

ORDINANCE NO. 2017-018

**BEING AN ORDINANCE TO AMEND THE TEXT OF THE  
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE  
REGARDING PUBLIC WORKS, SWIMMING POOLS, RESIDENTIAL FACILITIES,  
USES IN THE BL LIMITED BUSINESS ZONE, AND THE FA FLOOD AREA ZONE**

**WHEREAS**, the State enabling act for planning and zoning empowers the Board of Commissioners of Delaware County, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to said ordinances as deemed necessary from time to time; and

**WHEREAS**, the State enabling act also provides for amendments to the Comprehensive Zoning Ordinances to further promote the health, safety and general welfare; and

**WHEREAS**, the current provisions require updating or clarification; and

**WHEREAS**, the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing and, after consideration of the proposed amendments during the hearing, hereby forwards a favorable recommendation (7-0) regarding said amendment to the County Commissioners of Delaware County, Indiana, all as required by law; and

**WHEREAS**, the Board of Commissioners of Delaware County, Indiana has given reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Delaware County, Indiana that the text of the Delaware County Comprehensive Zoning Ordinance shall be amended, changed and supplemented as follows:

**Section 1.** Article IX GENERAL PROVISIONS, Section 7 YARDS AFFECTED BY PUBLIC WORKS shall be amended and supplemented by inserting a new title stating "PROPERTIES AFFECTED BY PUBLIC WORKS", by inserting the phrase "or structure, including a sign," at the beginning of the first sentence following "Where a building", and by deleting the word "area" in the first sentence so that the title and first sentence reads as follows:

**Section 7 PROPERTIES AFFECTED BY PUBLIC WORKS**

Where a building or structure, including a sign, is located on property acquired for public use by condemnation, purchase or otherwise, such building or structure may be relocated on the same lot or premises although the provisions of this Ordinance cannot be reasonably complied with.

**Section 2.** That Article IX GENERAL PROVISIONS, Section 14 ACCESSORY USES AND STRUCTURES, Subsection A, Item 2(c)2a & b shall be amended to replace the phrases “five (5) feet” so that the sentences read as follows:

- a) Walls or fencing not less than **four (4)** feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gates and doors, both capable of being locked.
- b) Other means not less than **four (4)** feet high and deemed impenetrable by the enforcing authority at the time of construction and completely surrounding the pool and deck area when the pool is not in use.

**Section 3.** That Article IX GENERAL PROVISIONS, Section 18 RESIDENTIAL FACILITIES FOR DEVELOPMENTALLY DISABLED AND MENTALLY ILL which reads as follows, shall be deleted in its entirety:

#### **Section 18     RESIDENTIAL FACILITIES FOR DEVELOPMENTALLY DISABLED AND MENTALLY ILL**

The provisions of this Ordinance shall not be construed to exclude a residential facility for the developmentally disabled which is duly licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another facility as measured from the lot lines of the total properties containing the residential facilities.

The provisions of this Ordinance shall not be construed to exclude a residential facility for the mentally ill which is duly licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another such facility as measured from the lots lines of the total properties containing the residential facilities.

A residential facility which is not licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health as a residential facility for the developmentally disabled or a residential facility for the mentally ill shall be subject to all of the provisions of this Ordinance.

**Section 4.** That a new Article IX GENERAL PROVISIONS, Section 18 RESIDENTIAL FACILITIES FOR DEVELOPMENTAL DISABILITIES AND MENTAL ILLNESS shall be inserted, as follows:

**Section 18 RESIDENTIAL FACILITIES FOR DEVELOPMENTAL DISABILITIES AND MENTAL ILLNESS**

The provisions of this Ordinance shall not be construed to exclude a residential facility for individuals with a developmental disability, for not more than eight (8) individuals, which is duly licensed by the State of Indiana. The facility shall meet the same zoning requirements, standards and building codes as other single dwelling unit structures in the same zone.

The provisions of this Ordinance shall not be construed to exclude a residential facility for individuals with a mental illness, which is duly certified and/or licensed by the State of Indiana, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another such facility as measured from the lots lines of the total properties containing the residential facilities. The facility shall meet all other zoning requirements, codes and laws.

A residential facility which is not certified and/or licensed by the State of Indiana as a residential facility for individuals with a developmental disability or a residential facility for individuals with a mental illness shall be subject to all of the provisions of this Ordinance.

**Section 5.** That Article XIX BL LIMITED BUSINESS ZONE, Section 1 PERMITTED USES, Subsection 10 Schools shall be supplemented to read as follows:

10. Public schools; nursery and child care centers.

**Section 6.** That Article XXVI FA FLOOD AREA ZONE, Section 2 BOUNDARIES which reads as follows, shall be deleted in its entirety:

**Section 2 BOUNDARIES**

The boundaries of the FA Flood Area Zone have been determined from data obtained from the Louisville District of the Corps of Engineers of the Department of the Army. Such boundaries run along the sides of the White River as they traverse through the County of Delaware, Indiana, and include the areas adjoining said rivers that have been or hereafter may be covered by floodwaters.

**Section 7.** That a new Article XXVI FA FLOOD AREA ZONE, Section 2 BOUNDARIES shall be inserted, as follows:

Section 2 BOUNDARIES

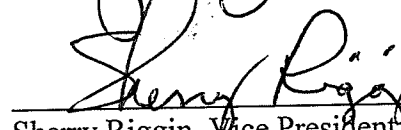
The boundaries of the FA Flood Area Zone have been determined from data obtained from the Federal Emergency Management Agency. Such boundaries run along the sides of the White River and Mississinewa River as they traverse through the County of Delaware, Indiana, and include the floodway and A Zone areas as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Delaware County, Indiana and Incorporated Areas dated July 4, 2011 and the corresponding Flood Insurance Rate Map dated July 4, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, and described in the Floodplain Management Ordinance for Delaware County, Indiana.

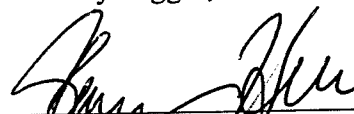
**Section 8.** That this Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Delaware County, Indiana and such publication as required by law.

**Section 9.** That this Ordinance to amend is hereby passed by a vote of \_\_\_\_ to \_\_\_\_ by the Board of Commissioners, Delaware County, Indiana this 7 day of July, 2017.

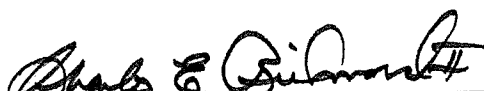
DELAWARE COUNTY COMMISSIONERS  
DELAWARE COUNTY, INDIANA

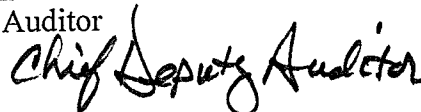
  
James King, President

  
Sherry Riffin, Vice President

  
Shannon Henry, Member

ATTEST:

  
Steven G. Craycraft, Auditor

  
Chief Deputy Auditor