

STATE OF INDIANA
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

ORDINANCE NO. 2017 – OR – 002

AN ORDINANCE AMENDING *ORDINANCE 2009-19 – REGULATING THE DUMPING OF FILL MATERIAL WITHIN THE TOWN OF SELLERSBURG, INDIANA*

WHEREAS, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

WHEREAS, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

WHEREAS, from time to time, this Council desires to amend its previously adopted ordinances; and,

WHEREAS, this Council previously adopted *Ordinance No. 2000 – 19 Regulating the Dumping of Fill Material within the Town of Sellersburg, Indiana*; and,

WHEREAS, this Council now desires to amend *Ordinance No. 2000 – 19 Regulating the Dumping of Fill Material within the Town of Sellersburg, Indiana*; and,

WHEREAS, this Council has considered this ordinance in an open meeting at which the public were invited to attend and participate.

NOW THEREFORE BE IT ORDAINED by this Town Council of Sellersburg, Indiana as follows:

- A. *Ordinance No. 2000 – 19 Regulating the Dumping of Fill Material within the Town of Sellersburg, Indiana* is hereby amended to include the following language:

1. There shall be no landfill dumping within the municipal limits of the Town of Sellersburg without a State permit approving said landfill dumping;
2. *[Intentionally Omitted]*
3. That the herein Ordinance is enacted to define the dumping, the control of the dumping and disposal of fill material within the municipal limits of the Town of Sellersburg and to establish the penalties for violation of the herein ordinance as well as providing for the cleanup for any violation thereof for purposes of this ordinance, the following definitions shall apply unless the context clearly indicates it requires a different meaning.

4. **Definitions:**

DUMPING - The discarding of items of solid waste commonly known as gravel, soil, earthen material, rock, concrete (whether whole or crushed), asphalt (whether whole or crushed), any construction or demolition materials.

PERSON - Any person, corporation, organization, partnership, or other entity.

DISCARDING - The disposal of any solid waste material which is abandoned, recycled or inherently waste like and which is placed upon land in a manner that constitutes the disposal of the same or is used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land in which cases the product itself remains a solid waste.

FILL- Gravel, soil, rock, concrete (whether whole or crushed), asphalt (whether whole or crushed), construction or demolition materials or any combination thereof To add earth, soil, rock, etc., to a low land until a required level is reached. A piece of land artificially raised to a required level.

5. No person shall engage in the filling or dumping at any location within the municipal limits of the Town of Sellersburg unless such location shall be an approved landfill site.
6. The Town Council for the Town of Sellersburg desires to regulate within its Town limits the dumping of any fill dirt in all areas within the municipal limits of the Town and specifically requires that each person whether having obtained a State permit for said landfill dumping **or desiring to place more than a cumulative amount of 6**

cubic yards of dirt within a 365 day period or place any construction or demolition materials or any combination thereof on any parcel shall present to the Town of Sellersburg **Building Commissioner** a proposal and plan for dumping of any fill dirt or material within the municipal limits of the Town of Sellersburg and obtain a **Location Improvement Permit** prior to the initiation of any fill material dumping.

7. If the Town of Sellersburg **Building Commissioner** refuses to grant approval to the person **desiring place more than 6 cubic yards of dirt or place any construction or demolition materials or any combination thereof on any parcel** within the municipal limits of the Town of Sellersburg, said person shall be entitled to file an appeal with the Sellersburg Board of Zoning Appeals for consideration. The decision of the Sellersburg Board of Zoning Appeals shall be final.

8. Any person who does not obtain a **Location Improvement Permit** after a denial of approval by the Town of Sellersburg **Building Commissioner** and thereafter **places more than 6 cubic yards of dirt or place any construction or demolition materials or any combination thereof on any parcel** shall be fined not more than \$1,000.00 per day **and** not less than \$250.00 per day for the violation. In addition, this person may be required to remove fill dirt, fill material, **or construction or demolition materials or any combination thereof**, which has been placed or dumped without the approval of the Town of Sellersburg **Building Commissioner** or the Town of Sellersburg Board of Zoning Appeals.
 - i. In the event the Town of Sellersburg shall be required to pursue legal action to prevent or stop dumping of fill dirt, fill material **or construction or demolition materials or any combination thereof**, if the person is found to be in violation of the herein ordinance, said individual will be required to pay the Town of Sellersburg's legal costs and fees associated with the enforcement of the herein ordinance.

