

**AN ORDINANCE AMENDING CHAPTER 94 OF THE MORGAN COUNTY  
CODE OF ORDINANCES FOR PROPERTIES LOCATED  
WITHIN THE JURISDICTION OF MORGAN COUNTY, INDIANA**

**WHEREAS**, The Board of Commissioners of the County of Morgan (“Commissioners”) is the executive and legislative body of Morgan County, Indiana (“County”), a political subdivision of the State of Indiana; and,

**WHEREAS**, in this role, the Commissioners are charged with administering the business of County government, which includes the need to take certain actions to protect the citizens of the County from conditions which are considered detrimental to public health, safety, and general welfare; and,

**WHEREAS**, the Commissioners previously adopted an Ordinance addressing the control of weeds, grass, and other vegetation, which is codified in Section 94.20 through 94.25 and Section 94.99; and,

**WHEREAS**, circumstances have evolved, and additional concerns have presented themselves, such that the Commissioners believe that the best interests of the citizens of the County are protected by amending the Ordinance to include additional public nuisance conditions that are negatively impacting property owners and all citizens in numerous ways; and,

**WHEREAS**, in addition to the inclusion of additional public nuisance conditions, the amended Ordinance provides an opportunity for property owners to correct potential public nuisance violations before the County pursues abatement activities; and,

**WHEREAS**, the Commissioners believe that amending the above-referenced Ordinance is prudent, and perhaps necessary, in order to best ensure the public health, safety, and general welfare of the citizens of the County and to continue to make the County an attractive place to live, work, and play.

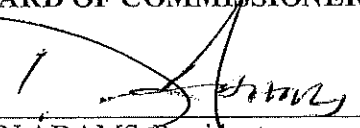
**NOW THEREFORE BE IT ORDAINED**, by The Morgan County Board of Commissioners that Chapter 94 of the Morgan County Code of Ordinances shall be amended as follows:

1. Chapter 94 of the Morgan County Code of Ordinances is titled “Public Nuisances” and primarily concerns two (2) distinct areas within public nuisance, those being labeled as “Excessive Noise” (Section 94.01- 94.06) and “Weeds, Grass, and Other Vegetation; Control” (Section 94.20- 94.25. There is also a Section 94.99 concerning penalty provisions.
2. Sections 94.01- 94.06 and 94.99 remain unchanged by this Ordinance.
3. Sections 94.20- 94.25 shall be deleted.

4. The revised Section 94.20 through 94.23 of the Morgan County Code of Ordinances is attached hereto and incorporated herein, the same being labeled as "Exhibit A" and shall be inserted into the Code in the corresponding Section location and shall replace the previously enacted Sections 94.20 through 94.25.
5. The penalty provisions proscribed in the newly adopted Section 94.23 shall be effective after the amended Ordinance is published in the Martinsville Daily Reporter, one (1) time per week for two (2) consecutive weeks, in accordance with I.C. § 5-3-1.
6. All other provisions of this Ordinance shall take effect at such time as the Ordinance is duly and lawfully adopted by the Morgan County Board of Commissioners and executed by its President.
7. All ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed.
8. Should any Section, Paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid the remainder of said Ordinance shall continue in full force and effect.

IN WITNESS WHEREOF, ALL OF WHICH IS AGREED, ADOPTED, and SO  
ORDAINED, this 18<sup>th</sup> day of ~~September~~  
October, 2021.

MORGAN COUNTY, INDIANA  
BOARD OF COMMISSIONERS

  
DON ADAMS, President

ATTEST:

  
DAN BASTIN  
Morgan County Auditor

  
KENNY HALE

  
BRYAN COLLIER

*Weeds, Grass, and Other Vegetation; Control*

**§ 94.20 PURPOSE AND INTENT.**

It is hereby declared that the purpose of this Chapter is to regulate and control the growth of weeds and other rank vegetation and to require the cutting and removal of the same, as well as to make it unlawful for any property owner or occupant to allow a public nuisance, as defined herein and by I.C. § 32-30-6-6, to exist on any real property located within the County. These provisions shall apply to all real property used for residential purposes as well as all real property used for commercial purposes, that are not otherwise exempt herein. The intention of these provisions is to protect the public health, safety, and general welfare of the citizens of the County as well as to protect the natural beauty and environment of the County, and the cumulative result of which shall be maintaining and enhancing the County as a safe, clean, and desirable place to live and work.

**§ 94.21 DEFINITIONS.**

As used in this chapter, the following terms shall have the following meanings unless otherwise designated.

**ABANDONED VEHICLES.** Shall have the same meaning as I.C. § 9-13-2-1, which includes but is not limited to, any motor vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. Farm equipment, farm implements, or machinery parts that are, or may be, used in agricultural operations, or may be considered antique farming implements are not **ABANDONED VEHICLES** for the purposes of this Chapter 94.

