **UZO Section 4-11-9 Dumpster Enclosures**, to read as follows:

All dumpsters in commercial, industrial or multi-family developments shall be screened from view from a street and/or the first floor of adjacent residential property in a manner approved by the Administrative Officer.

Section 2: Change **UZO Section 3-2 Permitted Use Table footnote 54** to read as follows:

Establishments engaged in the sale of unpackaged mulches, soil, soil conditioners, landscape rock, or fertilizers are permitted only in the GB zone by right and only where all such products are kept within effective containment structures and where a permanent office is maintained. Sales of such products with no containment structures are only permitted in the I3 and A **zones** by right.

Section 3: Change **UZO Section 4-9-1 Bufferyards and other buffering, Intent** to read as follows:

(b) Bufferyards serve as a physical as well as visual barrier. They vary in width, and contain landscape materials of varying densities called **standard plant units**. **Standard plant units** shall conform to one or more of the alternatives illustrated in Appendices E-1 and E-2 or their functional equivalent as approved by the Administrative Officer. The width and density of required **bufferyards** depend on the level of separation needed between dissimilar abutting **zones** as shown in the tables in 4-9-3 below, and between dissimilar **uses** as shown in 4-9-7 and 4-9-8.

Section 4: Change **UZO Section 4-4-4 Setbacks for porches, decks and patios** to read as follows:

(c) Whether attached to a primary use building or not, an unroofed porch, deck or patio is an accessory structure; it may extend into a minimum rear setback to within 4' of a lot line if:

- (1) its floor within the setback is no higher than 30" above its underlying grade; and
- (2) it is not enclosed higher than 3 ½' above that floor.

Section 5: Change UZO Sections 5-5-6 (a) (12) and 5-5-5 (d) Rural Home Occupations to read as follows:

(12) Outside storage of equipment and/or materials for uses associated with SIC 15 and 17 is permitted and must comply with the buffering requirement of 4-9-9 above (Amend 40) and also the setback requirement of 4-4-11. Outside storage of equipment and/or materials for uses associated with SIC 16 is not permitted, and all equipment and/or materials on such lot shall be stored inside a building.

(d) Except as noted in 5-5-6 below, there can be no activity related to the rural home occupation, other than storage, outside any primary use or accessory use building, except for seasonal farm roadside stands selling produce.

Section 6: Change UZO Section 6-2-9 Additional Requirements for Rural Outdoor Signs to read as follows:

- (a) The filing fee in 6-2-6-a and 6-2-6-c also applies to permit applications for **rural outdoor signs**; except that there shall be no filing fee for a political subdivision or for a not-for-profit agency primarily engaged in offering emergency services to the public.
- (b) If approved, a permit fee of \$10 per sign shall be assessed prior to issuing any **improvement location permit** for a **rural outdoor sign**; except that there shall be no permit fee for a political subdivision or for a not-for-profit agency primarily engaged in offering emergency services to the public.

Section 7: Update the incorrect reference numbers found in UZO Appendix B.

This ordinance shall be in full force and effect from and after its passage.

This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

INTRODUCED AND FILED ON THE ____ DAY OF _____, 2005.

DULY ORDAINED, PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THIS THE ____ DAY OF _____, 2005, HAVING BEEN PASSED BY A VOTE OF ____ IN FAVOR AND ____ OPPOSED.

Jan H. Mills, Presiding Officer

ATTEST:

Judith C. Rhodes, Clerk-Treasurer

**PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE,
INDIANA, ON THE ____ DAY OF _____, 2005, AT THE HOUR OF
_____.**

Judith C. Rhodes, Clerk-Treasurer

**THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE _____
DAY OF _____, 2005, AT THE HOUR OF _____.**

ATTEST:

Jan H. Mills, Mayor

Judith C. Rhodes, Clerk-Treasurer

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

January 20, 2005
Ref. No.: 05-024

West Lafayette City Council
609 W. Navajo
West Lafayette IN 47906

RECEIVED

JAN 24 2005

CLERK - TREASURER

CERTIFICATION

RE: UZO AMENDMENT #47

An omnibus amendment revising seven sections of the ordinance regarding: dumpster enclosures, mulch containment, bufferyards, porches, rural home occupations of contractors of heavy construction, the waiving of sign permit fees in select instances, and miscellaneous corrections to Appendix B.

Dear Council Members:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on January 19, 2005, the Area Plan Commission of Tippecanoe County voted 11 yes – 0 no on the motion to approve the enclosed amendment to the Unified Zoning Ordinance. Therefore, the Area Plan Commission of Tippecanoe County recommends to the West Lafayette City Council that the proposed zoning ordinance amendment be approved.

Sincerely,


Sallie Dell Fahey
Executive Director

SDF/bb

Enclosure: Staff Report and Ordinance

**UZO TEXT AMENDMENT
AMENDMENT 47: OMNIBUS AMENDMENT**

January 13, 2005

1. DUMPSTERS

The Ordinance currently has no requirements on where permanent dumpsters can be placed in a new development. After discussions between staff and the Administrative Officers (A.O.s) as well as discussions at Ordinance Committee meetings, it was decided that a requirement to screen dumpsters from streets and/or adjacent residences was a good idea. The proposed amendment would require "all dumpsters in commercial, industrial or multi-family developments [to] be screened from view from a street and/or the first floor of adjacent residential property in a manner approved by the Administrative Officer."

