

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting December 8, 2020

As reflected in posted agenda:

The County Will Be Abiding By the Social Distancing Requirements in Public Health Order 20-28 for This Meeting. Due To Limited Space In The Assembly Room, Remote Attendance Is Encouraged. If You Have Any Questions Regarding Attending The Meeting, Please Contact Karla Powell at 970-542-3500.

To participate in the Citizen's Comment Period you must connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81698699756> If you cannot connect via Zoom, you may submit written public comment to morgancountybcc@co.morgan.co.us by email by 4 p.m. on Monday December 7, 2020.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81698699756> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 816 9869 9756

To watch and/or listen to the meeting but not participate, you may do so by connecting via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81698699756> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 816 9869 9756

The Board of Morgan County Commissioners met Tuesday, December 8, 2020 at 9:03 a.m. with Chairman Mark Arndt, Commissioner James Zwetzig and Commissioner Jon Becker in attendance. Chairman Arndt asked Morgan County Human Resource Director Tracy Amen to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

ADOPTION OF THE AGENDA

Commissioner Becker made a motion to adopt the agenda as presented, with Commissioner Zwetzig seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated November 19, 2020
2. Ratify the Board of County Commissioners approval of meeting minutes dated November 24, 2020
3. Ratify the Board of County Commissioners approval of Contract 2020 CNT 144, Hill Petroleum, Term of Contract October 1, 2020 through March 31, 2021
4. Ratify the Board of County Commissioners approval of Contract 2021 CNT 01, Wolf Waste Removal, Term of Contract January 1, 2021 through December 31, 2021
5. Ratify the Board of County Commissioners approval of Contract 2021 CNT 02, Rick Lapp dba EPEC LLC, Term of Contract January 1, 2021 through December 31, 2021
6. Ratify the Board of County Commissioners approval of Contract 2021 CNT 03, Lorenzini Farms, Term of Contract January 1, 2021 through December 31, 2021
7. Ratify the Board of County Commissioners approval of Contract 2021 CNT 04, Douglas Chalk, Term of Contract January 1, 2021 through December 31, 2021
8. Ratify the Board of County Commissioners approval of Grant Award 2020 GRA 011, Vale Victim Assistance, signed date December 1, 2020
9. Ratify the Board of County Commissioners approval of Grant Award 2020 GRA 012, CARES Act Primary Mailing Grant, signed date December 1, 2020
10. Ratify Chairman Mark Arndt's signature on the Veterans Officer report for the month of November, 2020
11. Ratify the Board of County Commissioners approval on Ambulance write-off of debt for Client #202430

Commissioner Zwetzig made a motion to approve the consent agenda items 1-11 as presented, with Commissioner Becker seconding the motion. Motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval - Employee Reimbursement Schedule

Morgan County Human Resources Director, Tracy Amen presented to the Board the Employee Reimbursement Schedule. Ms. Amen summarized the amounts being proposed for reimbursement for mileage and meals stating she has conducted a comparison of rates across the United States and indicated the rates from 2020 to 2021 have not changed.

Commissioner Becker made a motion to adopt the Employee Reimbursement Schedule as presented by Human Resources Director Tracy Amen, with Commissioner Zwetzig seconding the motion. Motion carried 3-0.

Ms. Amen encouraged anyone who may be unemployed at this time and is looking for an opportunity to work for the County; there are numerous open positions available.

UNFINISHED BUSINESS

There was no unfinished business.

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COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated December 4, 2020 through December 15, 2020 with no changes.

Chairman Arndt presented the road report ending December 4, 2020 reading the report into the minutes.

At this time, a brief recess was taken until the public hearing scheduled at 9:30 a.m.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:30 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt, Commissioner James Zwetzig, Commissioner Jon Becker, Morgan County Planning Zoning Director Pam Cherry and Morgan County Attorney Kathryn Sellars.

1. Consideration of Approval – 2020 BCC 41 - A Resolution Amending Certain Section Of The Morgan County Zoning Regulations Concerning Setbacks

Ms. Sellars presented to the Board the resolution sharing documentation with the Board and explained this process commenced due to some inconsistencies in the regulations and further summarized the reason for the resolution to be proposed. Ms. Sellars outlined each revision and provided the explanation for the reason for cleanup as well as each individual change to the regulations and items that will be added to the regulations. She further stated this matter was reviewed by the Planning Commission and summarized those suggestions made by the Planning Commission.

