

TOWN OF MONROE

ORDINANCE NO. 2021 - 41

SHORT TITLE: AN ORDINANCE TO RESCIND ORDINANCE NO. _____ AND TO ENACT STANDARDS THAT DEFINE AND REGULATE PUBLIC NUISANCES AND TO IMPOSE PENALTIES FOR FAILURE(S) TO COMPLY WITH THIS ORDINANCE

WHEREAS, the Town of Monroe has the authority to enact ordinances for the performance of the function of the Town of Monroe by virtue of Indiana Code § 36-5-2-9;

WHEREAS, the Town of Monroe believes that one of its functions is to support a clean, healthy and safe environment for its residents to live and enjoy;

WHEREAS, the Town of Monroe supports property owners maintaining their properties to eliminate and mitigate issues that may impact the cleanliness, health or safety of the residents of the Town of Monroe;

WHEREAS, the Town of Monroe supports elimination of nuisances, such as (i) accumulation of waste, (ii) inoperable vehicles, (iii) weeds and tall grass, (iv) items that have the potential to attract vermin or insects upon properties located in the Town of Monroe that may be detrimental to the cleanliness, health and safety within the Town of Monroe;

NOW THEREFORE, the Town Board for the Town of Monroe, County of Adams, State of Indiana, hereby ordains and adopts the following ordinance:

Section 1. Purpose. The purpose of this ordinance is to rescind Ordinance No. _____ and to enact, establish and define nuisances within the Town of Monroe and set forth the enforcement procedures and penalties for nuisances that exist within the Town of Monroe.

Section 2. Definitions. The definitions set forth in this Ordinance 2021 - _____ shall have the following meanings and be applicable only to this Ordinance unless another ordinance makes specific reference to the definitions of this Ordinance.

- A. *Notice.* Notice shall mean written notice sent by the Clerk-Treasurer for the Town of Monroe by Certified mail to the property owner and resident informing the property owner and resident of a violation of this Ordinance upon their property or residence.
- B. *Nuisance.* Nuisance shall mean any of the following terms and definitions:
 - i. Accumulated Waste. Accumulated waste shall mean refuse, rubbish, trash, debris, or similar such materials or items, that are in such quantity within the Town of Monroe that they are visibly noticeable and create the potential to attract vermin or insects that could be injurious to the cleanliness, health or safety of the residents of the Town of Monroe. This definition shall include refuse, rubbish, debris, or similar

- materials or items that are located upon porches, yards or driveways of residential properties and the yards or driveways of commercial or industrial properties.
- ii. Automobile Parts. Automobile parts shall mean items that are components of automobiles that are located in upon porches, yards or driveways of residential properties and the yards or driveways of commercial or industrial properties that are not properly stored.
 - iii. Inoperable Vehicle. Inoperable vehicle shall mean any automobile of any year, make or style, that sits upon a public street for a period of thirty (30) days within the Town of Monroe and does not or is not capable of being legally operated upon public streets due to its physical condition or its improper licensure.
 - iv. Tall Grass and Weeds. Tall Grass and Weeds shall mean grass and weeds located within the Town of Monroe that exceed six (6) inches from the ground.
 - v. Improperly Located Trash Can. Improperly Located Trash Cans shall mean the waste receptacles provided to residents by the company contracted with the Town of Monroe for trash pickup and removal that are within twenty (20) feet of the public right of way for twenty-four (24) hours before or after the trash has been picked up.
- C. *Penalties*. Penalties shall mean the monetary fee which shall be applicable for Violations of this Ordinance against the property owner on whose property such Violations shall be found.
- D. *Violation*. Violation shall mean instances in which a landowner has a nuisance located upon or within their property and the property owner and resident have received Notice from the Town of Monroe regarding the Violation.

Section 3. Enforcement Process. The Town of Monroe will follow the procedures set forth herein to enforce Violations of this Ordinance.

- A. *Notice*. Enforcement shall commence upon the Town Clerk-Treasurer providing Notice to any property owner and resident for any Violation observed on the property.
- B. *Property Owner Options After Receipt of the Notice*.
 - i. Opportunity to Cure. The property owner shall have thirty (30) days from the date of receipt of the Notice to cure the Violation by the removal of the Nuisance and coordinate an inspection with the Town Superintendent to demonstrate compliance with this Ordinance. If the Town Superintendent finds that the Violation has been removed or abated, then the matter of the Violation will be closed, but shall be counted as a Violation of this Ordinance; OR.
 - ii. Right to Request Review by the Town Board. The property owner may make a written request for review by the Town Board by filing such writing within ten (10) days of the property owner's receipt of the Notice with the Clerk-Treasurer for the Town of Monroe. The Clerk-Treasurer will place the property owner on the agenda for the next regularly scheduled Town of Monroe Board meeting. The property owner will have the opportunity to present evidence to the Town Board concerning why it is impossible for the property owner to comply with this Ordinance.
- C. *Town Board Meeting*

- i. Hear Presentation and Evidence. The Town of Monroe Board shall hear the case of the property owner and review evidence presented by the property owner. The property owner shall have the burden of proof to establish that it is impossible for the property owner to comply with this Ordinance.
 - ii. Board Determination. The Board of the Town of Monroe will make a determination regarding the Violation and provide written statement to the property owner regarding the decision of the Town of Monroe concerning the property owner's evidence.
 1. If the Board of the Town of Monroe determines that it is impossible for the property owner to comply with this Ordinance, then a statement of closure will be sent to the property owner and the incident shall not be considered a Violation.
 2. If the Board of the Town of Monroe determines that the property owner has failed to provide evidence that it is impossible for the property owner to comply with this Ordinance, then the Board of the Town of Monroe shall send a written statement to the property owner and assess a Penalty pursuant to Section 4 of this Ordinance, and the Violation shall be counted as a Violation of this Ordinance.
- D. *Right to Appeal.* The property owner shall have the right to pursue judicial review of the determination of the Board of the Town of Monroe by filing a petition to review with the Adams Superior Court or the Adams Circuit Court within thirty (30) days of the property owner's receipt of the Board's written determination.

