

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF TIPTON COUNTY,
INDIANA AMENDING THE TIPTON COUNTY ZONING ORDINANCE 2008-12, AS
AMENDED

WHEREAS, IC 36-7-4-602 provides that a Zoning Ordinance may be amended; and

WHEREAS, the Plan Commission did initiate a process to consider amendments to the Zoning Ordinance as it pertains to mineral extraction regulations, and

WHEREAS, the Plan Commission did in considering the proposal pay reasonable regard to the comprehensive plan, current conditions and character of 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 development and growth, and

WHEREAS, the Plan Commission did hold a public hearing on the matter on June 8, 2023. After the public hearing was held and closed; the Plan Commission tabled the matter until July 6, 2023 and voted 8-0 to give a favorable recommendation on the amendments, and

WHEREAS, the Plan Commission did certify to the Board of Commissioners on July 7, 2023, the attached amendments with a favorable recommendation,

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tipton County, Indiana, that:

SECTION ONE: The Tipton County Zoning Ordinance Section 517 Mineral Resources is hereby repealed and replaced with Attachment A.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS THIS _____
DAY OF _____ 2023.

TIPTON COUNTY BOARD OF COMMISSIONERS

Dennis Henderson, President

Nancy Cline, member

Tracey Powell, Member

ATTEST:

Melissa Pickering, Tipton County Auditor

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Mark R. Regnier.

Prepared by Steve Niblick, Tipton Plan Department Executive Director
Reviewed by Mark Regnier, Attorney for the Tipton County Board of Commissioners

ATTACHMENT A

517 MINERAL RESOURCES: Nothing in this Ordinance shall prevent the use and alienation of mineral resources by the owner or alienee. However, any such use shall be subject to the following standards:

517.01 Mineral extraction must comply with all applicable sections of Indiana Code including IC 14-35 Mining as amended.

517.02 No production shall be started, nor shall any permit be issued until the Board shall have made a written determination with respect to the conditions under which such operation shall be conducted. The Board shall investigate the area to be developed, as well as the surrounding area, in order to determine the conditions to be prescribed so as to protect surrounding property.

517.03 In their review, the Board shall determine that the following standards are met, but may, where deemed necessary, make reasonable exceptions:

- A. That the site will be used for mineral extraction activities (as defined). Concrete batching plants and mixing plants for portland cement or asphaltic concrete, and the manufacture of concrete, clay or cement products are only permitted if zoned industrial. All mineral extraction and related uses are subject to the performance standards prescribed in Section 309 of this Ordinance and shall be removed upon completion of active mining at the site upon which they are located.
- B. No production from an open pit shall be permitted which creates a finished slope steeper than two feet to one foot vertical for the excavation of sand and gravel, or which creates a finished slope steeper than one foot horizontal to one foot vertical for the excavation of products other than sand and gravel, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe by Mine Safety and Health Administration standards, a vertical cut thereafter of any depth shall be allowed.
- C. Property to be used for production shall be enclosed by a five (5) foot tall cyclone fence with an additional one (1) one foot of barbed wire (2-3 strands) along the exterior boundaries for the promotion of safety and general welfare of the community.
- D. Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.
- E. Access roads to any site shall be limited to two, or at most three points and shall be constructed on a level with the pavement of any public street or highway for

a distance of not less than 80 feet therefrom and said 80 feet of road shall be improved and maintained with a dustless, all weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the highway department.

- F. Upon the completion of operations, the land shall be left in a safe condition as shown on the Plan of Rehabilitation (see Section 517.03) so that sufficient drainage is provided so as to prevent water pockets or undue erosion, with all grading and drainage such that natural storm water leaves the entire property at the original, natural drainage points, and that the area drainage to any one such point is not increased. All overburden piles shall be placed back into the excavated areas, except where used for ground contouring, etc.
- G. Vehicles carrying materials from the site shall be loaded in such a manner as to prevent spilling rock, gravel, or sand or other materials of a similar nature while in transit upon roads and highways. Haulers are responsible for the control of all loads (including tarps).
- H. Primary hours of operation activities permitted in the plant area shall be limited to the hours of 6:00 am to 10:00 pm. Explosives shall be used only between 7:00 am and 7:00 pm. All activities shall follow the above time limits except in the following situations:
 - a. Where required by public authorities;
 - b. Where work load/market demand requires a continuous flow of materials;
 - c. Where necessary due to public emergencies; or
- I. Setbacks: Overburden removal, material extraction and processing shall not be conducted closer than seventy-five (75) feet from the property line when adjacent to occupied residential land or a county road or twenty (20) feet from the property line of non-occupied farm land. The setback area shall only be used for berms, safety fencing, guardrails, greenbelt area, signage, access roads, and public notice signs identifying the operation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Tipton County Zoning Ordinance. To reduce the effects of airborne dust, dirt, and noise, all equipment for crushing, screening and sizing aggregates shall not be built closer than three hundred (300) feet from any public street right-of-way or from any adjoining residentially used property district.
- J. Water Quality. Water quality and availability protection for neighboring properties shall be governed by IC 14-25 as amended.

K. Air Quality. Air quality protection for neighboring properties shall be governed by IC 13-17 as amended.

517.04 All applications for mineral extraction shall be accompanied by a map or plat showing the existing conditions of the area proposed for mining (including existing contours and drainage); a plan of the operational and excavation areas; and a plan of development showing the rehabilitation and reuse of the entire site following extraction. A detailed reclamations/closing plan shall be submitted to the county 10-15 years before the closing of the mine.

A. The following additional information shall be included with the special exception and site plan applications:

a. When the site is located within a 100 year floodplain or a floodway, a report by a qualified soil scientist, soils engineer or geologist regarding the effect the proposed operation will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such.

b. A detailed description of the method of operation including an operations and restoration plan for the extraction of the natural resource's deposits. The operations and restoration plan shall include the following:

1. A site access plan showing transportation routes to the mine site.

2. A site plan outlining the on-site transportation routes, berms / fences, processing plant / stockpile area(s), mining area(s), topsoil / overburden stockpile area(s), proposed office, truck scales, shop, etc.

3. General site plan showing post-mining reclamation and potential use(s).

c. A Storm Water Plan employing best management practices as required by the approved Drainage Plan/Agreement on file with the Tipton County Surveyor.

B. Operations: Resource related industries including, but not limited to: gravel grinding operations, concrete mixing plants and asphalt batching plants shall not be permitted as a part of the operation unless the activity is located in a Zoning District which would permit such a use with the exception of concrete recycling.

517.05 Change in Ownership: It is the responsibility of the owner or operator listed in the application to inform the Plan Commission staff of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

517.06 Economic Development Agreement. For all mineral extraction operations, the applicant shall submit an Economic Development Agreement approved by the Tipton County Board of Commissioner in consultation with the County Council, Redevelopment Commission and/or Audit Finance Committee. If required by Tipton County during its review of the Economic Development Agreement, the applicant shall pay all outside professional costs associated with County's review.