Discussion followed with Chairman Arndt making comment regarding the language pertaining to the irrigation ditches and a lateral with there being differences in sizes questioning what was meant by “dry ditches”. Ms. Sellars stated the Planning Commission did not elaborate as to the definition but assumed it refers to a ditch that is not being used. Commissioner Zwetzig questioned what defines front, rear and side, specifically what has occurred at Jackson Lake Park, asking how this is being defined and provided a scenario to Ms. Sellars at which time she stated she believes it is addressed already in the regulations explaining that front lot line is already defined in the zoning regulations. Discussion followed with Ms. Sellars reading language from the regulations. Commissioner Zwetzig feels that it needs to be defined in each case with Ms. Sellars stating it could be left at the discretion of the home builder on a corner lot as to what would be defined as the front setback. Commissioner Zwetzig suggested having two front setbacks, with Ms. Cherry, Planning Administrator, stating she believes that would be appropriate explaining her reasons why she agrees.

Commissioner Zwetzig made comment regarding the easement, and asked if “edge” is the defining term and provided a scenario asking for clarification as how it would be defined. Ms. Sellars stated edge is defined as the boundary, and stated it could certainly be made more clear if the board wishes. Commissioner Zwetzig would like “edge” to be stated more as boundary or easement line to make it clearer. He further stated he does not believe the Board should add anything to the regulations regarding easements to ditches and canals, explaining his reasons why. He also questioned the 75 feet from a highway with discussion following regarding why that information is included in the regulations. Commissioner Zwetzig stated he does not believe the County needs to be the enforcer and those regulations and rules set by others, such as the ditch companies, be made by them and is in favor for removing that from the regulations in its entirety and wants the setbacks defined as to what are front, rear, and side yard setbacks. The guide from the zoning regulations was presented referencing the setback discussions.

Ms. Sellars suggested the board look at the definition of the front lot setback and stated the rear is always the opposite of the front setback. Ms. Sellars stated the source material for these regulations are more urban in nature, and really don't line up with some of the concerns being expressed. Commissioner Zwetzig expressed his concerns about those items that create confusion regarding setbacks, using the setbacks for signage as an example. Commissioner Zwetzig stated if there is a change to the existing regulations, it could create an issue where a structure would have to be taken down with these new definitions.

Commissioner Becker expressed his concerns as well feeling the County does not need to advocate for the ditches or regulating them. Discussion followed as to what is being identified in the regulations and asked what would be considered dry feeling it needs to be defined. Ms. Cherry stated she has had difficulty obtaining data regarding this information. After discussion, the consensus was to remove item “D” from the regulations being proposed (Additional Setback Requirements). Commissioner Becker asked if item D is removed, that automatically removes item B, with discussion following regarding the subject matter. It was decided to remove item B as well.

Ms. Sellars asked for clarification as to the information being presented and asked the Board to let her know with discussion as to what the Board feels should be included. Ms. Sellars stated it is the nearest exterior point of the structure from the lot line is how the proposed regulations are being presented. Dustin Heid, Building Inspector, spoke about how the setbacks are measured; stating they are measured from the wall to the boundary line at this time, stating it would be easier to have something to measure at the beginning of the project to the boundary line than to guess what may be done at a later time. Commissioner Zwetzig states he believes setbacks have to have a purpose, if not why have them. Commissioner Becker spoke as to what is confusing to him as to the measuring of setbacks, and the weirdness of how that is measured, with Ms. Sellars stating that is one reason why the change in language. Commissioner Becker feels as long as there is at least a limit on the “eave” distance, he feels that would be appropriate.

Discussion followed that the Board will be hearing further amendments during the January 5th board meeting with clarification that it will not be for changing building regulations. It was discussed that there needs to be further discussion regarding these proposed revisions and table until a later date.

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Commissioner Becker made a motion to continue the public hearing to approve resolution 2020 BCC 41 a Resolution Amending Certain Section of the Morgan County Zoning Regulations Concerning Setbacks until January 5, 2021 at 9:30 a.m. with Commissioner Zwetzig seconding the motion. The motion carried 3-0.

