

## ORDINANCE NO. 21-09

### 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.** Change 3-2-6, **PERMITTED USE TABLE**, "Trash transfer stations" (SIC 4212) by adding the term "entirely enclosed" and listing UZO Section 4-4-13 under "Special Conditions" and by adding the following footnote:

Footnote 64: An entirely enclosed trash transfer station includes a station where all operations, other than transportation, are conducted in an enclosed building and those stations entirely enclosed but with doors open during operation.

**Section 2.** Change 3-2-6, **PERMITTED USE TABLE**, by adding a new category: "Trash transfer stations – not entirely enclosed" (SIC 4212) making the use require a special exception (S) in the I3 zone. Also under "Special Conditions" change by adding UZO Section 4-4-13 and by adding the following footnote:

Footnote 65: 'Trash transfer stations – not entirely enclosed' includes but is not limited to, operations that have some component, out-building, or structure open on at least one side during operations or enclosed on four sides and unroofed."

**Section 3.** Add Section 4-4-13, **TRASH TRANSFER STATIONS**, to read as follows:

#### **4-4-13 TRASH TRANSFER STATIONS REQUIREMENTS:**

All trash transfer stations shall comply with the following:

- (a) Be totally and permanently encircled by a security fence at least 6' high. The fence shall be erected within the setback, in front of, within, or behind the required bufferyard.
- (b) Be surrounded by a type "C" bufferyard on all sides.
- (c) Have a 100' building and/or outdoor use area setback from the sides and rear property lines.
- (d) Have a 300' separation measured from the property line of the trash transfer station to the nearest *residence, residential zone*, school, church, or other place of public assembly.
- (e) In the presence of an existing *trash transfer station*, a new *dwelling*, new school, new church or other place of public assembly shall not be built within 300' of that *trash transfer station*, measured from that *primary use building* to the property line of the *trash transfer station*.

- (f) Expansion of a **trash transfer station** which otherwise existed at the time this ordinance became effective or was amended shall still comply with the 300' separation from **residential zones** as set forth above.
- (g) The separation standard described in (d), (e), and (f) above shall be 500' when the trash transfer station is entirely enclosed but with doors open during operation.
- (h) The separation standard described in (d), (e), and (f) above shall be 1000' when the trash transfer station is not entirely enclosed, and has some component, out-building, or structure open on at least one side during operations or enclosed on four sides and unroofed.

**Section 4.** Change 1-10-2 **WORDS AND TERMS DEFINED** by adding the following two definitions and modifying the definition of REPETITIVE LOSS as shown:

**REPAIR COST.** The current fair market value of the labor and materials used to restore a damaged use, structure, mobile home, or signage to its condition immediately prior to sustaining the damage in question.

**REPLACEMENT COST.** The current cost of recreating or reconstructing a damaged use, structure, mobile home, or signage to its condition immediately prior to sustaining the damage in question using new materials of the same or similar type.

**REPETITIVE LOSS.** Flood related damages sustained by a **structure** on at least two (2) separate occasions during a 10-year period for which the **repair cost** at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the **structure** immediately before the damage occurred.

**Section 5.** Change the following 8 sections of 5-1 **SUPPLEMENTARY REGULATIONS** to read as follows:

5-1-2

- (d) When a **nonconforming use** is damaged by any means to the extent that the **repair cost** exceeds 50% of the **replacement cost** of that **use**, the **nonconforming use** shall no longer be permitted.
  - (1) When a **nonconforming use** in the **FP zone** is **substantially damaged** by any means to the extent that the **repair cost** exceeds 50% of the market value of that **use**, the **substantially damaged nonconforming use** shall no longer be permitted in the **FP zone**. (Amend 56)

5-1-3

- (c) When a **nonconforming mobile home** is damaged by any means to the extent that the **repair cost** exceeds 50% of the **replacement**

cost of that *mobile home*, the *nonconforming mobile home* shall no longer be permitted.

