

ORDINANCE # 2571
OF THE COUNTY OF LAKE

AN ORDINANCE TO AMEND the Unincorporated Lake County Unified Development Ordinance, County of Lake, State of Indiana, adopted June 13, 2023 specifically to add **Title 154**, Unified Development Ordinance 2560; **Article 16**, Additional Regulations of General Applicability; **Chapter 080**, Regulations for Solid Fill, and to add **Title 154**, Unified Development Ordinance 2560; **Article 16**, Additional Regulations of General Applicability; **Chapter 090**, Regulations for Soil and Sand Excavation.

BE IT ORDAINED by the County Council of the County of Lake, State of Indiana that the Unincorporated Lake County Zoning Ordinance be amended as follows:

.....
INSERT:

154-16-080 Regulations for Solid Fill

A. Special Exception Required

No person shall transfer, dump, or place upon lands, public or private, solid fill within unincorporated Lake County, Indiana without first obtaining a special exception under this section. Solid fill shall include soil, gravel, sand, clay, or stone. Solid fill shall not include construction and demolition debris, concrete, asphalt, brick, block, tile, slag, ash, or fly ash. Solid fill shall be clean, inert material free from vegetative or other organic matter, yard waste, trees, branches, stumps, brush, garbage, and material subject to organic decomposition. Solid fill containing items such as hollow containers, appliances, and equipment subject to subsequent collapse or settlement is prohibited. Deposit of any solid fill of a non-native nature is prohibited. Also, solid fill does not include materials contaminated with hazardous, solid or infectious wastes.

B. Exemptions

No special exception is required for the following:

1. The transfer, excavation, dumping, or placement on any property outside of a subdivision (including contiguous property under the same ownership and within one 365-day period, of less than 10 cumulative cubic yards of solid fill;
2. The deposit of less than 50 cumulative cubic yards of topsoil (the upper layer of soil, usually darker and richer than the subsoil) outside of a subdivision for establishing lawns or planting beds, within one 365-day period;
3. Excavation associated with the establishment of a foundation for any structure subject to an approved building permit;

4. Filling pursuant to the requirements of an approved building or demolition permit;
5. Customary top dressing or fertilizing of lawns and gardens;
6. The deposit or application of solid fill on the site of a public project authorized by the appropriate public agency of Lake County. Public project, as used in this section, means any road, park, public building, or other public work. Compliance with the conditions of 154-16-080.F is mandatory with respect to any authorized public project.
7. The deposit or application of solid fill allowed or required under the Lake County Stormwater Management and Clean Water Regulations Ordinances. Compliance with the conditions of 154-16-080.F is mandatory with respect to any authorized public project.

C. Application.

Application for a special exception to transfer, place, or dump solid fill within unincorporated Lake County shall be made by the owner of the lands to be filled or his or her authorized agent in writing and submitted to the plan commission on forms made available office of the plan commission. The completed application shall be filed with the plan commission by the tenth day of the month preceding the month that the plan commission considers the application at their regularly scheduled meeting. A separate special exception shall be obtained for each act of filing. The applicant shall set forth in the application the following information and attachments, as well as any other information required by the special exception application form:

1. Location of solid fill operation;
2. Proposed route for hauling solid fill;
3. Number, type, size and license number of trucks to be used;
4. Proposed trucking schedule, number of days, and time of day;
5. Equipment (other than trucks) involved in the solid fill operation;
6. Quantity of solid fill to be moved, excavated, or deposited;
7. Description (including maps) of work to be done;
8. Proof of suitable access, including any licenses or permission necessary;
9. A description of the purpose of the solid fill operations;
10. A plan or drawing, signed and sealed by an Indiana Registered Land Surveyor or Indiana Licensed Professional Engineer containing:
 - a. A legal description of the property;
 - b. A drawing of the property containing the exterior boundaries of the property with referenced to a United States Land Survey Corner;
 - c. Indication of any Special Flood Hazard Areas contained on the property;
 - d. Date, scale, and North arrow;