**CODE ENFORCEMENT OFFICIAL.** The Morgan County Department of Planning and Zoning shall be responsible for the administration of this Ordinance until and unless the Board of Commissioners determine it is necessary to designate another agency or employee of the County to do so; this person(s) shall also be referred to as the Code Enforcement Official throughout this Chapter.

**GARBAGE.** Includes putrescible animal and vegetable wastes, resulting from the handling, preparation, cooking and consumption of food, and any **REFUSE, RUBBISH, and YARD WASTE** as defined herein.

**HEARING AUTHORITY.** The Board of Commissioners or their designee who is responsible for hearing appeals for a notice of violation and/or appeals on abatement costs.

**JUNK.** Shall include, without limitation, abandoned vehicles, parts of vehicles, scrap iron and/or other metals, wood, paper, rags, rubber tires, bottles, and/or any dismantled household appliances or parts thereof, whether inoperable or operable.

**NUISANCE.** Whatever is: (1) injurious to health; (2) indecent; (3) offensive to the senses; or

(4) an obstruction to the free use of property; so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action. I.C. § 32-30-6-6

**OWNER.** A person holding legal or equitable title to real property used for residential or commercial purposes within the unincorporated limits of Morgan County, Indiana.

**PERSON.** An individual, partnership, limited liability company, corporation, trust or any commercial association or venture, however defined.

**PUTRESCIBLE.** Substances which are subject to organic decomposition.

**REFUSE.** All putrescible and nonputrescible solid wastes, including animal wastes, and ashes.

**RUBBISH.** Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, construction debris, and similar materials.

**WEEDS and RANK VEGETATION.** Any excessive growth of vegetation, other than trees, bushes, shrubs, ornamental plants, that is twelve (12) inches or more in height and/or listed as a weed in the U.S. Department of Agriculture publication entitled Common Weeds of the United States, or in any similar government publication. This term does not include agricultural crops, including hay and pasture, which are maintained for that purpose in areas crops are permitted to be grown and does not include portions of a golf course or golf course property which are intended to remain as wooded areas or hazard areas associated with the golf course.

**YARD WASTE.** Severed grass, weeds, leaves, brush, tree trimmings, hedge clipping and other yard and garden materials.

#### § 94.22 WEEDS, RANK VEGETATION, GARBAGE, AND JUNK PROHIBITED.

(A) **Weeds, rank vegetation, garbage and junk declared public nuisances.** Weeds, rank vegetation, garbage and junk as herein defined that constitute violations of this chapter are declared to be public nuisances due to the danger to the public health, safety, and welfare of the citizens of the County.

(B) **Violation.** It is a violation of this Chapter for an owner to allow weeds or rank vegetation to grow to a height in excess of twelve inches (12”), or for an owner to allow garbage, and/or junk to accumulate on real property located within the County used for residential or commercial purposes, thereby creating a public nuisance affecting a neighborhood or community as may be determined by the Code Enforcement Official.

(C) **Prevention of public nuisances.** All owners shall cut and remove weeds and rank vegetation and shall keep their real property clear of garbage and junk.

(D) **Violation Report and Violation Notice.** All alleged violations of this Chapter shall be subject to the following:

- 1) **Violation Reports.** Violations of this Chapter shall be reported on forms to be provided by and submitted to the Code Enforcement Official ("Violation Report"). A Violation Report may be submitted by any resident of Morgan County.
  - 2) **Inspections.** Following the submission of a Violation Report by neighbors or community members that allege a violation of this Chapter, the Code Enforcement Official shall inspect the real property that is the subject of the Violation Report and file an inspection report which shall include the following determinations:
    - i. Whether the owner has violated this chapter;
    - ii. If any of the Violation Reports were filed for purposes other than to report a violation under this Chapter; and
    - iii. If the Violation Reports were submitted by neighbors or community members.
  - 3) **Violation Notices.** Upon determination that the owner has committed a violation of this Chapter, the Code Enforcement Official, or its designee, shall issue a written notice ("Violation Notice") to the owner and any occupants of the property. The Violation Notice shall identify the violation(s) and order the owner to mitigate the public nuisance within ten (10) business days from the date on which the owner has been served the Violation Notice ("Abatement Period"). Personal service, service by U.S. certified mail, or any other manner of service recognized in the Indiana Rules of Trial Procedure shall constitute proper service upon the owner and any occupants of the property for the purposes of this Chapter. Additionally, a copy of the Violation Notice shall be conspicuously posted on the property by the Code Enforcement Official, or its designee.
  - 4) **Abandoned Vehicles.** In the event the Violation Report, as confirmed by the inspection of the Code Enforcement Official, identifies one (1) or more abandoned vehicles on the subject property, the County shall comply with all due process requirements for notice and abatements of those abandoned vehicles as proscribed by Indiana Code, including I.C. § 9-22-1 *et seq.*
- (E) **Violation Notice Appeal.** Any Violation Notice issued pursuant to this Chapter may be appealed to the Hearing Authority if written notice of appeal is served on the Hearing Authority by the owner prior to the expiration of the Abatement Period. The timely appeal of a Violation Notice shall toll the Abatement Period pending the issuance of a decision thereon by the Hearing Authority.
- (F) **Failure to Comply after Abatement Period.** If the owner fails to timely abate each violation set forth in a Violation Notice within the Abatement Period, the Code Enforcement Officer or other person(s) designated by the Code Enforcement Officer may enter onto that property and take appropriate action to bring the property into compliance with the Ordinance and abate each public nuisance identified in the Violation Notice, as

proscribed by I.C. § 36-1-6 *et. seq.* Prior to taking such an action, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance.