- (1) When a *nonconforming mobile home* in the FP zone is *substantially damaged* by any means to the extent that the *repair cost* exceeds 50% of the market value of that *mobile home*, the *substantially damaged nonconforming mobile home use* shall no longer be permitted in the FP zone. (Amend 56)

5-1-4

- (b) When a *nonconforming mobile home park / manufactured home community* is damaged by any means to the extent that the *repair cost* exceeds 50% of the *replacement cost* of that *use*, the *nonconforming use* shall no longer be permitted. Repairs to any individual mobile home / manufactured home located within a *mobile home park / manufactured home community* and owned by a person or entity other than the person or entity owning and/or operating the *nonconforming mobile home park / manufactured home community* shall not be considered in calculating the replacement costs of the *nonconforming mobile home park / manufactured home community*. (Amend 52)

5-1-6

- (d) When a *nonconforming structure* is damaged by any means to the extent that the *repair cost* exceeds 50% of the *replacement cost* of that *structure*, it shall only be reconstructed in conformance with the requirements of this ordinance. If it had been occupied by a *nonconforming use*, that *use* will no longer be permitted.
  - (1) When a *nonconforming structure* in the FP zone is *substantially damaged* by any means to the extent that the *repair cost* exceeds 50% of the market value of that *structure*, the *substantially damaged nonconforming structure* shall no longer be permitted in the FP zone. (Amend 56)

5-1-7

- (c) When *nonconforming signage* is damaged by any means to the extent that the *repair cost* exceeds 50% of the *replacement cost* of that *signage*, the *nonconforming signage* will no longer be permitted.
  - (1) When *nonconforming signage* in the FP zone is *substantially damaged* by any means to the extent that the *repair cost* exceeds 50% of the market value of that *signage*, the *substantially damaged nonconforming signage* shall no longer be permitted in the FP zone. (Amend 56)

5-1-8

- (d) When a **noncomplying use** is damaged by any means to the extent that the **repair cost** exceeds 50% of the **replacement cost** of that **use**, it shall only be reconstructed in compliance with the requirements of this ordinance. If it was also a **nonconforming use**, that **use** will no longer be permitted.
  - (1) When a **noncomplying use** in the **FP zone** is **substantially damaged** by any means to the extent that the **repair cost** exceeds 50% of the market value of that **use**, the **substantially damaged noncomplying use** shall no longer be permitted in the **FP zone**. (Amend 56)

5-1-9

- (a) Discretionary repair and maintenance may be done on any **nonconforming use** or **nonconforming structure**, only if:
  - (1) the work consists of ordinary repairs, or of repair or replacement of non-bearing walls, fixtures, wiring or plumbing;
  - (2) the total cost of such discretionary repair and maintenance does not exceed 30% of the **replacement cost** of that **use** or **structure** in any 3-year period (Amend 7), OR
    - (i) For properties in the **FP zone**, the total cost of such discretionary repair and maintenance shall not exceed 10% of the market value of that **use**, **structure** or **mobile home** in the **FP zone** in any 1-year period and cumulatively along with documented damage totals from previous events shall not equal or exceed 50% of the market value of that **use**, **structure** or **mobile home** over the life of the **use**, **structure** or **mobile home** in the **FP zone**; (Amend 56) and

**Section 6.** Change **UZO Section 1-10-2 Words and Terms Defined**, to read as follows:

**RURAL ESTATE SUBDIVISION.** A unified rural residential **development** zoned RE, **rural estate zone**, or RE and FP. (The FP-zoned portion may include tilled land, and may make up portions of residential **lots**.) A **rural estate subdivision** shall not be located within an IURC approved service area (CTA) of a sanitary sewer provider or within the service area of a municipally owned sewer system unless it is farther than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity for twelve (12) lots. Proposed RE-zoned sites, or FP-zoned portions of **rural estate subdivisions** may be located closer than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity if outside the IURC approved service area (CTA) of a sanitary sewer provider or outside the service area of a municipally owned sewer system. More than 50% of its acreage is either:

- (1) wooded and untilled,

- (2) *non-tillable*, or
  - (3) not mechanically harvested for at least 3 of the 5 years between 1997 and 2001,
- or a combination of any 2 or 3 of the 3 above conditions equaling more than 50%. A *rural estate subdivision* has a maximum *density* of no more than 1 *dwelling unit* per 2 acres, and a minimum residential *lot area* of 1 acre, exclusive of any outlot containing drainage *easements* and/or *rural estate roads*, and exclusive of any *public street right-of-way*. (Amend 27)

