

ORDINANCE NO. 2024- 49
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY
WITHIN THE ZIONSVILLE CORPORATE BOUNDARIES
PURSUANT TO INDIANA CODE § 36-7-3-12**

WHEREAS, Indiana Code § 36-7-3-12 provides for the process by which public ways may be vacated; and,

WHEREAS, on November 18, 2024, the Dunitz 2020 Trust, represented by Scott Dunitz (collectively “Petitioner”), petitioned the Town of Zionsville (“Town”) to vacate a portion of a public right-of-way (a north/south platted alley) located between Fourth (4th) Street and Fifth (5th) Street, extending southward 120.00 feet from the south right-of-way of Ash Street to the north right-of-way of a 16.5 foot wide platted alley, pursuant to Indiana Code § 36-7-3-12; and,

WHEREAS, the Town caused to be published notice of the petition and the time and place of the public hearing in the December 5, 2024 issue of the Lebanon Reporter, a copy of which proof of publication was submitted to the Town Council of Zionsville, Indiana (“Town Council”) and the Petitioner notified by certified mail each owner of land abutting the portions of the public alley right-of-way proposed to be vacated; and,

WHEREAS, on December 16, 2024, the Town Council held a public hearing on the petition to vacate the portion of the right-of-way, with proper notice under Indiana Law to all interested and potentially aggrieved parties; and,

WHEREAS, no potentially aggrieved individual has objected under the statutory grounds provided under Indiana Code § 36-7-3-13; and,

WHEREAS, the Town Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant vacation of the portion of the public alley right-of-way described herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana, that:

Section 1: Description of the Right-of-Way. The Right-of-way legally described herein and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated:

That part of a 10-foot wide alley lying adjacent to Lots 8 and 9 in Cross’ Fourth Addition to Zionsville, Boone County, Indiana, as per plat thereof recorded in Plat Book 2, pages 1 – 2, in the Office of the Recorder of Boone County, Indiana,

extending from the south right-of-way of Ash Street to the north right-of-way of a 16.5 foot wide platted alley.

Section 2: Ownership, Maintenance, Repair and Liability. The portion of the Alley to be vacated measuring 10.00 feet in width and 120.00 lineal feet ("Vacated Area") is bordered on the east by property addressed as 445 West Ash Street ("Dunitz 2020 Property") and bordered on the west by property addressed as 475 West Ash Street ("Voigt Property"). This vacation will transfer the ownership of the Vacated Area equally with the east half being transferred to the Dunitz 2020 Property and the west half being transferred to the Voigt Property, including all ongoing maintenance, repair obligations and all liability.

Section 3: Utilities. The portion of the alley to be vacated shall remain as a perpetual utility easement ("U.E."). The Town retains the right to maintain, operate, repair and replace, by itself or by any licensee or holder of a franchise from the Town, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operations of any utility now, or as may be necessarily installed in the future, located in the portion of the public alley right-of-way vacated by this Ordinance. The rights afforded to the Town in this section shall also apply to any and all independent utilities legally operating within the state of Indiana.

Section 4: Costs. Petitioner for this public alley right-of-way vacation shall, within 90 days after the passage of this Ordinance, pay to the Town of Zionsville the amount necessary to defray all costs of removing any items from the Right-of-way, including paving and curb returns abutting the vacated Right-of-way, if any.

Section 5: Recording. The Municipal Relations Coordinator of the Town of Zionsville, Indiana shall provide a copy of this Ordinance to the Boone County Recorder for recording and shall file the same with the Boone County Auditor. All such filings shall be in compliance with Ind. Code § 32-21-2-3(a). The mailing address of the grantee, Dunitz 2020 Trust c/o Scott Dunitz, is 445 West Ash Street, Zionsville, IN 46077.

Section 6: Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope of intent of the clause to which the appertain.

Section 7: Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions herein, if any, are of no further force or effect and are hereby repealed.

Section 8: Severability. If any part of the Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 9: Duration and Effective Date. The provisions of this Ordinance shall become and remains in full force and effect upon passage and until its repeal by ordinance.

Introduced and filed on the 16th day of December, 2024. A motion to consider on First Reading was sustained by a vote of 7 in favor and 0 opposed, pursuant to Indiana Code § 36-5-2-9.8.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

ORDINANCE NO: 2024-__49__

This instrument was prepared by: Heather Harris, Partner, Barnes & Thornburg LLP,
11 South Meridian Street, Indianapolis, IN 46202, (317) 231-6448.

This Ordinance contains no Social Security Numbers. As required by Ind. Code § 36-2-11-15, 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.