2. Consideration of Approval – 2020 BCC 42 A Resolution Amending The Morgan County Zoning Regulations By The Removal Of Nuisance Provisions Concerning Rubbish, Weeds, Brush, Inoperable Vehicles, And Abandoned Structures

Ms. Sellers presented to the Board the reasons for the amendments to the zoning regulations whereas this will remove the nuisance provisions concerning rubbish, weeds, brush, inoperable vehicles and abandoned structures.

Chairman Arndt asked if there was anyone in the audience present who wished to make public comment in opposition or in favor of the matter, first asking if there was anyone online wishing to speak with it being noted there was no one online wishing to speak as well as no one in the audience wishing to speak.

At this time, Chairman Arndt closed the public comment portion.

Commissioner Becker made a motion to approve resolution 2020 BCC 42 a Resolution Amending The Morgan County Zoning Regulations By The Removal Of Nuisance Provisions Concerning Rubbish, Weeds, Brush, Inoperable Vehicles, And Abandoned Structures with Commissioner Zwetzig seconding the motion. The motion carried 3-0.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2020 BCC 42

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS BY THE REMOVAL OF NUISANCE PROVISIONS CONCERNING RUBBISH, WEEDS, BRUSH, INOPERABLE VEHICLES, AND ABANDONED STRUCTURES

WHEREAS, the Board of County Commissioners of Morgan County has adopted the Morgan County Zoning Regulations to protect the public health, safety and welfare;

WHEREAS, on November 9, 2020, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

WHEREAS, on December 8, 2020, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Subdivision Regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

Section 1. Sections 4-350 to 4-435 of the Morgan County Zoning Regulations are hereby repealed in their entirety.

Section 2. Effective Date. The effective date of this Resolution shall be the same as the effective date of Ordinance No. 1, Series 2020.

APPROVED this 8th day of December, 2020.

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

s/Mark A. Arndt
Mark A. Arndt, Chairman

s/ Jon J. Becker
Jon J. Becker, Commissioner

s/James P. Zwetzig
James P. Zwetzig, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

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SECOND READING OF ORDINANCE – NUISANCE REGULATIONS

Consideration of Adoption- Ordinance No. 1, Series 2020 An Ordinance Prohibiting The Accumulation Of Junk And Rubbish, Weeds And Brush, And Requiring Removal Of Unsafe Buildings In Morgan County

Ms. Sellers stated the State law requires the County adopt their nuisance regulations by ordinance further stating this does not make any major changes only provides some cleanup of the current language. Chairman Arndt asked about the vehicles not being mentioned in the title of the ordinance, with Ms. Sellers stating it would be considered as junk and rubbish. Commissioner Zwetzig asked about the effective date as how that will work, with Ms. Sellers stating the second reading they are allowed to publish by title only, and noted the entire ordinance has been published in its entirety already, but once the title is published it will become effective 30 days from the notice of publication. The resolution that was approved will not take effect until this ordinance is effective.

Chairman Arndt asked if there was anyone in the audience or online who wished to make public comment in opposition or in favor of the application, with no public comment made. At this time, Chairman Arndt closed the public comment portion.

Commissioner Zwetzig made the motion to approve Ordinance No. 1, Series 2020 An Ordinance Prohibiting the Accumulation of Junk and rubbish, Weeds and Brush, and Requiring Removal of Unsafe Buildings in Morgan County with Commissioner Becker seconding the motion. The motion then carried 3-0.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 1, SERIES 2020

AN ORDINANCE PROHIBITING THE ACCUMULATION OF JUNK AND RUBBISH, WEEDS AND BRUSH, AND REQUIRING REMOVAL OF UNSAFE BUILDINGS IN MORGAN COUNTY

WHEREAS, pursuant to C.R.S. § 30-15-401, the Board of County Commissioners of Morgan County has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease;

WHEREAS, C.R.S. § 30-15-401(1)(a)(I) authorizes the County to adopt ordinances and regulations to compel the removal of rubbish, including trash, junk, and garbage from lots and tracts of land within the unincorporated areas of Morgan County, except for industrial tracts of ten or more acres and agricultural land currently in agricultural use as the term agricultural land is defined in C.R.S. § 39-1-102(1.6), and from the alleys behind and from the sidewalk areas in front of such property;