- (G) **Abatement Costs.** Upon completion of the abatement, the Code Enforcement Official, or its designee, shall prepare a certified statement as to the actual administrative and other costs incurred by the County in taking such action, in addition to any penalties provided herein ("Abatement Costs"), and shall serve a copy of the invoice on the owner. The owner shall, within thirty (30) days from the date on which the owner is served with such invoice ("Payment Period"), pay in full the amount stated thereon payable to the Morgan County Treasurer.
- (H) **Appeal of costs.** Any invoice for abatement costs issued pursuant to this Chapter may be appealed to the Hearing Authority if written notice of appeal is served by the owner on the Hearing Authority within ten (10) calendar days from the date on which the invoice is served on the owner. The timely appeal of an invoice shall toll the payment period pending the issuance of a decision thereon by the Hearing Authority.
- (I) **Failure to pay.** If the owner fails to pay the Abatement Costs, If the owner fails to timely pay an invoice for Abatement Costs issued pursuant to this chapter, the Code Enforcement Official, or his or her designee, shall certify to the Morgan County Auditor the amount of the invoice for Abatement Costs, plus any additional administrative costs incurred in the certification of the same. The Morgan County Auditor shall place the total amount so certified on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be collected as delinquent taxes are and shall be disbursed to the General Fund of the County.
- (J) **Statutory Lien.** In addition to the collection procedures described above, the expenses incurred by the County in order to abate a public nuisance constitute a lien that attaches to the property when notice of the lien is recorded in the Office of the County Recorder. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed: (1) \$10,000.00 for real property that contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings or is unimproved, or (2) \$20,000.00 for all other property.
- (K) **Time of appeals.** The Hearing Authority shall hear any timely requested appeal of Violation Notice or invoice for Abatement Costs within thirty (30) calendar days following receipt of the same, and shall thereafter promptly issue a decision granting or denying, in whole or in part, the appeal. The date on which the Hearing Authority's decision is served on the owner shall thereafter become the first calendar day of the Abatement Period or Payment Period, as applicable.
- (L) **Miscellaneous.**
- 1) **Venue.** If enforcement proceedings or collection proceedings cannot be accomplished by the procedures herein and otherwise available in accordance

with statute, the Morgan County Circuit or Superior Courts shall be the Courts of proper venue and jurisdiction for the enforcement of the provisions of this Chapter.

- 2) **Cumulative remedy.** This Chapter supplements and does not limit any other remedy or action available in law or equity regarding the subject matter hereof.
- 3) **Applicability.** This chapter shall not apply to the following:
  - i. Agricultural and industrial operations as described in I.C. § 32-30-6-9;
  - ii. Forestry operations as described in I.C. § 32-30-6-11;
  - iii. Real property upon which agricultural crops are cultivated, including hay and pasture, as described in I.C. § 36-7-10.1-3(a); and
  - iv. Morgan County municipal corporations as defined in I.C. § 36-1-2-10, and Morgan County governmental units, departments, and school corporations.
- 4) **Abatement vendors.** The Commissioners may invite and accept no less than two (2) reasonable bids for abatement vendors who shall be private businesses and not any department of the County. Said vendors shall provide abatement services as independent contractors for violations of this Chapter including the abatement of weeds and rank vegetation, garbage and junk, and the bids may be renewed and updated at various times when deemed appropriate by the Commissioners.
- 5) **Funds Collected.** Any and all Abatement Costs, penalties, and fines collected as a result of violations of and pursuant to this Chapter shall be deposited into the General Fund of the County. The Commissioners and County Council may, in their discretion and as circumstances may warrant, disburse these funds to the General Fund of the Planning and Zoning Department.

§ 94.23      PENALTY

(A) In addition to the lien provisions outlined above for the payment of all Abatement Costs, which shall include any and all administrative costs, filing fees, reasonable attorney fees, or any other actual costs incurred by the Code Enforcement Officer, County Auditor, Board of Commissioners, abatement vendors, or any party related to the enforcement of this Chapter on behalf of the County in issuing the Violation Notice and taking whatever actions necessary to abate said violation(s), an owner may also be assessed a fine, in the discretion of the Code Enforcement Officer or Hearing Authority, as follows:

- 1) **First violation:** \$100.00;
- 2) **Second violation:** \$500.00; and
- 3) **Third and subsequent violations:** \$1,000.00.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.