2. UNPACKAGED MULCH

This proposed amendment addresses the seasonal mounds of mulch and landscape rock typically found for sale in parking lots and vacant lots. Staff finds the mounds of loose material to be inappropriate when placed along gateways to our communities. Residents have complained about mulch and soil being tracked onto adjacent highways and accumulating in the gutters in front of these temporary land uses. The ordinance was amended in 1999 to discourage this business practice in NB and GB zones. That amendment changed footnote 54 to read as follows:

No **business** engaged solely or primarily in the sale of mulches, soil, soil conditioners, landscape rock, or fertilizers is permitted in NB and GB **zones**.

Unfortunately, staff and Administrative Officers have found that the above amendment did not prevent the use from locating in prominent GB zoned properties. After much discussion at A.O.s and at Ordinance Committee, the following change to footnote 54 was agreed:

Establishments engaged in the sale of unpackaged mulches, soil, soil conditioners, landscape rock, or fertilizers are permitted only in the GB zone by right and only where all such products are kept within effective containment structures and where a permanent office is maintained. Sales of such products with no containment structures are only permitted in the I3 and A **zones** by right.

UZO TEXT AMENDMENT
AMENDMENT 47: OMNIBUS AMENDMENT

January 12, 2005

3. BUFFERYARDS

After reviewing a required bufferyard plan for a small business owner, it became evident to staff that the bufferyard requirements in the ordinance are too narrow in focus. The ordinance requires a certain type of tree, when a different tree would work better and have a better chance of surviving, in a certain situation. Staff believes, and the Administrative Officers agree, that this section of the ordinance should be slightly more generalized. The underlined phrase in the following paragraph was agreed upon by A.O.s and by Ordinance Committee:

4-9 BUFFERYARDS AND OTHER BUFFERING

4-9-1 INTENT:

- (c) *Bufferyards* serve as a physical as well as visual barrier. They vary in width, and contain landscape materials of varying densities called *standard plant units*. *Standard plant units* shall conform to one or more of the alternatives illustrated in Appendices D-1 and D-2 or their functional equivalent as approved by the Administrative Officer. The width and density of required *bufferyards* depend on the level of separation needed between dissimilar abutting *zones* as shown in the tables in 4-9-3 below, and between dissimilar *uses* as shown in 4-9-7 and 4-9-8.

4. SETBACKS FOR PORCHES, DECKS AND PATIOS

In Section 4-4-4 (SETBACKS FOR PORCHES, DECKS AND PATIOS) of the ordinance, it states that,

- (c) Whether attached to a *primary use building* or not, an unroofed porch, deck or patio is an *accessory structure*; it may extend into a minimum *rear or side* (but not *front*) *setback* to within 4' of a *lot line* if:
- (1) its floor within the *setback* is no higher than the lowest floor of the *primary use building*; and
 - (2) it is not enclosed higher than 3½' above that floor.

Staff feels that the term "lowest floor" is confusing. Here, it actually means the first floor of the house; in the Flood Plain section of the ordinance, the term "lowest floor" means the basement if the house has one. To remove any doubt, staff and the Administrative Officers proposed changing the term, "lowest floor". After discussing this issue at Ordinance Committee, it was also agreed that the standard did not need to allow patios and decks to within 4' of a side lot line.

The proposed change is as follows:

- (c) Whether attached to a *primary use building* or not, an unroofed porch, deck or patio is an *accessory structure*; it may extend into a minimum *rear setback* to within 4' of a *lot line* if:
- (1) its floor within the *setback* is no higher than 30" above its underlying grade; and
 - (2) it is not enclosed higher than 3 ½' above that floor.

5. RURAL HOME OCCUPATIONS

This proposed amendment came about because of a difference in interpretation between the zoning enforcement officer and staff regarding heavy equipment contractors (SIC 16) operating as rural home occupations. The following clarification was agreed to by the Ordinance Committee. Currently the ordinance states:

5-5-6 PERMITTED RURAL HOME OCCUPATIONS:

(a) *Rural home occupations* may include...the following:

- (12) Office facility of a building contractor (Amend 10). (Outside storage of equipment and/or materials associated with SIC 15 and 17 must comply with the buffering requirement of 4-9-9 above.) (Amend 40)

The proposed amendment would change it to read:

- (12) Office facility of a building contractor (Amend 10). Outside storage of equipment and/or materials for uses associated with SIC 15 and 17 is permitted and must comply with the buffering requirement of 4-9-9 above (Amend 40) and also the setback requirement of 4-4-11. Outside storage of equipment and/or materials for uses associated with SIC 16 is not permitted, and all equipment and/or materials on such lot shall be stored inside a building.

To prevent two sections of the ordinance from contradicting each other, the following section needs to be changed by adding the underlined portion:

5-5-5 RURAL HOME OCCUPATION USE REQUIREMENTS:

- (d) Except as noted in 5-5-6 below, there can be no activity related to the *rural home occupation*, other than storage, outside any *primary use* or *accessory use building*, except for seasonal *farm* roadside stands selling produce. (Amend 34)

6. WAIVING RURAL OUTDOOR SIGN PERMIT FEES

This proposal would align the ordinance with common practice. Generally, not-for-profit groups are not charged for rural outdoor signage permits. This would put this practice in writing in the Ordinance.

7. UPDATING INCORRECT REFERENCE NUMBERS IN UZO APPENDIX B

Several reference numbers found in UZO Appendix B must be changed to agree with past renumbering of sections within the ordinance.

STAFF RECOMMENDATION:

Approval