

ORDINANCE NO. 2022-6

 ORIGINAL

AN ORDINANCE AMENDING THE UNIFIED ZONING ORDINANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAYTON, INDIANA, THAT ORDINANCE NO. 97-11, BEING THE UNIFIED ZONING ORDINANCE OF TIPPECANOE COUNTY IS HEREBY AMENDED AS FOLLOWS:

Section 1: Change UZO Section 6-3 ENFORCEMENT, 6-3-1 GENERAL PROVISIONS to read as follows:

6-3-1 GENERAL PROVISIONS:

- (a) Any person may bring an action to enjoin the violation of this ordinance by suit filed in Tippecanoe County circuit or superior court.
- (b) The Area Board of Zoning Appeals or any **Administrative Officer** may require either:
 - (1) the removal of a **structure** erected in violation of this ordinance; or
 - (2) the removal of any **use** or condition created in violation of this ordinance.
- (c) A **structure** erected, raised, or connected, or real estate or premises used in violation of this ordinance, or any regulation adopted thereunder, is hereby declared to be a common nuisance. The owner and/or possessor is then liable for maintaining a common nuisance.
- (d) Any owner and/or possessor of real estate who:
 - (1) violates, or who permits a violation of any provision of this ordinance; or
 - (2) who fails to comply with any requirements of this ordinance; or
 - (3) who builds, reconstructs, or structurally alters a **building** or **structure** in violation of a detailed statement or plan for which an approval or grant is given under this ordinance shall be fined between \$50 and \$1500 for each determination of violation or failure to comply. Each day that the violation or failure to comply is permitted to exist will constitute a separate violation. In addition to the penalties provided herein, the Area Board of Zoning Appeals or the Administrative Officer bringing this action may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the owner and/or possessor of real estate found to have violated this ordinance or any orders or permits issued hereunder.
- (e) Any action permitted to be commenced under this section against any owner and/or possessor of real estate, may also be brought

Handwritten signatures and initials:
AK
CWS
AK
CWS

ORIGINAL

against the owner of any personal property who has furnished that property or permitted it to be placed on real estate in a manner which results in any violation of this ordinance.

- (f) No permit application or land use petition, other than one intended as a Corrective Action under Section 6-3-3 of this Ordinance, may be submitted relative to any property which is the subject of an unresolved zoning violation.

Section 2: Eliminate **UZO Section 6-3-2 INDUSTRIAL PERFORMANCE STANDARDS**, and insert **UZO Section 6-3-2 PROCEDURE** and the following sections to read as follows:

6-3-2 PROCEDURE: NOTICE OF ZONING VIOLATION:

- (a) Upon determination of a zoning violation, a written Notice of Zoning Violation shall be delivered via certified mail to the Subject Property's legal owner(s) of record, as determined from the records of the County Auditor.
- (b) The Notice of Zoning Violation shall:
 - (1) identify the location of the zoning violation;
 - (2) detail the specific nature of the violation;
 - (3) cite the section(s) of the Ordinance violated;
 - (4) provide options for remedying the violation;
 - (5) establish a date, not less than fifteen calendar days following the mailing of the violation notice, by which resolution of the violation must occur, and;
 - (6) indicate the fines and penalties that may accrue if the violation remains unresolved.
- (c) If the certified letter containing the Notice of Zoning Violation is returned undelivered, additional written notice shall be posted in a conspicuous location at the Subject Property. No further notification shall be required.

6-3-3 CORRECTIVE ACTION:

Upon receipt of a Notice of Zoning Violation, the owner of the Subject Property must, not later than the deadline date established in the Notice of Zoning Violation:

- (a) bring the property into compliance with the Ordinance; or
- (b) file for a **variance, special exception**, rezoning, or other land use petition as necessary to resolve the violation; or
- (c) file a formal appeal of the Notice of Zoning Violation with the **ABZA**, which shall be docketed for the next available regularly scheduled hearing of the **ABZA**; or
- (d) propose, and have accepted by the **Administrative Officer**, an extended timeline or other alternative means of achieving compliance.