- e. Name and address of the owner, petitioner, and surveyor or engineer preparing the site plan;
- f. A small-scale drawing of the section or government subdivision where the property lies, with the property clearly identified therein;
- g. Location and names of owners of adjoining parcels of land, including owners of land across any rights-of-way, easements, waterways, ditches, tributaries, or the like;
- h. Necessary plan views, profiles, cross-sections, and detailed drawings describing the area to be filled along with existing and proposed topography, contours (at minimum 2-foot intervals), and drainage patterns before and after the completion of the project (2 drawings required);
- i. The location and elevation to which the proposed filling will be made in relation to the elevation of adjoining streets or other public ways, easements, railroad or utility rights-of-way, parks cemeteries, water courses, drainage ditches, swamps, low areas subject to flooding, buildings, bridges, improved or unimproved properties, and any other pertinent data as determined by the plan commission. If there are no adjoining improved streets within any reasonable distance, the County Highway Engineer and Lake County Surveyor shall determine the maximum allowable elevation of the filled area above which no further filling shall be made. In no case shall the proposed filling occur above maximum zoning district building height limit, using the original undisturbed contours as the beginning elevation from which to measure height;
- j. The water elevation of adjoining lakes or streams at the date of the site plan and approximate high and low elevations of such lake or stream. All elevations shall be referred to NAVD 88 Vertical Datum;
- k. If the boundaries of the filled area border a lake or stream, the distances or bearings of a meander-line established not less than 20 feet back from the ordinary high-water mark of the lake or stream;
- l. The location of any existing or proposed buildings or structures on the property or within 50 feet of any property line;
- m. Plans for all retaining walls or fencing, if proposed or necessary;
- n. A Phase I Environmental Site Assessment (ESA) is required to be submitted with a Solid fill Permit Application for placing 500 cubic yards or more of solid fill on a site in any residential zoning district classification or 1,000 cubic yards or more of solid fill in any zoning district.
- o. Indication of the gross land area of property to be filled;
- p. Dimensions of the filled area; and
- q. Any other information or items which may be required by the plan commission or plan commission staff deemed necessary for review.

11. Identification of the soil type and source of solid fill to be utilized in any solid fill operation and method of compaction to be employed;
 12. Proof or evidence showing payment of all taxes and assessments to date against the property in question;
 13. Written approval of compliance with the Lake County Stormwater Ordinance (as amended), erosion control, and any other related ordinances or codes as may be required (this shall include appropriate measures to prevent any adverse or negative effect to neighboring properties);
 14. Written comments from the Lake County Highway Department regarding the entrance to the property and proposed haul route along Lake County roadways or any other adverse effect a hauling operation may have on public ways or places;
 15. Any approvals or comments from any federal, state, or local agency that may be required.
- D. Fee
Commensurate with the approved fee schedule for special exceptions.
- E. Financial Assurance
The applicant or petitioner shall provide financial assurance necessary to provide security for performance of the work, protection of public property, human health, the environment, and indemnification of unincorporated Lake County for its costs and fees. All persons, firms, or corporations requesting and receiving approval shall give surety to Lake County in the amount of 100% of the project cost to be approved by the Lake County Commissioner's Attorney as to form and by the Lake County Board of Commissioners as to sureties. In addition, to be conditioned that the person, firm, or corporation conducting the solid fill operation shall conform with this Ordinance and any specifications, rules, regulations, commitments or conditions prescribed by the plan commission in their approval. Further, whereupon the board of zoning appeals acts to approve a special exception for a solid fill operation, it is understood and expressly implied that any person, firm, or corporation who conducts such a solid fill operation shall protect, save harmless, and pay Lake County for any and all liability, damages and expenses which Lake County may sustain by reason of granting such special exception.
- F. Conditions
The approval of any special exception for the placement of solid fill shall be subject to the following conditions:
1. That the filling operation will not create noise, traffic or other problems detrimental to any residential community in the area of filling;
 2. There shall be no filling between the hours of 5:00 p.m. and 7:00 a.m. on weekdays or at any time on Saturday, Sunday, or a federal or state holiday;
 3. The plan commission shall set the number of trucks involved based on the location of the solid fill operation and the traffic conditions in the area;