 - ii. If the Town of Sellersburg **Building Commissioner** or the Town of Sellersburg **Board of Zoning Appeals** grants the authority to the person for the **placement of more than 6 cubic yards of dirt or place any construction or demolition materials or any combination thereof on any parcel** within the municipal limits of the Town of Sellersburg, the person who dumps said fill dirt or **placed any construction or demolition materials or any combination thereof** on any parcel shall state the time period in which said fill dirt or construction or demolition materials or any combination thereof will be

allowed to be dumped, and the exact content of all fill material. In no event shall a person be authorized to dump fill material within the municipal limits of the Town of Sellersburg for a period of more than three (3) months without obtaining an extension from the Town of Sellersburg **Building Commissioner**. If the Town of Sellersburg **Building Commissioner** refuses to grant the extension of time, the person shall be entitled to appeal their decision to the Sellersburg **Board of Zoning Appeals**. The decision of the Town of Sellersburg **Board of Zoning Appeals** shall be final.

9. Anyone having knowledge of any dumping at any location throughout the Town of Sellersburg shall give such information to a law enforcement officer or the Town of Sellersburg Building Commissioner who shall investigate the site, along with the assistance of such other Town officials that are deemed necessary to determine from what source said fill material or fill dirt has originated, the manner of dumping, and whether the owner or person in possession of the property on which the fill dirt or fill material is located is aware and consented to said dumping.
10. Upon determining the identity **landowner listed on the property record maintained by the Clark County Auditor, the Sellersburg Building Commissioner shall issue a written order in person or by Certified Mail**, directed the owner of said real property on which the dumping has occurred, to remove and cleanup said fill dirt, fill material **or any construction or demolition materials or any combination thereof** within the time period of no less than thirty (30) days. Failure to comply with this order shall require the **Sellersburg Building Commissioner** to initiate the cleanup and removal of said materials as required and all costs and expenses associated with the removal and cleanup of said materials, including but not limited to all land fill fees of an approved landfill site, and all Town law enforcement officials' time incurred in the enforcement of the herein ordinance, shall be chargeable to the person, individual, corporation, organization, partnership or entity identified with said dumping location.
11. Any person identified as having violated the prohibited dumping provisions of the herein ordinance and who are owners of real property within the municipal limits of the Town shall have the cost of said cleanup of the area billed to said property owner. If the property owner fails to pay the charges associated with the cleanup within sixty (60) days from the date of mailing, then said costs shall be assessed and certified to the Clark County Auditor and Treasurer, said costs and assessment shall be placed on the tax role of such property owner as an additional assessment for "dumping clean up" and shall be payable by such property owner in the same manner and subject to the same penalties as real property taxes. In the alternative, the Town Attorney shall be entitled to seek injunctive or

other relief through the courts of Clark County, and obtain orders requiring individuals, corporations, partnerships, organizations, including non-profit organizations to clean up the dumping area and prohibiting further and future dumping in violation of this ordinance.

12. In the event that the area of **the dumped** materials is owned by more than one corporation, individual, or entity or there is information identifying more than one individual, person, corporation, or entity for the cleanup of the whole dumpsite, all actions authorized under the herein ordinance shall be taken against any and all such violators regardless if other such individuals are located.

13. A fee of \$250.00 shall be collected by the Sellersburg Building Commission for the issuance of a Location Improvement Permit as required by this ordinance.

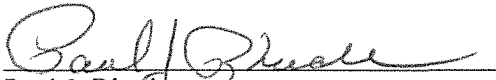
B. This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

[Signature page to follow]


So Ordained this 30 day of January, 2017

“Aye”

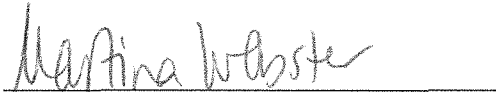
“Nay”


Paul J. Rhodes
Council President

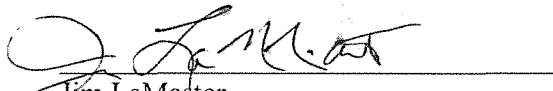
Paul J. Rhodes
Council President


Brad Amos
Council Vice President

Brad Amos
Council Vice President


Martina Webster
Council Member

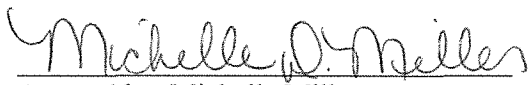
Martina Webster
Council Member


Jim LaMaster
Council Member

Jim LaMaster
Council Member

William Conlin
Council Member

William Conlin
Council Member


Attested by: Michelle Miller
Sellersburg Clerk-Treasurer