

ORDINANCE #1656-5-23

AN ORDINANCE AMENDING THE HERETOFORE ENACTED CODE OF ORDINANCES PERTAINING TO THE REGULATION OF PUBLIC NUISANCES IN THE TOWN OF AVILLA

WHEREAS, the Town of Avilla, Indiana has heretofore enacted a Code of Ordinances for the Town, which said Code of Ordinances revised, amended, restated, and codified certain existing general ordinances of the Town of Avilla, Indiana; and

WHEREAS, the Town, acting through its Town Council, is desirous of amending said Code of Ordinances pertaining to the regulation of nuisances on property in the Town of Avilla.

ORDAINED, by the Town Council of the Town of Avilla, Noble County, Indiana, that the specified sections of said Code of Ordinances are hereby amended as follows:

TITLE IX

GENERAL REGULATIONS

CHAPTER 94, PUBLIC HEALTH AND SAFETY MATTERS; PUBLIC NUISANCES

Sections 94.15 Nuisances on Property Prohibited, 94.29 Determination of Violation

The intent is to clarify the process for enforcement of 94.15, to include the Noble County code enforcement court and to correct inconsistencies. No fines are increased in this amendment.

§ 94.15 NUISANCES ON PROPERTY PROHIBITED.

PROCESS. The following is the process that the Town Manager, law enforcement officer or code enforcement officer, will use when a property is found to be in violation of town code:

(D) Notice of violations. It is the enforcement officers discretion whether he or she issues a written warning letter to a property owner once a violation has been found on a property. Upon a determination that a public nuisance exists in violation of this [§ 94.15](#), the enforcement officer shall forward written notification to the property owner. Such notice shall be served in writing by certified mail, or personally by a law enforcement officer. The notice shall provide that within ten calendar days after the receipt of the notice (five days for environmental nuisance), that the designated violation shall be removed by the property owner.

If a written warning letter is issued for a property, the Town deems that a written warning letter is good for one (1) calendar year from the date that it was written. A property owner will not receive multiple warning letters within a calendar year for violations found on a property. For example, if a written warning letter is issued in January, another warning letter would not be issued to the same property for violations in August. Instead, the property owner would be subject to continuous abatement and the ticketing process stated in this code.

If a written warning letter is sent to the property owner, the enforcement officer will reinspect the property at a later date. If the property is still found to be in violation of the town code, the officer will then cause an ordinance violation ticket to be issued with fines. Each day that a violation occurs shall constitute a separate violation for which the owners or possessors shall be subject to a fine.

If the property owner does not pay the fines within 30 days, the officer will have a Uniform Traffic Ticket (UTT) issued with a written summons to appear in Noble County Ordinance Violation court, in front of a judge, for a hearing and ruling on the penalty. The Town may recover attorney fees and court costs, and other associated costs of litigation necessary to collect said sums. In addition, the judge

may cause the Town to cure or remove the nuisance to a location of its selection, and the expenses therefor shall be billed to the property owner and be recoverable as a lien or in fines deemed in a suit at law.

After the ruling, the enforcement officer will reinspect the property, most likely on a date set by the judge, and if the property is still found to be in violation of the town code, the officer will then issue another UTT with a \$2500 fine attached to it. This UTT will again be a written summons to appear in court, in front of a judge, for additional rulings on the violation fines and any other actions that are needed to bring the property in question up to town code and free of violations.

Those receiving a written warning letter are encouraged and advised to contact the code enforcement officer at (260) 897-2781 to discuss the violation and what is needed to bring the property into compliance with town code in order to avoid the fines and penalty process.

(F) The owner of any object or material placed or remaining anywhere in violation of this chapter, and the occupant and owner of any premises, as shown by the records of the County Recorder, shall be deemed prima facie responsible for the violation of this chapter and subject to the penalty provided.

(G) The storage of any motor vehicle on any residential real estate which shall not have tires in good operating condition, or not have each of its wheels, or be in inoperable condition or not have a current valid license plate, shall be prima facie evidence of the maintenance of a nuisance.

(H) Penalty. Any person, firm or entity violating any provision of this section shall be subject to a fine of not less than \$50, nor more than \$250 per day. Any person who violates any of the provisions of § [94.03](#) shall be fined in the amount of \$100 per occurrence after one warning. This money shall be placed in the town's general fund.

(Ord. 1370-8-99, passed 8-11-1999; Am. Ord. 1423-8-03, passed 8-13-2003; Am. Ord. 1442-8-05, passed 8-10-2005; Am. Ord. 1498-07-10, passed 7-21-2010)

Cross-reference:

Abandoned vehicle regulations, see § [90.01](#)

**ADOPTED AND PASSED this ____ day of _____, 2023, by a vote of ____ in favor and ____ opposed.
TOWN COUNCIL OF THE TOWN OF AVILLA**

Philip Puckett, Jr., President

William Krock, Jr.

ATTEST:

Paul Shepherd

Rita Grocock, Clerk-Treasurer