Section 4. Penalty Schedule. This Penalty Schedule shall be applicable for all Violations that occur during a calendar year commencing on January 1 and ending on December 31 of each year. Violations from previous year do not accrue to the new year, but Violations during the previous year may be enforced in the following year. For example, if a Violation occurs in November and the Clerk-Treasurer sends the Notice to the property owner, then the Violation occurred in the previous year and is subject to enforcement. However, the Violation from the previous year is not counted as a Violation for the new year.

Unless the Board of the Town of Monroe has made a finding that it is impossible for the property owner to comply with this Ordinance for a Violation, or a Court of competent jurisdiction enters a stay or an order contrary to the determination made by the Board of the Town of Monroe, the following Penalty schedule shall be applicable for Violations:

A. *First Violation*

- i. If the Violation is cured by the property owner, then no penalty, but considered a Violation for purposes of this Ordinance.
- ii. If the property owner fails to cure the Violation within the thirty (30) period and has not filed a written request for a hearing before the Board of the Town of Monroe, then the Town of Monroe shall assess a One Hundred and 00/100 Dollar (\$100.00) Penalty against the property owner for the first Violation.
- iii. If the Board of the Town of Monroe determines that the property owner has failed to present evidence that it is impossible for the property owner to comply, then the

Town of Monroe shall assess a One Hundred and 00/100 Dollar (\$100.00) Penalty against the property owner for the first Violation.

B. Second Violation

- i. If the Violation is cured by the property owner, then the Town of Monroe shall assess a One Hundred and 00/100 Dollar (\$100.00) Penalty against the property owner for the second Violation of this Ordinance.
- ii. If the property owner fails to cure the Violation within the thirty (30) period and has not filed a written request for a hearing before the Board of the Town of Monroe, then the Town of Monroe shall assess a Two Hundred Fifty and 00/100 Dollar (\$250.00) Penalty against the property owner for the Violation.
- iii. If the Board of the Town of Monroe determines that the property owner has failed to present evidence that it is impossible for the property owner to comply, then the Town of Monroe shall assess a Two Hundred and 00/100 Dollar (\$250.00) Penalty against the property owner for the first Violation.

C. Additional Violations. All Violations after the second violation in a calendar year will be deemed additional violations under this penalty schedule.

- i. If the Violation is cured by the property owner, then the Town of Monroe shall assess a Two Hundred Fifty and 00/100 Dollar (\$250.00) Penalty against the property owner for the additional Violation(s) of this Ordinance.
- ii. If the property owner fails to cure the Violation within the thirty (30) period and has not filed a written request for a hearing before the Board of the Town of Monroe, then the Town of Monroe shall assess a Three Hundred Fifty and 00/100 Dollar (\$350.00) Penalty against the property owner for the Violation.
- iii. If the Board of the Town of Monroe determines that the property owner has failed to present evidence that it is impossible for the property owner to comply, then the Town of Monroe shall assess a Three Hundred and 00/100 Dollar (\$350.00) Penalty against the property owner for the first Violation.

Section 5. Enforcement Authority.

- A. *Town Superintendent for the Town of Monroe.* The Superintendent for the Town of Monroe shall have the authority to enforce this Ordinance by making findings of Violations and providing a written description of the Violations to the Clerk-Treasurer for the Town of Monroe. The Town Superintendent may be called to testify by the Board of the Town of Monroe regarding the observations he or she made of the Violation.
- B. *Clerk-Treasurer for the Town of Monroe.* The Clerk-Treasurer for the Town of Monroe will have the duty to maintain annual records for all Violations he or she receives from the Superintendent for the Town of Monroe.

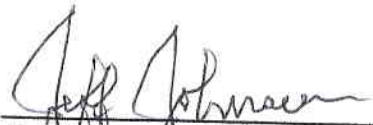
Section 6. Effective Date. This Ordinance shall be effective two (2) weeks after its publication pursuant to Indiana Code § 5-3-1.

HEREBY ADOPTED BY THE TOWN BOARD, TOWN OF MONROE, COUNTY OF ADAMS, STATE OF INDIANA, ON THIS 7th DAY OF October, 2021, BY THE FOLLOWING VOTE: 3 Yeas 0 Nays

TOWN BOARD, TOWN OF MONROE



Deb Geissler, Member

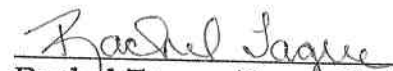


Jeff Johnson, Member



Mike Geels, Member

ATTESTED TO BY:



Rachel Tague, Town Clerk-
Treasurer Town of Monroe