

# LAGRANGE COUNTY, INDIANA

## ORDINANCE 2008-3-17

### AN ORDINANCE OF THE LAGRANGE COUNTY, INDIANA, AMENDING ORDINANCE NO. 6-8.1-93 OF THE LAGRANGE COUNTY CODE

WHEREAS, in the areas of LaGrange County, Indiana public nuisances are, or may in the future be, detrimental to the public health, safety, welfare and comfort of the citizens of LaGrange County; and

WHEREAS, public nuisances have been demonstrated as affecting and interfering with the enjoyment of and reducing the value of property by promoting the following: vandalism, the presence of vermin, creation of fire hazards and other safety and health hazards to children and adults, interference with the comfort and well-being of the public, and creation, extension and aggravation of blight; and

WHEREAS, adequate protection of public health, safety, welfare and comfort requires that public nuisances be regulated, prohibited and abated; and

WHEREAS, the County desires to amend Ordinance No. 6-8.1-93 to correct a numbering error, allow for fining property owners, and adopting a Nuisance Fee Schedule;

WHEREAS, Indiana Code § 36-8-2-4 allows local governments to regulate conduct, use or possession of property that might endanger the public health, safety or welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, STATE OF INDIANA, THAT ORDINANCE NO. 6-8.1-93 BE AMENDED AND RESTATED AS FOLLOWS:

#### **SECTION I**

Section I, Part E of Ordinance No. 6-8.1-93 is hereby amended to read as follows:

E. Public Nuisances: Public nuisances are defined in accordance with I.C. 36-8-2-4 and may include, but is not limited to, the following:

1. Litter;
2. Grass and weeds over twelve (12) inches high, but not including small trees and bushes;
3. Boxes, appliances, furniture, household items and tires, etc., but not stock or inventory used in conducting agricultural activities in a properly zoned area;
4. Demolition remains;
5. Accumulated garbage and trash;

6. Vehicle parts and scrap metal (including but not limited to those defined at I.C. 9-22-1-1 et seq.);
7. Structures defaced with paint or graffiti;
8. Any wastewater, filth, offal, garbage, rubbish, human excrement, which is deposited, allowed or caused to be upon any public or private property;
9. The construction of, or the placement of any structure or materials within the drainage way of any right of way that will prevent the natural flow of water and cause it to collect and pool upon any private or public property;
10. Any dead domestic or wild animal;
11. Any real or personal property that is infected with contagious disease and is likely to cause an immediate health hazard;
12. The placing or accumulating on or within any real or personal property or the permitting of same, of any matter which attracts or may attract rodents, insects, domestic or wild animals in such a manner as to create a health hazard or unsanitary or dangerous condition;
13. Trees, shrubbery, weeds, or other matter obstructing public ways, or causing visual barriers which create vehicular traffic or pedestrian safety hazards;
14. The unauthorized placement of fences, signs, shrubbery or barriers within the county road right of ways;
15. Junk vehicles as defined by this Ordinance, due to the danger to public health from vermin and insects that inhabit such vehicles, and the danger to safety of children attracted by such vehicles, except in lawfully operated junkyards that have been properly zoned and licensed;
16. Industrial machinery, unless located on land that is properly zoned for such use and owned by persons actively engaged in industry.

## **SECTION II**

Section II of Ordinance No. 6-8.1-93 is hereby amended to read as follows

### **SECTION II - INITIAL ACTION AND NOTICE**

A. The Department shall issue an order requiring remedial action to be taken relative to the removal of a public nuisance. The ordered action must be reasonably related to the condition constituting the public nuisance. Said order must be given in accordance with Section III of this Ordinance. The order must contain:

1. The name of the person to whom the order is issued; and
2. The address or the tax parcel number of the property that is the subject of the order;  
and
3. The action the order requires; and
4. The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given; and
5. A statement indicating that if the order is not complied with by the expiration of the time period, a hearing before the LaGrange County Commissioners, or their designee, (the "Enforcement Board") will be scheduled, and that the person to whom the order was issued shall be entitled to appear at the hearing with or

- without legal counsel, present evidence, cross examine opposing witnesses and present arguments; and
6. A statement briefly indicating what action can be taken by the Department if this order is not complied with; and
  7. A statement indicating the obligation created by this Ordinance relating to notification of subsequent interest holders and enforcement authority; and
  8. The name, address and telephone number of the Department.

B. In addition to an order, the Department may, at the sole discretion of the Department, also issue a citation to the owner of the property housing the nuisance for each violation. Each nuisance shall constitute a separate violation and each day a nuisance exists thereafter shall constitute a separate violation. The amount of the monetary penalty for each violation shall be determined from amounts stated in the most current version of the Nuisance Fee Schedule as kept by the Department.

### **SECTION III**

The current Nuisance Fee Schedule is attached hereto and designated as Exhibit "A". The Nuisance Fee Schedule is incorporated herein and shall be kept by the Department.

### **SECTION IV**

No part of this Ordinance shall be interpreted to conflict with federal, state, or local laws, and all reasonable efforts should be made to harmonize the same. Should any section or part thereof of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than that portion so declared to be invalid, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

### **SECTION V**

The express or implied repeal or amendment by this Ordinance of any other Ordinance or part of any other Ordinance does not affect any rights or liabilities accrued, penalties incurred, or procedures begun prior to the effective date of this Ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended Ordinance as if this Ordinance had not been adopted.

### **SECTION VI**

Unless otherwise set forth herein, this Ordinance shall become effective upon promulgation according to law.

Ayes:             3    
Nays:             0    
Abstentions:     0  

Adopted and Ordained this 17<sup>th</sup> day of March, 2008.

BOARD OF COMMISSIONERS OF THE  
COUNTY OF LAGRANGE

Phillip D. Curtis, President

George R. Bachman, Vice-President

Roger W. Boots, Member

ATTEST:

Jackie S. Boyle, Auditor

**WAIVER OF SECOND READING**

On motion duly made and seconded, the second reading of the foregoing Ordinance was unanimously waived and the Ordinance was deemed effective as of the date of passage.

BOARD OF COMMISSIONERS OF THE  
COUNTY OF LAGRANGE

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Phillip D. Curtis, President

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George R. Bachman, Vice-President

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Roger W. Boots, Member

ATTEST:

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Jackie S. Boyle, Auditor