

ORDINANCE NO. 658
ORDINANCE OF STEUBEN COUNTY BOARD OF COMMISSIONERS

An Ordinance concerning PUBLIC ENVIRONMENTAL NUISANCES

WHEREAS, the present ordinances of Steuben County do not adequately address the increasing problems caused by Public Environmental Nuisances.

WHEREAS, it is the express intent of this Ordinance to adopt I.C. 36-7-10-3 and I.C. 16-1-4-11, and to supplement Section 7.6 Subsection (A) "Physical Environment" and Amendment A-91-2 of the Zoning Ordinance of Steuben County.

NOW, therefore, be it ordained by the Board of Commissioners of Steuben County Indiana, that there is hereby established and adopted an ordinance to address the Public Environmental Nuisances as follows:

PUBLIC ENVIRONMENTAL NUISANCES

Section 1. Purpose and Intent

It is hereby declared to be the purpose of this ordinance to protect the public safety, health, and welfare and enhance the environment of the people of the county by making it unlawful to allow a public environmental nuisance to exist.

Section 2. Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning given in this section, unless a contrary meaning is required by the context or specifically otherwise prescribed. The word "shall" is mandatory and not discretionary or directory.

- (a) "Authorized Employee" means an individual designated by the Steuben County Plan Director/Zoning Administrator or by the Chief Sanitarian/Administrative Assistant of the Steuben County Health Department, to make public environmental nuisance inspections.
- (b) "County" means Steuben County Indiana, excluding the Corporate boundaries of the communities of Angola, Ashley, Clear Lake, Fremont, Hamilton, Hudson, and Orland.
- (c) "Public Environmental Nuisance" means any of the following:
 - (1) Property which has been allowed to become a health and/or safety hazard, and/or which has accumulated junk, debris, or waste products, (as defined in the Steuben County Zoning Ordinance Section 7.6 Miscellaneous and

Amendment A-91-2), unless specifically authorized under existing laws and regulations.

- (2) To institute, permit, or maintain any conditions whatsoever which may transmit, generate, or promote disease.
 - (3) Any growth of weeds, grass, or other rank vegetation on private property located in R-1, R-2, MH, LR, AB, LB, GB Zoning Districts, in platted residential subdivisions, or on parcels of two acres (2A) or less in A and EC Zoning Districts, which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of twelve inches (12") or more.
 - (4) Any accumulation of dead weeds, grass, or brush on private property located in R-1, R-2, MH, LR, AB, LB, and GB Zoning Districts, in platted subdivisions, or on parcels of two acres (2A) or less in A and EC Zoning Districts within view from a public way.
- (d) "Excluded Property" means any of the following:
- (1) Land cultivated for gross profit.
 - (2) A natural or developed forest, wildlife habitat, or conservation easement which does not create a health or safety hazard and which conforms to the requirements of the Indiana Department of Natural Resources.
 - (3) Vacant and open lands, fields, or wooded areas more than three hundred feet (300') from a residence or more than three hundred feet (300') from the center line of a public way.
- (e) "Inspector" means an employee of the Steuben County Plan Commission, the Steuben County Health Department, or any other governmental department of the County of Steuben, so designated by the Board of Commissioners having law enforcement powers to issue county ordinance violation citations in order to enforce the provisions of this ordinance.
- (f) "Owner" shall be presumed to be any one or more of the following:
- (1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants.
 - (2) The owner or owners of record as reflected by the most current records of the Office of the County Auditor.

- (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (g) “Private property” means all real estate within the County of Steuben, excluding the Corporate Boundaries of Angola, Ashley, Clear Lake, Fremont, Hamilton, Hudson, and Orland, which is owned by a person, group, corporation, or other entity, not a governmental body.
- (h) “Traffic Hazard” means a public environmental nuisance that is potentially dangerous to the existing traffic on any public way, as it may block or prohibit the view or flow of any oncoming traffic. If the inspector finds a violation pursuant to such definition of “traffic hazard” he/she may find it necessary to waive the ten (10) day grace period and abate the problem as soon as possible.

Section 3. Application of Ordinance

Each owner of private property shall be required to keep their respective property free from public environmental nuisances.

Section 4. Prohibited Activity

It shall be unlawful for any owner of private property to allow a public environmental nuisance to exist on their property, except when property is considered excluded.