WHEREAS, C.R.S. § 30-15-401(1)(a)(I.5) authorizes the County to adopt ordinances and regulations to compel the removal of weeds and brush from lots and tracts of land within the unincorporated areas of Morgan County, except for agricultural land currently in agricultural use as the term agricultural land is defined in C.R.S. § 39-1-102(1.6), and from the alleys behind and from the sidewalk areas in front of such property;

WHEREAS, C.R.S. § 30-15-401(1)(q) authorizes the County to adopt ordinances and regulations to compel the removal of unsafe buildings and structures within the unincorporated areas of the Morgan County;

WHEREAS, C.R.S. § 30-15-401(1)(a)(I) authorizes the County to adopt ordinances and regulations to compel the removal of rubbish, including trash, junk, and garbage, from lots and tracts of land within the unincorporated areas of Morgan County;

WHEREAS, pursuant to C.R.S. § 30-15-406, this ordinance was introduced and read before the Board of County Commissioners in a first reading on November 17, 2020, and was published in full in the Fort Morgan Times on November 20, 2020, both at least ten days prior to adoption; and

WHEREAS, the Board of County Commissioners find that this ordinance is necessary to preserve the public health, safety and welfare of the citizens of Morgan County.

NOW THEREFORE be it ordained by the Morgan County Board of County Commissioners as follows:

Section 1. Prohibition on Accumulation of Junk and Rubbish

A. Purpose

The purpose of this Section is to protect the public health, safety, and welfare of the citizens and residents of Morgan County, Colorado, by eliminating and controlling, to the extent possible, the accumulation of rubbish within the County, which, if not eliminated or controlled, can result in visual blight, attractive nuisances, incompatibility with existing land uses, hazardous or toxic

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substances being deposited in unapproved sites, attraction of disease-infested rodents and other vermin, fire or other hazards, and air, noise and water pollution.

B. Applicability

This Section shall apply to all land within unincorporated Morgan County, including all individual properties and adjacent alleys or rights-of-way, except industrial tracts of ten (10) or more acres in industrial zoned districts (LI and HI) and agricultural land currently in use as agricultural land as that term is defined in C.R.S. § 39-1-102(1.6). This Section does not apply to identified and operating junk yards or currently allowed pursuant to the County's Zoning Regulations.

C. Definitions

1. *Agricultural land* means any parcel of land presently classified as agricultural use by the Morgan County Assessor's Office, as defined by and subject to the restrictions contained in C.R.S. § 39-1-102(1.6).
2. *Inoperable vehicle* means any vehicle in which the engine, wheels or other essential parts have been removed, altered, damaged or allowed to deteriorate so that the vehicle cannot be driven, or a vehicle which is not currently licensed or registered or otherwise may not be legally operated on highways of the state.
3. *Junk and Rubbish* means any trash, garbage, litter, refuse, debris, lawn or garden waste, newspapers, magazines, rubber, glass, scrap metal or alloys, used lumber or crates, used pipe or pipe fittings, bottles, plastic or paper containers or packaging, rags or cloth, remnant construction or demolition materials, vehicle parts, derelict vehicles, abandoned or junk equipment, used tires, used appliances or furniture, oil, carcasses of dead animals, or any object otherwise likely to injure any person or create a traffic hazard, or any other object which has been discarded or abandoned or is or obsolete as to make it unusable in its existing condition.
4. *Owner* means the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record, and any occupant or tenant of the premises or property.

D. Unlawful Acts

It is unlawful for any owner to cause or permit junk or rubbish to be left or accumulated in or upon any yard, garden, lawn, outbuilding or premises upon any parcel or sidewalk or alley of any parcel in the County unless otherwise specified herein.

E. Rubbish Containers

Rubbish containers shall be provided by the owner of the premises. Rubbish containers shall be of a kind suitable to contain all trash and garbage collected and shall have a tight-fitting lid. Collection of garbage in plastic garbage bags of twenty (20) gallon capacity or larger is allowed during the 30-day accumulation period prior to collection by a licensed waste hauler and/or disposal at the County landfill.

F. Illegal Dumping

It is unlawful for any person to discard or abandon any junk or rubbish upon premises not owned or occupied by the person without the consent of the owner thereof, and the waste material so deposited without consent shall be deemed to have been discarded and abandoned.