ORDINANCE NO: 2024- 49

NOTARY

STATE OF INDIANA)

) SS:

COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared

Jason Plunkett,

Brad Burk,

Tim McElderry,

Craig Melton,

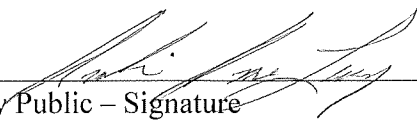
Evan Norris,

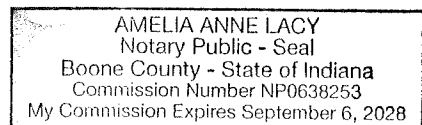
Sarah Sampson,

Joe Stein,

who acknowledged the execution of the foregoing document.

WITNESS my hand and Notarial Seal this 6th day of January, 2025.


Notary Public – Signature



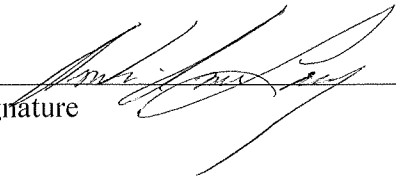
Amelia Anne Lacy
Notary Public – Printed

My Commission Expires: 09/06/2028

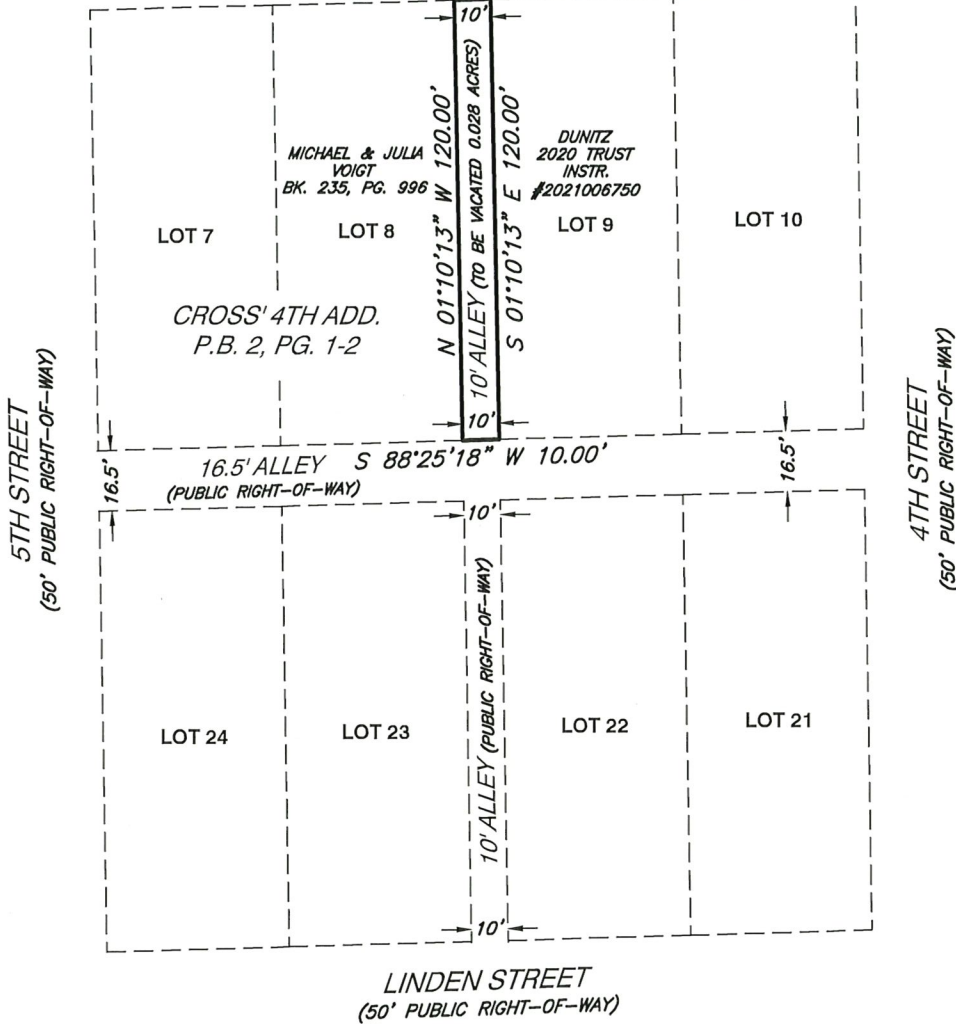
County of Residence: Boone

ORDINANCE NO: 2024- 49

EXECUTED AND DELIVERED in my presence:


