

**THE MORGAN COUNTY RESIDENTIAL
RENTAL PROPERTY ORDINANCE
ORDINANCE NO. 4-2-4**

WHEREAS, the purpose of this ordinance is to safeguard public health and assure that rental residences and their surroundings are clean, sanitary and maintained in good working order;

WHEREAS, the Ordinance establishes definitions; sets standards for owners and occupants; and provides for review of the premises and penalties for violations of this ordinance; and,

WHEREAS, the Morgan County Health Department is hereby authorized to perform inspections, collect fees and penalties of the violations included within this ordinance, hold hearings, order or otherwise compel correction of violations of this ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of Morgan County, State of Indiana, as follows:

SECTION 1. Definitions

Basement means a portion of the building located partly underground, but having less than two-thirds of its clear floor-to-ceiling height below the average grade of adjoining ground.

Bedroom means a room or space primarily used or intended to be used for sleeping purposes.

Cellar means a portion of a building located partly or wholly underground and having two-thirds of its clear floor-to-ceiling height below the average grade of adjoining ground.

Conflict of Interest (derived from 68 IAC 9-1-1(b)(2)) means a situation in which the private interest of a Morgan County Official, Morgan County Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Morgan County Official's judgment in the performance of a public duty.

Department means the Morgan County Health Department.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing as defined in this section shall not be regarded as a dwelling.

Dwelling unit means any of the following:

1. Any room or group of rooms located within a dwelling forming a single habitable unit when those units possess facilities which are used, or intended to be used, for living, sleeping, cooking, eating and sanitation;
2. Any mobile home.

Efficiency Apartment means a small, one-room apartment or dwelling that serves as the occupant's total sleeping and living area, which does not contain kitchen facilities, and in which the owner does not permit the storage or cooking of food.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping or by other recognized and legal pest elimination methods.

Garbage means the animal and vegetable waste resulting from handling, preparation, cooking and consumption of food.

Habitable room means a room of enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes; excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridor closets and storage spaces.

Health Officer means the Morgan County Health Officer having jurisdiction in Morgan County/City or his/her duly authorized representative.

Imminent Health Hazard means any condition which poses a serious or imminent health risk to the public, or the residents or occupants of a dwelling.

Infestation means the presence within or around a dwelling of any insect, rodent or other pest.

Inspection report means the document prepared by the Morgan County Health Department that is completed as the result of the inspection and provided to the Owner or Occupant.

Mobile home means a self-propelled or non-self propelled vehicle or trailer designed for occupancy as a dwelling or sleeping place, which definition includes recreational vehicles and does not include vehicles or trailers affixed to real estate by a permanent foundation or temporary support.

Multiple dwelling means any dwelling containing more than two dwelling units.

Occupant means any person living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

Operator means any person who has charge, care or control of a building, or any part thereof, in which a dwelling or dwelling units or rooming units are let.

Owner means any person, individual, partnership, association, limited liability company or corporation having title or interest in a dwelling or dwelling unit subject to this ordinance.

Plumbing means the following supplied facilities and equipment: gas pipe, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, installed clothes-washing machines, catch basins, vents and any other similar supplied fixtures together with all connections to water, sewer or gas lines.

Premises means a lot, plot or parcel of land including any structures thereon.

Residential rental unit means any dwelling unit, rooming house or rooming unit.

Rooming house means a building arranged and occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

Rubbish means combustible and noncombustible waste materials except garbage, and the term shall include residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, tin cans, metals, mineral matter, glass, crockery and dust that could be a health risk.

Seasonal housing means any cabin, mobile home or other structure used for human shelter which is designed to be seasonal or temporary, which may or may not be affixed or attached to real estate, which may have utility service (water, electric, gas, septic or sewer), and is intended for occupation seasonally and not for greater than thirty (30) consecutive days and not for greater than six (6) months of a calendar year. Seasonal housing must be owner/occupied and shall not be leased or used for commercial purposes.

Temporary housing means any tent, mobile home or other structure used for human shelter which is designed to be temporary, is transportable, is not affixed or attached to real estate, and which does not have utility service (water, electric, gas, septic or sewer) for greater than thirty (30) days.

Tenant means a person, individual, partnership, association, limited liability company, or corporation having a possessory or occupancy interest in a dwelling or dwelling unit.