G. Inoperable Vehicles

A maximum of one (1) inoperative vehicle per parcel is allowed in residential, mobile home and agriculture (parcels 20 acres or less) zones. A maximum of three (3) inoperative vehicles is allowed in the Agriculture Zone (parcels larger than 20 acres), A/B, C, LI and HI zones unless otherwise allowed or restricted by special permit. Vehicles in excess of these numbers are not allowed unless they are stored in a private enclosed garage or storage shed and fully screened so as to prevent such vehicles from being viewed from a public road or area. Vehicles in excess of the allowed numbers may be allowed if the Planning Administrator determines that they are economically necessary for a bona fide farming or ranching operation.

H. Notice of Violation and Time to Correct

If probable cause exists to believe that a violation of this Section has occurred, a notice of violation shall be personally served and sent via first-class mail, return receipt requested, to the owner's mailing address as listed in the records of the Morgan County Assessor's Office and to the mailing address of the property in question, if one exists.

Any owner with accumulations of junk or rubbish shall have a total of ten (10) days upon the date of the notice of violation to remove and properly dispose of said articles from said property unless

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provided otherwise herein. This time may be reduced to as few as three (3) days if the accumulation presents an immediate danger to health or safety of the public.

The notice of violation shall refer the owner to this Section and shall specify the remedies available to the County in cases where the owner fails or refuses to abate such junk or rubbish before the time specified in the notice.

I. County Abatement

Once the time for appeal and the time allowed for removal of the junk or rubbish by the owner has passed, in event of failure or refusal of any owner of real property to dispose of junk and rubbish as set forth herein, the proper officials of the County are given power to remove any such junk or rubbish and impose the entire cost thereof, plus five percent (5%) for inspection and expense will be assessed against said real property in violation of this Section.

J. Administrative Entry and Seizure Warrant

No entry upon private property for the purpose of abating such junk or rubbish shall be made until an administrative entry and seizure warrant has been obtained from the Morgan County Court or Morgan County District Court. The application for an administrative entry and seizure warrant shall consist of:

1. A copy of the written notice to the property owner, including evidence that the property owner received such notice, such as a post office return receipt or an affidavit of personal service;
2. Evidence that the property owner has not complied with the notice; and
3. A sworn or affirmed affidavit stating:
 - a. The factual basis for the warrant;
 - b. A description of the location of the property;
 - c. A general list of any rubbish to be removed; and
 - d. The proposed disposal or impoundment of the junk or rubbish to be removed.

Within ten (10) days following the date of the issuance of the administrative entry and seizure warrant, the warrant shall be executed in accordance with the issuing court's directions, and a copy of the issued warrant shall be provided or mailed to the property owner. Following execution of the warrant, proof of the execution shall be submitted to the issuing court. Such proof shall include a written inventory of any property temporarily impounded.

K. Notice and Hearing on Assessment

The County shall send by registered mail a notice to the owner of any real property that assessment has been made against the real property for the cost of inspection, removal, storage or impoundment, and related expense for failure to comply with this Section. Any such owner may pay any such amount due within thirty (30) days from the date said notice is received. Failure of owner to pay any such amount due shall result in the assessment becoming a permanent lien on real property, and said assessment, together with ten percent (10%) added for the cost of collection, shall be certified by the County Clerk to the Morgan County Treasurer for collection.

L. Criminal Penalty

Nonexclusive of other remedies available to the County under this Section, County code enforcement officers shall have the authority to issue citations or summonses and complaints for the purpose of enforcing this Section. Any person who violates this Section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of two hundred and fifty dollars (\$250) per day for the first action leading to conviction, five hundred dollars (\$500) per day for the second action leading to conviction, and one thousand dollars (\$1,000) per day for the third action leading to conviction and all subsequent actions. For purposes of calculating the fine, each day beyond that which was provided by the notice of violation as the date for removal of the junk or rubbish, as modified by any appeal, shall constitute a separate offense. This graduated fine schedule shall apply to repeat offenses committed by the same owner with respect to the same lot, parcel, or tract of land.