4. Special exceptions for solid fill operations shall be for a period not to exceed 6 consecutive months in a calendar year.
 5. Special exceptions for subsequent periods when total filling operations exceed 6 consecutive months will be subject to conditions and fees governing a new initial application;
 6. Special exceptions for solid fill operations shall be subject to all of the conditions set forth by the county council in their approval;
 7. Applicant or petitioner shall satisfy all of the requirements of the special exception;
 8. Special exceptions shall be subject to the complete, valid and accurate maintenance of all of the required conditions of approval;
 9. Solid fill shall not be left in a rough or unleveled condition for more than 10 consecutive days;
 10. Erosion control shall be installed and maintained at least for 60 days after the completion of the solid fill operation;
 11. The solid fill site shall be seeded and mulched within 30 days after becoming an inactive state.
 12. A solid fill site that does not receive solid fill for 30 days is an inactive site. Any attempt to activate a site that does not receive fill for 30 days or more shall be treated as a new request for the placement of solid fill.
- G. **Hazardous Waste Prohibited**
No solid fill may be deposited in unincorporated Lake County, whether pursuant to special exception or exempt from permitting under this section, which solid fill constitutes hazardous waste under state or federal law. The plan commission, or designee, may order immediate removal of any solid fill which constitutes hazardous waste.
- H. **Licenses and Drainage Courses**
Solid fill operations shall also be subject to applicable county, state, or federal license or permit requirements. Solid fill operations shall not block or divert a natural drainage course without proper permits.
- I. **Permit**
The plan commission is authorized to issue a Solid Fill Permit to each applicant after said applicant receives site development plan approval by the commission or their designated planning staff when satisfied that the applicant meets the conditions of this section and has received approval from the board of zoning appeals (BZA). The Permit shall be in the form of a written letter signed by the director of the plan commission briefly outlining the final approval of the board of zoning appeals and any requirements set through the site development process.
- J. **Appeal**
Any person who is unduly aggrieved by a decision of the board of zoning appeals regarding a special exception granted under this section may file a timely appeal under I.C. 36-7-4-

1016(a) for judicial review of a zoning decision with the circuit or superior court of Lake County, Indiana.

K. Penalty

Any person who violates this section or who fails to comply with the terms and conditions of the special exception shall be subject to fines and penalties. Any person or corporation, whether as principal, agent, employee, or otherwise, who violates any provision of this UDO shall be guilty of a misdemeanor and upon conviction shall be fined in accordance with Article 20.

L. Responsibility for Violation

Property owners shall be responsible for violations of this section on their property. In addition, any person performing any work or labor shall be responsible for any violation of this section by such person or by any agent or employee. A subcontractor, and the agents or employees of a subcontractor, for the purposes of this section, shall be considered agents or employees of a property owner. Also, any and all contractors shall be licensed to conduct excavating or filling commensurate with the Unincorporated Lake County Licensing Ordinance.

M. Prohibition on Obstruction of Drainage

In no event shall the deposit or transfer of solid fill, whether subject to a special exception under this section, obstruct the natural flow of drainage from one property to another, nor shall the deposit or transfer of solid fill negatively affect any neighboring property by changing drainage patterns to increase or channel the flow onto another property.

N. Within 30 days after the termination of the excavation, final elevations certified by an Indiana Registered Land Surveyor shall be presented to the plan commission. Stated final elevations to the nearest one-tenth of a foot shall be in conjunction with elevations that were designated on the site plan approved by the plan commission.