Vector means an organism that carries disease-causing microorganisms from one host to another.

Yard means an open space on the same lot with a structure.

SECTION 2: Applicability and General Provisions

2.1 Applicability

The ordinance shall apply to all rental dwellings and rental dwelling units located in Morgan County, Indiana. This ordinance shall apply to rental dwellings and rental dwelling units located in incorporated cities or towns within Morgan County unless the city or town has adopted an ordinance regulating the sanitary conditions of rental dwellings and rental dwelling units. No rental dwelling or rental dwelling unit shall be inhabited unless the provisions of this ordinance are met. Notwithstanding the above, the Health Officer, or his or her designee, may enter a dwelling or dwelling unit in situations constituting an imminent danger to public health, risk of injury or as otherwise authorized by I.C. 16-20-1.

2.2 Intent

It is the intent of the Board of Commissioners of Morgan County, through this ordinance, to provide for the health, welfare and safety of the citizens of Morgan County, Indiana through the implementation of minimal health and sanitary standards for rental residences and rental dwellings.

2.3 Health Department Jurisdiction and Rule Making

The Health Department shall have the authority to enforce the provisions of this ordinance. The Health Department is granted the authority to promulgate rules with the approval of the Board of Health in order to implement the provisions of this ordinance.

2.4 Effective Date

This ordinance shall be effective beginning June 30, 2006.

2.5 Severability

If any section, sentence or provision of this ordinance or the application thereof, to any person or circumstances, shall be declared unconstitutional or invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid

provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 3: Standard for Dwelling or Dwelling Units

Each dwelling and/or dwelling unit subject to the provisions of this ordinance shall meet and comply with the following standards and regulations:

3.1 Thermal Standards

All dwellings and dwelling units shall be provided with operational and functional heating equipment and appurtenances capable of adequately heating all habitable rooms and bathrooms to a temperature of at least 68 degrees Fahrenheit.

3.2 Sanitation

All dwellings and dwelling units shall be maintained in a sanitary condition and fit for human occupancy. All garbage and rubbish must be stored or disposed of in a clean, safe and sanitary manner. All garbage and rubbish shall be stored and disposed of in a manner that does not permit it to be a food source for rodents or other vectors. All inhabited or uninhabited property shall be maintained in a manner to prevent conditions in which rats, mosquitoes, or other diseased vectors have food, shelter or a place to breed. An owner and a tenant shall be responsible and obligated to maintain the dwelling unit in compliance with this provision. A violation of this provision may be enforced against both an owner and/or a tenant, either individually, jointly or joint and severally, pursuant to SECTION 4.

Enforcement.

3.3 Basic Equipment and Facilities

3.3.1 Every dwelling unit shall have an area in which food may be prepared and cooked, and shall be equipped with the following:

- a. A kitchen sink in good working condition and properly connected to an approved water supply and sewer system. The sink must provide an adequate amount of water under pressure, both unheated and heated, to no more than one hundred twenty (120) degrees Fahrenheit;
- b. Cabinets, shelves, counters or tables used for the storage of food, utensils, and eating, drinking or cooking equipment, shall be furnished with surfaces that are clean and that will not impart any harmful effect to food;
- c. Each dwelling shall have a stove, oven or microwave oven for cooking food and a refrigerator for the safe storage of food at

temperatures of less than forty-five (45) degrees Fahrenheit unless a lease agreement requires the lessee to provide any or all of these appliances. These appliances shall be properly installed and all necessary connections for safe, sanitary and efficient operations shall be maintained in good working conditions. When the occupant is expected to provide these appliances, adequate space and connections for the safe and efficient installation and operation shall be provided by the owner; and,

d. This section (3.3.1.) shall not be applicable to a dwelling or dwelling unit in which cooking is not permitted, such as a hotel, motel, sleeping room or efficiency apartment.

3.3.2 Every dwelling shall have a flush toilet. The toilet shall be:

- a. In good working condition; and,
- b. Properly connected to a water system that provides an adequate amount of running water under pressure to cause the toilet to operate properly.