**RURAL ESTATE ZONE.** A *rural zone* containing part or all of a *rural estate subdivision*. Proposed RE-zoned sites, or FP-zoned portions of *rural estate subdivisions* shall not be located within an IURC approved service area (CTA) of a sanitary sewer provider or within the service area of a municipally owned sewer system unless it is farther than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity for twelve (12) lots. Proposed RE-zoned sites, or FP-zoned portions of *rural estate subdivisions* may be located closer than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity if outside the IURC approved service area (CTA) of a sanitary sewer provider or outside the service area of a municipally owned sewer system. More than 50% of the acreage of the *rural estate subdivision* of which it is a part is either:

- (1) wooded and untilled,
  - (2) *non-tillable*, or
  - (3) not mechanically harvested for at least 3 of the 5 years between 1997 and 2001,
- or a combination of any 2 or 3 of the 3 above conditions equaling more than 50%. A *rural estate zone* request includes no more than 12 residential *lots*, and shall include no FP-zoned lands; FP-zoned land cannot be rezoned. (Amend 27)

**Section 7. Change UZO Section 2-28-14(a) Additional Requirements, to read as follows:**

- (a) Proposed RE-zoned sites, or FP-zoned portions of *rural estate subdivisions* shall not be located within an IURC approved service area (CTA) of a sanitary sewer provider or within the service area of a municipally owned sewer system unless it is farther than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity for twelve (12) lots. Proposed RE-zoned sites, or FP-zoned portions of *rural estate subdivisions* may be located closer than ½ mile, measured radially, from the nearest sanitary sewer line or lift station having unused capacity if outside the IURC approved service area (CTA) of a sanitary sewer provider or outside the service area of a municipally owned sewer system.

**Section 8.** Change **UZO Section 4-4-8 Setbacks for Open Uses** by adding the following subsection (b):

- (b) Setbacks for *open uses* must be within the legal description of the special exception.

**Section 9.** Change **UZO Section 4-9-7-c-1 (d) Bufferyard Requirements for Certain Open Uses** to read as follows:

- (d) These *open uses* shall also be totally and permanently enclosed by a security fence at least 6' high. Mining operations (SIC 14) approved for fewer than 12 months (one year) may be totally and permanently enclosed by a typical woven-wire farm-field fence, (minimum height of 48"), which may be located either in front of or behind the required *setback*. The fence shall be erected within the *setback*, either in front of, within, or behind the required *bufferyard*. For mining operations, the fence shall only be removed in conformance with a Reclamation Plan approved by the **ABZA** under 4-11-4 (Amend 5) below.

**Section 10.** Add the following subsection (h) to **Section 4-9-7-c-1 Bufferyard Requirements for Certain Open Uses**, to read as follows:

- (h) No bufferyard is required for mining operations (SIC 14) lasting less than 12 months (one year).

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

INTRODUCED ON FIRST READING ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009, HAVING BEEN PASSED BY A VOTE OF \_\_\_\_\_ IN FAVOR AND \_\_\_\_\_ OPPOSED, THE ROLL CALL VOTE BEING:

AYE		NAY
_____	Bunder	_____
_____	Burch	_____
_____	Dietrich	_____
_____	Hunt	_____
_____	Keen	_____
_____	Roales	_____
_____	Thomas	_____

THE

# Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET  
LAFAYETTE, INDIANA 47901-1209

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SALLIE DELL FAHEY  
EXECUTIVE DIRECTOR

August 20, 2009  
Ref. No.: 09-254

West Lafayette Common Council  
609 W. Navajo Street  
West Lafayette IN 47906

**RECEIVED**

AUG 20 2009

**CLERK - TREASURER**

## CERTIFICATION

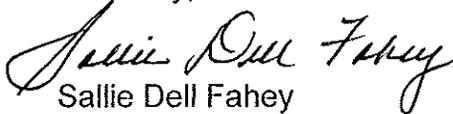
**RE: UZO AMENDMENT #61:**

An omnibus amendment to the Unified Zoning Ordinance with 4 general sections including trash transfer stations; nonconforming uses and replacement costs; the rural estate definition; and setbacks, fencing, and buffering of temporary mining operations.

Dear Council:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on August 19, 2009, the Area Plan Commission of Tippecanoe County voted 13 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 Common Council that the proposed zoning ordinance amendment be approved.