O. The solid fill regulations of this section do not apply to mining or quarrying operations defined in 154-7-060.F.

.....
INSERT:

154-16-90 Regulations for Soil & Sand Excavation

Special Exception Required

The following regulations apply to sand and soil excavation. No excavation may occur under this section prior to the approval of a Special Exception. In addition to other requirements for a Special Exception the following items under Paragraph C, "Necessary Conditions" shall be included in the application for Special Exception.

P. Definitions

For the purpose of this section, the following terms shall have the following meanings:

1. Sand

Individual rock or mineral fragments in soils having diameters ranging from 0.05 to 2.00 millimeters. Most sand grains consist of quartz, but they may be any mineral composition. The textural class name of any soil that contains 85% or more sand and not more than 10% clay.

2. Soil

A natural, three-dimensional body on the earth's surface that has properties resulting from the integrated effect of climate and living matter acting on earthly parent material, as conditioned by relief over period of time.

3. Excavation

A removal by digging (e.g. sand, soil, etc.).

Q. Purpose and Intent

The intent of these supplemental use regulations is to regulate "soil" or "sand" "excavation" within the unincorporated areas of Lake County. The removal of sand or soil from a parcel of real estate may have an adverse effect on neighboring property owners, land use, and physical characteristics such as: roadways, topography, flood control, soil conservation, and residential, commercial or industrial development. If proper safeguards are not established, the health, safety, morals, and general welfare of the public may be unfavorably affected. Sand or soil excavation is not to be confused with residential, commercial, or industrial site excavation where a valid building permit for all proposed construction has been obtained. Also, soil or sand excavation is not to be confused with grading, landscaping, septic system installation, or any secondary functions related to a valid building permit. In addition, this paragraph is not intended to halt site excavation for required work with regard to approved subdivisions nor is it intended to halt excavation on "farms" where ponds are created for farm related purposes (e.g. irrigation) and the excavated soil or sand is not removed from the property. It is, however, intended to regulate or stop the removal of any such soil or sand which shall be unduly detrimental to the adjoining or surrounding properties or shall be unduly detrimental to the health, safety, morals, or general welfare of the public. The special exception procedure for soil or sand excavation is meant to apply to all excavations except those specifically excluded in this paragraph.

R. Necessary Conditions

All persons, firms, or corporations requesting and receiving approval shall make reasonable provisions to prevent sand, dirt, or loose soil from blowing or spilling over on the premises of others or upon any public lands. For the purpose of this paragraph, sand or soil excavation may be permitted provided:

1. An "Excavation Plan" is submitted. Such plan is to provide the petitioner and review and decision-making bodies grounds on which to reach agreement and to provide a basis for a public hearing as required by this UDO. The plan is to be completed and certified by a professional engineer duly licensed in the State of Indiana. The plan shall be legibly drawn at a scale of no less than 100 feet to one inch and shall contain the following information:

- a. Legal description and survey, done within the last 5 years, of the property containing the excavation. Also, legal description of the excavation if the special exception will cover an area smaller than the total property concerned.
 - b. Date, scale, and "North" arrow;
 - c. Name and address of the owner, developer, excavator, and engineer or surveyor preparing the plan;
 - d. A small-scale drawing of the section or government subdivision of the section in which the excavation lies, with the location of the excavation indicated thereon;
 - e. Location and names of owners of adjoining parcels of land;
 - f. Necessary plan views, profiles, cross-sections, and detail drawings completely describing the excavation. The location and elevation to which the proposed excavation will be made in relation to existing elevations;
 - g. The location and elevation to which the proposed excavation will be made in relation to the elevation of adjoining streets or other public ways, easements, railroad or utility rights-of-way, parks, cemeteries, water courses, drainage ditches, swamps, low areas subject to flooding, permanent buildings, bridges, improved or unimproved properties and other pertinent data as determined by the plan commission staff. If there are no adjoining improved streets within any reasonable distance, the County Highway Engineer shall determine the elevation of depth below which no excavation shall be made.
 - h. The length and bearing of the exterior boundaries of the excavation with reference to a United States Land Survey corner;
 - i. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low elevations of such lakes or streams. All elevations shall be referred to U.S.G.S. datum;
 - j. If the boundaries of the excavation border a lake or stream, the distances and bearings of a meander-line established not less than 20 feet back from the ordinary high-water mark of the lake or stream;
 - k. Indication of the gross land area of the excavation;
 - l. Dimensions of the excavation;
 - m. Soil information indicated, according to the published soil survey;
 - n. Any other requirements which may be imposed at the time of special exceptional approval.
2. The following items shall be supplied and attested to by a soil scientist registered in the State of Indiana:
 - a. Description of soil type to the finished depth of the excavation. Pertinent soil (sand) information, ground water level, hydraulic design data, and other geological data as required by the plan commission staff;