3.3.3 Every dwelling shall have a lavatory sink. The sink must be in close proximity to a flush toilet in order to allow for washing, etc., after use of the toilet. The sink shall be:

- a. In good working condition;
- b. Properly connected to a water system that provides an adequate amount of water under pressure, both unheated and heated to no more than one hundred twenty (120) degrees Fahrenheit; and,
- c. The water inlet shall be located at least one inch above the overflow rim or otherwise designed to prevent backsiphonage.

3.3.4. Every dwelling shall have a bathtub or shower. The bathtub or shower shall be:

- a. In good working condition;
- b. Properly connected to a water system that provides an adequate amount of water under pressure, both unheated and heated to no more than one hundred twenty (120) degrees Fahrenheit; and,
- c. The water faucet opening shall be located at least one inch above the overflow rim or otherwise designed to prevent backsiphonage.

3.3.5 All plumbing fixtures shall be properly connected to either a public sewer or to an approved private sewage disposal system. Every plumbing stack, vent, waste and sewer line shall function properly.

3.4 Seasonal Housing Exception

Seasonal housing shall be exempt from the provisions of Section 3.3 of this Ordinance, except that in the event the seasonal housing contains the equipment and/or facilities set forth in sections 3.3.1 through 3.3.5, the seasonal housing shall comply with the those provisions of this Ordinance. In addition, all seasonal housing must have a system or means of disposing of sewage and waste that is approved by the Health Department.

SECTION 4. Enforcement

4.1 Inspections and Complaints

After providing reasonable notice to the owner or occupant of a dwelling or dwelling unit subject to this ordinance, the Health Department may request entry to inspect the dwelling or dwelling unit to insure compliance with this ordinance, including taking any necessary measurements, observations, sampling or testing. The notice is to be mailed to the owner of the dwelling at the address listed in the records of the Morgan County Auditor. If entry is not granted to the Health Department by the owner and/or the occupant, the Health Department may seek a warrant from a judicial officer or magistrate. Any warrant must be issued upon the finding of probable cause that a violation of the ordinance has occurred. The Health Department shall develop a complaint procedure so that citizens may make complaints alleging violation of this ordinance. All complaints shall be made in writing, state the address of the dwelling, the name, address and telephone number of the owner of the dwelling, the relationship of the complainant to the dwelling (tenant, neighbor, law enforcement, etc.), state the nature of the alleged violation, the date the violation was observed, the name, address, telephone number of the complainant and the complaint must be verified. Notwithstanding the above, the Health Officer, or his or her designee, may enter a dwelling or dwelling unit in situations constituting an imminent danger to public health, risk of injury or as otherwise authorized by I.C. 16-20-1.

4.2 Notice of Violation

When the Health Department determines that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance, the Health Department shall provide notice of such alleged violation to the person in violation of the ordinance and to the owner of the dwelling or dwelling unit. Such notice shall be in writing, include a statement of the reasons why it is being issued, allow a reasonable time for the performance of any act required to remedy the situation, be served by first class mail to the last known address of the owner as determined by the records of the Morgan County Auditor and a copy of the Notice of Violation shall be posted in a conspicuous place on or about the

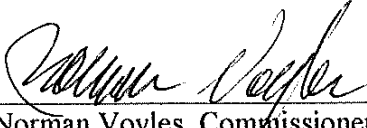
building, dwelling or dwelling unit. Such notice must contain an outline of any remedial action requested, the date by which the remedial action shall be performed. If the remedial action requested is performed within the time limit prescribed, there shall be no violation. Failure to comply with a request for remedial action shall constitute a violation of this ordinance.

4.3 Penalties and Fines

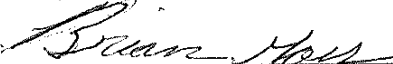
Each day in which a violation of this ordinance remains in existence shall constitute a separate and distinct violation. A fine for initial violation of this ordinance shall not exceed the sum of Two Hundred Fifty Dollars (\$250.00) for each violation. The maximum fine for a second or subsequent violation of this ordinance by any person shall not exceed the sum of Two Thousand Five Hundred Dollars (\$2,500.00).

All of which is ORDAINED this 17th day of October, 2005.

BOARD OF COMMISSIONERS OF MORGAN COUNTY


Norman Voyles, Commissioner


Jeff Quyle, Commissioner


Brian Goss, Commissioner

ATTEST:


MAE COOPER
Morgan County Auditor