In addition to the penalties prescribed by this Section, persons convicted of a violation of this Section are subject to a surcharge in an amount fixed by statute that shall be paid to the clerk of the court by the defendant, as provided by C.R.S. § 30-15-402(2)(a).

Section 2. Prohibition on Accumulation of Weeds and Brush

A. Purpose

The purpose of this Section is to protect the public health, safety, and welfare of the citizens and residents of Morgan County, Colorado, by eliminating and controlling, to the extent possible, the

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growth and proliferation of weeds and brush within the County, which, if not eliminated or controlled, can result in negative visual impact, incompatibility with existing land uses, fire and traffic hazards, the clogging of drainage ways, obstructions of public access and other detrimental health and safety impacts.

B. Applicability

The Section shall apply to land within unincorporated Morgan County, including all individual properties and adjacent alleys or rights-of-way, except agricultural land currently in use as agricultural land as that term is defined in C.R.S. § 39-1-102(1.6).

C. Definitions

1. *Agricultural land* means any parcel of land presently classified as agricultural use by the Morgan County Assessor's Office, as defined by and subject to the restrictions contained in C.R.S. § 39-1-102(1.6).
2. *Owner* means the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record, and any occupant of the premises or property.
3. *Weeds and brush* means:
 - a. Any plant or vegetation which:
 - i. Ordinarily grows without cultivation;
 - ii. Is not growth for the purpose of landscaping or food production; and
 - iii. Attains a growth of six (6) inches in or more in height, or grows or accumulates so as to become a fire, traffic, pedestrian, or other public health or safety hazard; or
 - b. Any plant which has been designated as a noxious weed by the Board of County Commissioners, including without limitation:
 - i. Leafy Spurge (*Euphorbia esula* L.);
 - ii. Russian Knapweed (*Centaurea repens* L.);
 - iii. Spotted Knapweed (*Centaurea maculosa* Lam.);
 - iv. Diffuse Knapweed (*Centaurea diffusa* Lam.);
 - v. Canada Thistle (*Cirsium arvense* [L.] Scop.);
 - vi. Musk Thistle (*Carduus nutans* L.);
 - vii. Field Bindweed (*Convolvulus arvensis* L.);
 - viii. Volunteer Rye (*Secale cereale* L.); and
 - ix. Jointed Goatgrass (*Aegilops Cyindrica* Host.).

D. Unlawful Acts

It shall be unlawful for any owner to allow the accumulation and/or outgrowth of weeds and brush on any land within unincorporated Morgan County under such owner's control, possession or ownership, or upon any alley or sidewalk unless otherwise specified herein. It shall therefore be the duty of all persons owning or occupying any property within the County to suppress weeds by appropriate chemical or mechanical means.

E. Notice of Violation and Time to Correct

If probable cause exists to believe that a violation of this Section has occurred, a notice of violation shall be personally served and sent via first-class mail, return receipt requested, to the owner's mailing address as listed in the records of the Morgan County Assessor's Office and to the mailing address of the property in question, if one exists.

Any owner with accumulations of weeds or brush shall have a total of ten (10) days upon the date of the notice of violation to remove and properly dispose of said articles from said property unless provided otherwise herein. This time may be reduced to as few as three (3) days if the accumulation presents an immediate danger to health or safety of the public.

The notice of violation shall refer the owner to this Section and shall specify the remedies available to the County in cases where the owner fails or refuses to abate such weeds or brush before the time specified in the notice.

F. County Abatement

Once the time for appeal and the time allowed for removal of the weeds or brush by the owner has passed, in event of failure or refusal of any owner of real property to dispose of weeds or brush as set forth herein, the proper officials of the County are given power to remove any such weeds or brush and impose the entire cost thereof, plus ten percent (10%) for inspection and expense will be assessed against said real property in violation of this Section.

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G. Administrative Entry and Seizure Warrant

No entry upon private property for the purpose of abating such junk or rubbish shall be made until an administrative entry and seizure warrant has been obtained from the Morgan County Court or Morgan County District Court. The application for an administrative entry and seizure warrant shall consist of:

1. A copy of the written notice to the property owner, including evidence that the property owner received such notice, such as a post office return receipt or an affidavit of personal service;
2. Evidence that the property owner has not complied with the notice; and
3. A sworn or affirmed affidavit stating:
 - a. The factual basis for the warrant;
 - b. A description of the location of the property;
 - c. A general list of any weeds or brush to be removed; and
 - d. The proposed disposal method of the weeds or brush to be removed.