- b. **Statement of topography;**
 - c. **Seasonal elevation of the water table;**
 - d. **In addition, the plan commission staff may require a water management plan to include both disposition of surface drainage and, where needed, provisions for subsurface drainage to drain high water table soils.**
- 3. **An erosion and sediment control plan to include both temporary and permanent erosion control measures to stabilize disturbed soils and prevent off-site pollution of waters and damage to land.**
- 4. **Comments, conditions, commitments or requirements from the following specified departments based on submission of the "Excavation Plan", "Erosion and Sediment Control Plan" and soil (sand) information supplied and attested to by a soil scientist registered in the State of Indiana to each in the following manner:**
 - a. **Two copies each to the Lake County Health Department, Lake County Highway Department, and the Lake County Surveyor's Office;**
 - b. **Two copies to the Lake County Soil and Water Conservation Service;**
 - c. **Two copies each to any public utility which services the general area of the proposed excavation;**
 - d. **Two copies to the Indiana State Highway Department if it is determined by the Planning Staff that the removal of sand or soil by a commercial vehicle using a state road will affect that roadway in an adverse manner;**
 - e. **Two copies to the Indiana Department of Environmental Management; and**
 - f. **Two copies to the Lake County plan commission staff. It shall be the responsibility of the petitioner to circulate the above stated copies and obtain and forward all comments to the plan commission staff by the deadline for the applicable meeting.**
- 5. **Signs advertising the sale of soil or sand shall not be placed anywhere on the lot, plot, or tract of land containing the excavation.**
- 6. **All persons, firms, or corporations requesting and receiving approval shall give surety to the County in the amount of \$10,000.00 to be approved by the County Attorney as to form, and by the Board of County Commissioners as to sureties and to be conditioned that the person, firm, or corporation removing the sand or soil shall conform with the ordinance, specifications, rules, regulations, commitments and conditions prescribed by the county council and shall protect and save harmless the county from any and all liability, damages and expenses which the county may sustain by reason of granting such special exception.**
- 7. **Within 60 days after the termination of the excavation, final elevations shall be presented to the plan commission staff; such elevations are to be certified by a surveyor licensed in the State of Indiana.**

IS HEREBY X BY THE
APPROVED DENIED NO ACTION

COUNTY COUNCIL OF LAKE COUNTY, INDIANA, THIS 12th DAY OF

March, 2024.



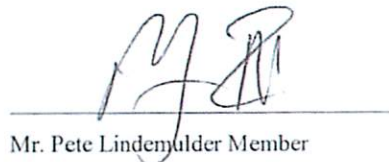
Mrs. Christine Cid, President



Mr. Dave Hamm, Vice President



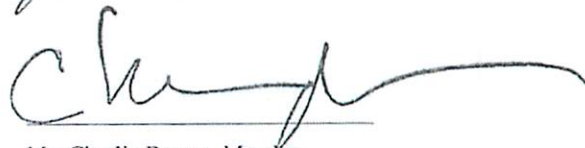
Mr. Ronald Brewer, Member



Mr. Pete Lindemulder Member



Mr. Ted Bilski, Member



Mr. Charlie Brown, Member



Mr. Randy Niemeyer, Member