

Revised  
Ord 42-12

**REPORT TO THE COMMON COUNCIL OF  
THE CITY OF MUNCIE, INDIANA**

September 27th, 2012

**To the Honorable:**

Common Council of the City of Muncie, Indiana

**Dear Council Members:**



The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on AN ORDINANCE TO AMEND THE TEXT OF THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE REGARDING PUBLIC UTILITIES.

**WHEREAS**, the Delaware-Muncie Metropolitan Plan Commission is charged, by state statute, with the preparation of amendments to the zoning ordinance in order to maintain a viable updated ordinance dealing with planning and zoning and said Commission has reviewed, revised and adapted certain standards for the City of Muncie, Indiana.

**WHEREAS**, the said Plan Commission initiated a public hearing and, following discussion and the public hearing, a motion was made, seconded and approved to forward a favorable recommendation for the proposed amendment as attached with revisions.

**WHEREAS**, the said Plan Commission 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 in the jurisdiction and responsible growth and development.

**NOW, THEREFORE**, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS** (8-0) the proposed amendment to the City of Muncie Comprehensive Zoning Ordinance regarding public utilities as more accurately set forth in the attached revised Ordinance to Amend; revisions are in bold, italicized and underlined.

**DELAWARE-MUNCIE METROPOLITAN  
PLAN COMMISSION**

**BY:**

  
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Tom Green, President

  
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Marta Moody, Secretary

**REVISED ORDINANCE NO. 42-12**

**BEING A REVISED ORDINANCE TO AMEND  
THE TEXT OF THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE  
REGARDING DEVELOPMENT STANDARDS FOR PUBLIC UTILITIES**

**WHEREAS,** the State enabling act for planning and zoning empowers the City Council of Muncie, 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,** a key element of the Muncie-Delaware Comprehensive Plan is to improve the appearance of the City which, in turn, is tied to promoting the general public welfare from a physical, social and economic standpoint, thus improving the appearance is of societal benefit; and

**WHEREAS,** the provision of public utility services, including electric power, is an essential component of our current quality of life, thus the provision of such power by an electric utility is of societal benefit; and

**WHEREAS,** there is a need to provide sensible and reasonable land use standards to allow for the reliable public utility service to all structures while, at the same time, minimizing the potential for adverse, undesirable visual effects of the facilities and while still allowing them in locations that do not unduly drive up the cost of the improvements; and

**WHEREAS,** the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing for consideration of the proposed amendment in order to forward a recommendation regarding said amendment to the City Council of Muncie, Indiana, all as required by law; and

**WHEREAS,** the Common Council 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 Common Council of the City of Muncie, Indiana, that the text of the City of Muncie Comprehensive Zoning Ordinance, being a part of the Muncie City Code, heretofore adopted on the 5<sup>th</sup> day of November, 1973, be amended, changed and supplemented as follows:

**Section 1.** That Article IX, Section 6, PUBLIC UTILITIES of the City of Muncie Comprehensive Zoning Ordinance be amended by **deleting** the existing text which reads as follows:

***Section 6***

*The provisions of this Ordinance shall not be construed to limit or interfere with the construction, installation and maintenance of public utility transmission facilities subject to the following:*

- 1. Aboveground utility structures shall be located at least ten (10) feet from a fire hydrant, shall not adversely impact the line of sight for any driveway, shall be placed in compliance with the provisions for visibility at intersections, and shall not interfere with another utility's access to, maintenance of or operation of its facilities.*
- 2. For aboveground utility structures greater than three (3) feet in height and nine (9) cubic feet in volume, where practical and useful to ameliorate the aesthetic impact of the utility structure the City or County may require that the utility company screen the utility structure with plantings, landscaping materials, fences, walls or any combination of these methods. Screening, if required, must be equally effective in all seasons. Screening shall not be required in the F Farming Zone.*

*All enclosed utility buildings shall comply with the Development Standards set forth in Article XXX and the setbacks contained in the underlying zone.*

**Section 2.** That a new Article IX, Section 6 PUBLIC UTILITIES shall be inserted into the City of Muncie Comprehensive Zoning Ordinance as follows:

**ARTICLE IX PUBLIC UTILITIES**

**Section 6**

**A INTENT**

Public service facilities shall be a permitted use in all zoning districts. These provisions are intended to provide context sensitive design for sensible and reasonable land use standards that allow for the provision of reliable public utility service to all structures. At the same time, there is a need to minimize the industrial appearance that can result in adverse, undesirable visual effects not compatible with the character of the area surrounding the facilities while still allowing them in locations that do not unduly drive up the cost of the improvements.

