

ORIGINAL

**BEING AN ORDINANCE TO AMEND
THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE
REGARDING LANDSCAPING/PLANTING MAINTENANCE AND PRESERVATION UNDER
DEVELOPMENT STANDARDS**

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

WHEREAS, the State enabling act also provides for amendments to the comprehensive zoning ordinance to further promote the health, safety and general welfare; and

WHEREAS, the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing with due notice as required by law, for consideration of proposed amendments and favorably recommends (8-1) said amendments to the Board of Commissioners of Delaware County, Indiana.

WHEREAS, the Board of County 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 the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Delaware County, Indiana that the text of the Delaware County Comprehensive Zoning Ordinance, heretofore adopted on the 11th day of December, 1973, be amended, changed and supplemented as follows:

Section 1. That Article XXX, Section 5, Subsection B5, Item i7, of the Delaware County Comprehensive Zoning Ordinance be amended by deleting the existing text which reads as follows: "It shall be the responsibility of owners and their agencies to ensure proper maintenance of the landscaping. This is to include replacing plantings, with identical varieties or a suitable substitute, which die during the first growing season following their installation."; and by inserting the following new provisions:

ARTICLE XXX

Section 5 (B 5) (i)

7) Maintenance: Trees, vegetation, irrigation systems, fences, walls and other landscape material that are installed as required per this ordinance, the Plan Commission and/or the Board of Zoning Appeals are essential elements of a project. The petitioner and/or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:

- a. All plant material shall be maintained alive, healthy, and free from disease and pests and all plant materials which die following their installation shall be replaced with identical varieties or suitable substitutions.

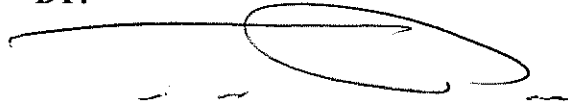
- b. All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance.
- c. All landscape structures such as fences and walls shall be repaired or replaced periodically to maintain aesthetically appropriate and structurally sound conditions.
- d. The maintenance and routine care of plant material located within the rights-of-way shall be the responsibility of the adjacent property owners.

For purposes of this section, maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item that would constitute a safety hazard to pedestrian or vehicular traffic.

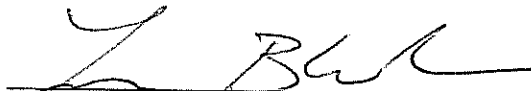
Section 2. This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Delaware County, Indiana, and such publication is required by law.

Section 3. This Ordinance is adopted this 2 day of March.

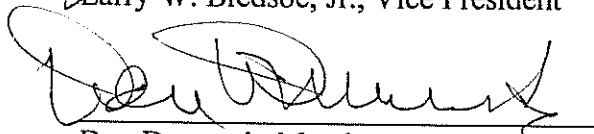
**BOARD OF COMMISSIONERS
DELAWARE COUNTY, INDIANA
BY:**



Todd Donati, President



Larry W. Bledsoe, Jr., Vice President



Don Dunnuck, Member

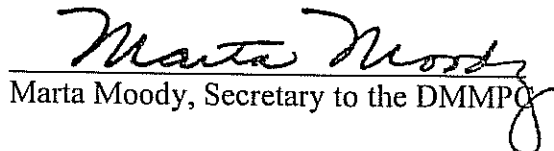
ATTEST:



Judith Rust, Auditor
Delaware County, Indiana

Presented us in regular session this 5th day of February, 2009 and by us favorably recommended (8-1) this 5th day of February, 2009.

**DELAWARE-MUNCIE
METROPOLITAN PLAN COMMISSION**



Marta Moody, Secretary to the DMMP