MB
CRA
RU

6-3-4 FAILURE TO REMEDY, AND ONGOING ENFORCEMENT:

- (a) If at least ninety (90) days have elapsed from the mailing of the Notice of Zoning Violation and the violation remains unresolved, the **Administrative Officer** may record with the County Auditor a statement enumerating all outstanding fees and fines related to the Notice of Ordinance Violation, as provided by IC § 36- 1-6-2. Said list shall include the name of the owner(s) of the parcel(s) of real property on which fees are delinquent; the legal description of the subject property as shown on the records of the County Auditor; and the amount of the delinquent fees.
- (b) The list shall then be certified by the County Auditor and recorded with the County Recorder.
- (c) A lien shall then be placed on the property owner's tax duplicate. The total amount shall be collected in the same manner as delinquent taxes are collected and shall be distributed to the general fund.
- (d) If the violation is not corrected within thirty (30) days following the imposition of a lien as noted above, a lawsuit may be commenced by the designated enforcement entity in a court of general jurisdiction in Tippecanoe County, Indiana, as prescribed in this Ordinance, in IC § 36-1-6, and by other applicable laws and ordinances.

6-3-5 REPEAT VIOLATIONS:

If a zoning violation is substantially similar to a zoning violation that occurred on the same property, and under the same ownership, as a violation that occurred not more than five years prior, the 15-day grace period described in Section 6-3-2(b) of this Ordinance will be removed, and fines will begin the day the Notice of Zoning Violation is mailed.

6-3-6 ZONING ORDINANCE CITATION NOTIFICATION PROCESS:

- (a) For violations listed below in 6-3-6(b) and (c), the **Administrative Officer** may choose to issue a citation notification as outlined in this Section, before taking further action under 6-3-1. The purpose of this Section is to help protect the public health, safety, and general welfare of the community by allowing an alternative process to correct violations of this ordinance.
- (b) Land use violations that are subject to the citation notification process include:

- Junk yards**
- Child Care Home**
- Child Care Center**

Home Businesses (not legal **Home Occupations**) such as but not limited to:

- Lawn care
- Vehicle repair
- Building contractor

Handwritten initials and signatures in blue ink on the right margin, including "MB", "CR", and "RU".



ORIGINAL

Small engine repair
 Billboard/**outdoor advertising sign**
Transient guest house
Agricultural rental hall
 Boarding **kennel**
Breeding kennel
 Construction/demolition disposal site
 Buildings in FP zones
 Amusement and recreation (outdoor) SIC 7999

- (c) Development standard violations that are subject to the citation notification process include:

Electronic signs/**changeable copy signs** changing more frequently than once per minute
 On-premise **signage**
 Fill in the **Flood Plain**
 Signs in public **right-of-way**
Home occupation limitations
 Clear **vision setback**
 Fences
Setbacks for porches, decks and **accessory buildings**
Event oriented signs

- (d) In the event of a violation under 6-3-6(b) or (c), the **Administrative Officer** may issue a citation notification, either in person or by certified letter, to the owner and/or possessor who violates, or who permits a violation of any provision of this ordinance. The person shall then have 15 days from the date of notice to contact the **Administrative Officer** and remedy the violation. If the violation is not corrected, or if no response is made within 15 days, the **Administrative Officer** may issue notice of a fine in an amount not to exceed \$250. If the violation is not corrected and no response is made to the **Administrative Officer** after 30 days, a second notice of fine may be issued in double the amount of the first fine. If the violation is not corrected and no response is made to the **Administrative Officer** after 45 days, a fine in triple the amount of the first fine may be issued, and the **Administrative Officer** may take further action under 6-3-1.
- (e) Nothing in this Section shall preclude or limit the Area Board of Zoning Appeals or any **Administrative Officer** from seeking any remedy under 6-3-1.

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

MB SK RK
 CW

WP
08
14

ADOPTED AND PASSED BY THE TOWN COUNCIL OF THE TOWN OF
DAYTON, INDIANA THIS 8 DAY OF August, 2012.

Jon Munn
Presiding Officer

ATTEST
Rowke
Clerk-Treasurer

ORIGINAL