Sincerely,



Sallie Dell Fahey  
Executive Director

SDF/lmu

Enclosure: Staff Report and Ordinance

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**UZO TEXT AMENDMENT  
AMENDMENT #61: OMNIBUS**

**RECEIVED**

AUG 20 2009

**STAFF REPORT  
August 12, 2009**

**CLERK - TREASURER**

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**UZO TEXT AMENDMENT  
AMENDMENT #61: OMNIBUS**

**Staff Report  
August 12, 2009**

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This amendment would make changes in four general areas to the *Unified Zoning Ordinance*. These proposed changes have been discussed by Staff in public meetings of the Ordinance Committee over the past several months. On May 6, the Ordinance Committee recommended the attached ordinance regarding trash transfer stations and nonconforming uses and replacement costs for hearing by the Area Plan Commission. On July 1, 2009, the Ordinance Committee recommended the rural estate definition changes as well as changes to the temporary mining operation requirements.

**1. Changes to trash transfer station requirements:**  
(This includes Sections 1 through 3 of the attached ordinance.)

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Currently the ordinance permits trash transfer stations by right in the I3 district with no additional development standards. This amendment would make a distinction between a trash transfer station whose operation is entirely enclosed, and one which has some outdoor storage of trash whether in a "stall" with three sides and a roof, or some other configuration.

A trash transfer station which is not entirely enclosed would be required to meet the following standards:

- It would only be permitted in the I3 zone, and only by special exception;
- It would have a 1000' separation standard from residential uses and zoning, schools, churches, and other places of public assembly;
- A 100' building and/or outdoor use area setback from the sides and rear property lines, the standard setback from the road frontage;
- A 6' fence surrounding both the trash transfer station and its outdoor components including any partially enclosed structures; and
- A type "C" bufferyard required from all adjacent property lines.

A trash transfer station that is entirely enclosed would have the following standards:

- It would be permitted by right in the I3 zone only;
- It would have a 300' separation standard from residential uses and zoning, schools, churches, and other places of public assembly (500' separation if the trash transfer station is entirely enclosed but has doors open during operation);
- A 100' building setback from the sides and rear, the standard setback from the road frontage;
- A 6' fence surrounding the trash transfer station; and
- A type "C" bufferyard required from all adjacent property lines.

2. **Changes to nonconforming uses and replacement costs:**  
(This includes Sections 4 and 5 of the attached ordinance.)

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This amendment would add a definition of "repair cost" and "replacement cost" to help clarify what can and cannot be rebuilt when a nonconforming use is damaged.

3. **Changes to the rural estate definition: (See also USO Amend #5)**  
(This includes Sections 6 and 7 of the attached ordinance.)

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Currently the ordinance states that: "A rural estate subdivision shall be located more than ½-mile, measured radially, from the nearest sanitary sewer having unused capacity, or closer if sanitary sewer is impeded physically by a stream or ravine or similar barrier."

The proposed change would eliminate the impossible to define "impeded physically" and instead limit RE developments to specific areas not served by IURC sanitary sewer providers or municipally owned sewer systems.

4. **Changes to the requirements for temporary mining operations:**  
(This includes Sections 8, 9 and 10 of the attached ordinance.)

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With the start of construction of the Hoosier Heartland Corridor, the ABZA has heard multiple requests for temporary borrow pits. The ordinance is designed to regulate intense uses over a long period of time. Since these mining operations last anywhere from 8 to 12 months – not 10 to 20 years as with typical mining operations – petitioners are requesting multiple variances in addition to the required special exception.

Staff, with several special exception and variance cases already heard and approved, has recommended the following changes to the UZO regarding temporary mining operations (those lasting less than 12 months):

- Eliminate the Type C bufferyard requirement (UZO 4-9-7-c-1); and
- Permit a typical woven wire farm-field fence (minimum of 48") instead of the required 6' security fence. (UZO 4-9-7-c-1 (d))

The following proposed change shall apply to temporary mining operations, as well as all open uses for which a special exception is required:

- The required 100' setback from lot lines adjoining a rural or residential zone shall be located within the legal description of the special exception. (UZO 4-4-8)

**STAFF RECOMMENDATIONS:**

Approval