**B APPLICABILITY**

The Development Standards provisions of this section shall apply to the following new or relocated public utility facilities:

1. Utility Substations for electric, gas and other public utility services.

2. Other Utility Facilities such as lift stations, telephone switches, ground mounted transformers, and similar utility cabinet facilities.

## C DEVELOPMENT STANDARDS

### 1. Utility Substations

- a. No facility shall be located within one hundred feet (100') of a structure containing a residential use, school, or institution for residential care.
- b. All facilities shall meet the minimum setbacks and height regulations for the zoning district in which it is located and the visibility at an intersection regulations as set forth in this Ordinance.
- c. All outdoor above ground facilities shall be screened from view from public rights-of-way and abutting properties by an enclosure that is designed to appear to be a building, provided the structures are not finished in metal, unfinished concrete, vinyl or aluminum siding, or by an opaque screen consisting of either a masonry, natural stone or decorative concrete wall or a wooden, composite resin or vinyl fence. Chain link fencing is prohibited unless the facility is located in an industrial zoning district. The opaque screen shall be considered a part of the facility subject to the regulations and distance requirements set forth above and shall not be less than eight feet (8') in height except that where the facility is adjacent to residential use, the minimum height shall be ten feet (10'). Architectural features such as columns shall be added to the opaque screen at corners and at twenty-five feet (25'), at minimum, increments along the length of the screen on all sides.
- d. No outdoor storage, such as found in a pole or pipe yard, shall be permitted unless the facility is located in an industrial zoning district and complies with the requirements applicable in that zoning district.
- e. All lighting shall comply with the provisions set forth in Article XXX, Section 6 and where stronger lights are needed for emergency work, lights shall be on a switch to be operated during the emergency work and shall be directed downward, away from adjoining property and roadways to the extent possible.
- f. All facilities shall meet the bufferyard development and design standards for warehouse/light industrial use in all setbacks (rear, side, street side and front) as set forth in Article XXX, Section 7, except that shade trees may be replaced with evergreen trees where conflicts may occur with overhead transmission and/or distribution lines. Tree and shrub monocultures are not permitted.

### 2. Other Facilities

- a. Aboveground utility structures shall be located at least ten (10) feet from a fire

hydrant, shall not adversely impact the line of sight for any driveway, shall be placed in compliance with the provisions for visibility at intersections and the Americans with Disabilities Act, and shall not interfere with another utility's access to, maintenance of or operation of its facilities.

- b. For aboveground utility structures greater than three (3) feet in height and nine (9) cubic feet in volume, where practical and useful to ameliorate the aesthetic impact of the utility structure, the City may require that the utility company screen the utility structure with plantings, landscaping materials, fences, walls or any combination of these methods. Screening, if required, must be equally effective in all seasons.

#### **D EXISTING FACILITIES AND EXPANSIONS**

Existing utility facilities that do not meet the development standards set forth above are considered lawful nonconforming structures. Expansion of those facilities shall meet the enclosure requirements set forth above. Expansions that increase the land area by more than 25% shall meet the development standards set forth in Article XXX, Section 6 on the expanded portion of the facility and on the existing facility to the extent possible.

**Section 3. That new definitions shall be alphabetically inserted into Article XXXIII, Section 2 TERMS AND MEANING of the City of Muncie Comprehensive Zoning Ordinance as follows:**

**Utility Facilities, Other: A single piece of equipment or an assemblage of equipment that provides a public utility service that is aboveground, smaller in scope than a substation, and may generally be referred to as a lift station, telephone switch, ground mounted transformer, regulator station, utility cabinet and like terms.**

**Utility Substations: An assemblage of equipment for transforming, boosting, switching or pumping purposes that provide public utility service where such facilities are constructed aboveground, a majority of the equipment is at a height greater than six feet (6'), and the land area containing the assemblage of equipment is greater than twenty feet by twenty feet (20' x 20') in a non-residential zoning district and greater than six feet by six feet (6' x 6') in a residential zoning district.**

**Section 4.** That this Ordinance shall be in full force and effect from and after its adoption and such publication as required by law.