Within ten (10) days following the date of the issuance of the administrative entry and seizure warrant, the warrant shall be executed in accordance with the issuing court's directions, and a copy of the issued warrant shall be provided or mailed to the property owner. Following execution of the warrant, proof of the execution shall be submitted to the issuing court.

H. Notice and Hearing on Assessment

The County shall send by registered mail a notice to the owner of any real property that assessment has been made against the real property for the cost of inspection, removal, storage or impoundment, and related expense for failure to comply with this Section. Any such owner may pay any such amount due within thirty (30) days from the date said notice is received. Failure of owner to pay any such amount due shall result in the assessment becoming a permanent lien on real property, and said assessment, together with ten percent (10%) added for the cost of collection, shall be certified by the County Clerk to the Morgan County Treasurer for collection.

I. Criminal Penalty

Nonexclusive of other remedies available to the County under this Section, County code enforcement officers shall have the authority to issue citations or summonses and complaints for the purpose of enforcing this Section. Any person who violates this Section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of two hundred and fifty dollars (\$250) per day for the first action leading to conviction, five hundred dollars (\$500) per day for the second action leading to conviction, and one thousand dollars (\$1,000) per day for the third action leading to conviction and all subsequent actions. For purposes of calculating the fine, each day beyond that which was provided by the notice of violation as the date for removal of the weeds or brush, as modified by any appeal, shall constitute a separate offense. This graduated fine schedule shall apply to repeat offenses committed by the same owner with respect to the same lot, parcel, or tract of land.

In addition to the penalties prescribed by this Section, persons convicted of a violation of this Section are subject to a surcharge in an amount fixed by statute that shall be paid to the clerk of the court by the defendant, as provided by C.R.S. § 30-15-402(2)(a).

Section 3. Removal of Unsafe Buildings and Structures

A. Purpose

The purposes of this Section is to protect the public health, safety, and welfare of the citizens and residents of Morgan County, Colorado, by eliminating and controlling, to the extent possible, the existence of unsafe or abandoned buildings which, if not repaired or removed, can result in fire hazards, attractive nuisances, rodent infestations, and other detrimental health and safety impacts.

B. Applicability

The Section shall apply to land within unincorporated Morgan County, except for buildings or structures located on affected land as that term is defined in the Colorado Mined Land Reclamation Act, C.R.S. § 34-32-103(1.5) and lands subject to the Colorado Surface Coal Mining Reclamation Act, C.R.S. § 34-33-101, *et seq.*

C. Definitions

1. *Owner* means the owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, or any authorized agent or representative of the owner of record.

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2. *Unsafe building or structure* means:

- a. Any building or structure where the condition of which presents a substantial danger or hazard to public health, safety, or welfare; or
- b. Any building which is materially dilapidated and unused by the owner or uninhabited because of deterioration or decay; and
 - i. Which condition constitutes a substantial fire hazard; or
 - ii. Which condition subjects adjoining property owners to danger of damage by storm, soil erosion, or rodent infestation; or
 - iii. Which becomes a place frequented by trespassers or transients seeking a temporary hideout or shelter.

D. Unlawful Acts

It shall be unlawful for any owner to maintain or permit any unsafe building or structure within unincorporated Morgan County, as that term is defined herein. It shall therefore be the duty of all persons owning any abandoned structure within the County to board up or otherwise secure from entry for public health and safety reasons any such building at risk of becoming an unsafe building or structure.

E. Notice of Violation and Time to Correct

If probable cause exists to believe that a violation of this Section has occurred, a notice of violation shall be personally served and sent via first-class mail, return receipt requested, to the owner's mailing address as listed in the records of the Morgan County Assessor's Office and to the mailing address of the property in question, if one exists.

Any owner of a dangerous building or structure shall have a total of thirty (30) days upon the date of the notice of violation to repair or remove the dangerous building or structure from said property unless provided otherwise herein. This time may be reduced to as few as ten (10) days if the building or structure presents an immediate danger to health or safety of the public.

The notice of violation shall refer the owner to this Section and shall specify the remedies available to the County in cases where the owner fails or refuses to abate such weeds or brush before the time specified in the notice.