Signature

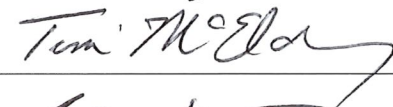
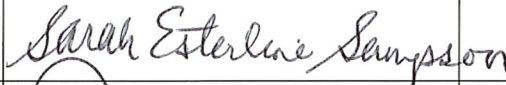
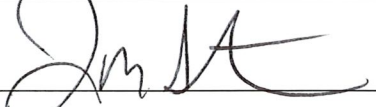
Amelia Anne Lacy
Printed Name



ORDINANCE NO: 2024- 49_

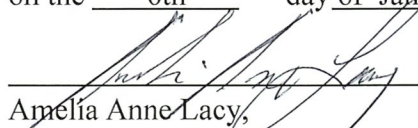
DULY PASSED AND ADOPTED this 6th day of January, 2025 by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote 7 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

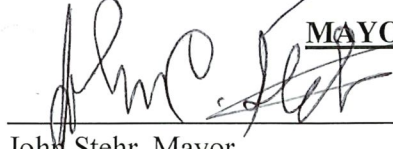
	YEA Signature	NAY Signature
Jason Plunkett, President		
Brad Burk, Vice-President		
Tim McElderry		
Craig Melton		
Evan Norris		
Sarah Esterline Sampson		
Joe Stein		

I hereby certify that the foregoing Ordinance was delivered to the Town of Zionsville Mayor John Stehr on the 6th day of January, 2025, at 8:50 A.m.

ATTEST:


Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL


John Stehr, Mayor

1-7-2025
Date

MAYOR'S VETO

John Stehr, Mayor

Date

Tax I.D. 82-2664009

To: The Lebanon Reporter

117 E. Washington St. Lebanon, IN 46052

Zionsville Town Council

(Governmental Unit)

Boone County, Indiana

PUBLISHER'S CLAIM

TLR- 803

Ad # 1909768

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head - number of lines

Body - number of lines

Tail - number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

<u>74</u> lines,	<u>1</u> columns wide equals	
<u>74</u> equivalent lines at	<u>0.5562</u> cents per line	\$41.16
Additional charge for notices containing rule or tabular work (50 percent of above amount)		
Charge for extra proofs of publication (\$1.00 for each proof in excess of two)		
Total Amount of Claim		\$41.16

DATA FOR COMPUTING COST

Width of single column in picas 9.9 Size of type 7 point.Number of insertions 1

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times. The dates of publication being as follows:

5-Dec-24

Additionally, the statement checked below is true and correct:

- ☐ Newspaper does not have a Web site.
- ☒ Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper.
- ☐ Newspaper has a Web site, but due to technical problem or error, publish notice was posted on _____
- ☐ Newspaper has a Web site but refuses to post the public notice.

Date: December 4, 2024

Title: Legal Advertising Clerk

NOTICE OF PUBLIC HEARING
BY THE TOWN OF ZIONSVILLE
TOWN COUNCIL

Notice is hereby given of a Public Hearing to be held by the Zionsville Town Council on Monday, December 16, 2024, at 7:30 a.m. in the Zionsville Town Hall, Room 105 - Council Chambers, 1100 West Oak Street, Zionsville, Indiana 46077, to consider the Vacation of Public Alley.

The area to be Vacated is generally described as a north/south public alley, located between N. 4th Street and N. 5th Street, extending southward from Ash Street to the first east/west alley south of Ash Street, and is legally described as:

That part of a 10-foot wide alley lying adjacent to Lots 8 and 9 in Cross' Fourth Addition to Zionsville, Boone County, Indiana, as per plat thereof recorded in Plat Book 2, pages 1 - 2, in the Office of the Recorder of Boone County, Indiana, extending from the south right-of-way of Ash Street to the north right-

Public Notices

of-way of a 16.5 foot wide platted alley.

A copy of the Petition for Vacation, and all plans pertaining thereto are on file and may be examined prior to the Public Hearing from 8:00 a.m. to 4:00 p.m. Monday through Friday, except for holidays, in the Office of Planning at the Town Hall, 1100 West Oak Street, Zionsville, Indiana 46077. Written comments in support of or in opposition to the Petition for Vacation filed with Amy Lacy, Municipal Relations Coordinator for the Town of Zionsville prior to the Public Hearing will be considered. The Public Hearing is open to the public. Oral comments to the Petition for Vacation will be heard at the Public Hearing.

The Public Hearing may be continued from time to time as may be found necessary.

Upon request, the Town of Zionsville will provide auxiliary aids and services. Please provide advance notification to the Technology Department, assistance@zionsville-in.gov or 317-873-1577, to ensure the proper accommodations are made prior to the meeting.

Jason Plunkett
Town Council President
Amy Lacy
Municipal Relations Coordinator
TLR-803 12/5 hspaxlp 1909768

ATTACH COPY OF ADVERTISING STATEMENT HERE