Section 5. Procedure

- (a) **Complaint.** Violations under this ordinance shall be cited by any department of the county which receives a complaint regarding a public environmental nuisance on any property within the county, and they shall forward that complaint to the Steuben County Plan Director or Chief Sanitarian.
- (b) **Assignment of Complaint.** The Steuben county Plan Director or Chief Sanitarian shall thereafter process the complaint and shall follow that case through to its resolution.
- (c) **Notice to Abate.** When a complaint addresses private property, the inspector shall cause written notice to abate to be served upon the owner of the property in question, granting that owner a minimum of ten (10) calendar days in which to remove the public environmental nuisance.

This notice shall be served by an inspector or authorized employee directly by personal service to the owner or by certified mail to the owner. This notice shall contain the following information:

- (1) The address of the property in violation.
- (2) The date of the notice.
- (3) The name of the inspector or authorized employee posting the placard.
- (4) The address and telephone number of the issuing Steuben County Department.
- (5) A warning that if the public environmental nuisance is not removed within a specified number of calendar days after the notification, the County of Steuben will abate said nuisance and seek recovery of the actual costs involved in the removal of the nuisance.

Any failure to give such written notice shall not constitute a defense to any action to enforce the provisions of Section 4.

- (d) **Publication of Notice.** In lieu of the notice required by Section 5(c), the County, through the Office of the Plan Commission, may publish a notice in a newspaper of general circulation in the County, on two (2) separate occasions during the month of March, that weeds not cut by the first day of June of that year will be cut by the County and the owner of the property will be charged with the costs under the provisions of Section 6(c) & (d). The publication shall contain all of the information required of the “Notice to Abate.”
- (e) **Inspection.** Following the expiration of the Notice to Abate, an inspector shall visually inspect the property to determine whether a public environmental nuisance still exists, action shall be taken to abate that nuisance in accordance with this ordinance.

Section 6. Enforcement

- (a) **Citation for Violation.** If the inspector determines that a public environmental nuisance exists on private property and has not been abated as directed in the written notice to abate or Section 5(d), that inspector may cause a citation for violation of county ordinance to be issued to the offending property owner by personal service of the Sheriff’s Department of Steuben County.
- (b) **Abatement by the County on Private Property.** In addition to the issuance of a citation for violation of County Ordinance under Section 6(a), the Plan Director or Chief Sanitarian, in the name of the Auditor of Steuben County, may issue a request to the County to abate the Public environmental nuisance, and shall thereafter furnish the Auditor with a statement of the actual cost involved in the

removal of the nuisance. The actual abatement may be assigned to a County Department or contracted out through standard procedures.

- (c) **Responsibility of Offender for Costs of Enforcement.** The Steuben County Plan Director or Chief Sanitarian shall make a statement of the actual cost incurred in eliminating the nuisance. The costs shall include: cost of removal of the public nuisance, administrative fees equal to 25% of the cost of elimination of the nuisance or \$50.00 whichever is greater, and all costs associated with the collection of the balance. Said statement shall be delivered to the property owner by first class mail. The owner shall pay the amount noted to the County of Steuben within thirty (30) days after receipt, which shall be deposited in the General Fund.
- (d) **Failure to Pay.** If the owner fails to pay the amount within thirty (30) days after receiving a statement, a copy of all costs shall be filed in the Office of the Auditor of Steuben County for the purpose of placing the amount claimed on the tax duplicate against the property so that the amount claimed can be collected as taxes are collected, subject to the limitations above.

Section 7. Property Owner or Occupant's Rights to Object to Complaint

Upon receipt of a Notice to Abate, the property owner or occupant served, or his duly authorized representative may notify the issuing County Department of an intent to object to any Notice to Abate. This correspondence shall be in writing and shall specify the address and legal description of the property involved. Any such correspondence must be received by the issuing County Department within ten (10) days of receipt of the Notice to Abate.

Upon receipt of such correspondence, the issuing County Department shall provide copies of same to the inspector involved, who shall cause the objection to be investigated. No further action shall be pursued against the owner to abate the public environmental nuisance until investigation of the objection has been completed.

If the property owner objects to the Notice to Abate, the property owner may request a public hearing of appeal before the Steuben County Board of Commissioners.

Section 8. Severability

- (a) If any provision or term of this ordinance, or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this ordinance which reasonable can be given effect without the invalid provision or term or the application thereof.

- (b) Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture, or punishment so incurred or any right accrued or claim arising under the former ordinance.
- (c) This ordinance shall be in full force and effect from and after its passage by the necessary approval procedures of the Steuben County Board of Commissioners.

Dated: 11-1-93

STEBEN COUNTY BOARD OF COMMISSIONERS

Original signed

Dale Hughes, Jr., Chairman

Original signed

Norris Lehman, Middle District

Attest: *Original signed*

Linda Hansen, Auditor

Original signed

Roger Barry, Northern District