F. County Abatement

Once the time for appeal and the time allowed for removal of a dangerous building or structure by the owner has passed, in event of failure or refusal of any owner of real property to remove or demolish the unsafe building or structure as set forth herein, the proper officials of the County are given power to remove any such building or structure and impose the entire cost thereof, plus five percent (5%) for inspection and expense will be assessed against said real property in violation of this Section.

G. Administrative Entry and Seizure Warrant

No entry upon private property for the purpose of abating such unsafe building or structure shall be made until an administrative entry and seizure warrant has been obtained from the Morgan County Court or Morgan County District Court. The application for an administrative entry and seizure warrant shall consist of:

1. A copy of the written notice to the property owner, including evidence that the property owner received such notice, such as a post office return receipt or an affidavit of personal service;
2. Evidence that the property owner has not complied with the notice; and
3. A sworn or affirmed affidavit stating:
 - a. The factual basis for the warrant;
 - b. A description of the location of the property;
 - c. A description of the unsafe building or structure to be removed; and
 - d. The proposed disposal method of the unsafe building or structure to be removed.

Within ten (10) days following the date of the issuance of the administrative entry and seizure warrant, the warrant shall be executed in accordance with the issuing court's directions, and a copy of the issued warrant shall be provided or mailed to the property owner. Following execution of the warrant, proof of the execution shall be submitted to the issuing court.

10 COMMISSIONERS PROCEEDINGS

H. Notice and Hearing on Assessment

The County shall send by registered mail a notice to the owner of any real property that assessment has been made against the real property for the cost of inspection, removal, storage or impoundment, and related expense for failure to comply with this Section. Any such owner may pay any such amount due within thirty (30) days from the date said notice is received. Failure of owner to pay any such amount due shall result in the assessment becoming a permanent lien on real property, and said assessment, together with ten percent (10%) added for the cost of collection, shall be certified by the County Clerk to the Morgan County Treasurer for collection.

I. Criminal Penalty

Nonexclusive of other remedies available to the County under this Section or by statute, including seeking the initiation of any public nuisance action by the district attorney pursuant to Article 13 of Title 16 of the Colorado Revised Statutes, County code enforcement officers shall have the authority to issue citations or summonses and complaints for the purpose of enforcing this Section. Any person who violates this Section commits a class 2 petty offense, and, upon conviction thereof, shall be punished by a fine of two hundred and fifty dollars (\$250) per day for the first action leading to conviction, five hundred dollars (\$500) per day for the second action leading to conviction, and one thousand dollars (\$1,000) per day for the third action leading to conviction and all subsequent actions. For purposes of calculating the fine, each day beyond that which was provided by the notice of violation as the date for removal of the unsafe building or structure, as modified by any appeal, shall constitute a separate offense. This graduated fine schedule shall apply to repeat offenses committed by the same owner with respect to the same unsafe building or structure.

In addition to the penalties prescribed by this Section, persons convicted of a violation of this Section are subject to a surcharge in an amount fixed by statute that shall be paid to the clerk of the court by the defendant, as provided by C.R.S. § 30-15-402(2)(a).

Section 4. Additional Remedies. The remedies provided in this Section shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section 5. Severability. Should any section, clause, sentence, or part of this ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 6. Safety Clause. The Board of County Commissioners hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public welfare, health and safety.

Section 7. Effective Date. Pursuant to C.R.S. § 30-15-405, this ordinance shall become effective thirty days after publication following adoption.

APPROVED this 8th day of December, 2020.

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

s/Mark A. Arndt
Mark A. Arndt, Chairman

s/ Jon J. Becker
Jon J. Becker, Commissioner

s/James P. Zwetzig
James P. Zwetzig, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Chairman Arndt asked if there was any further business to bring before the Board, and upon hearing none, the meeting was adjourned at 10:27 a.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board
(Minutes ratified December 15, 2020)

COMMISSIONERS PROCEEDINGS 11

**THE BOARD OF COUNTY COMMISSIONERS MORGAN
COUNTY, COLORADO**

s/Mark A. Arndt
Mark A. Arndt, Chairman

s/ Jon J. Becker
Jon J. Becker, Commissioner

s/James P. Zwetzig
James P. Zwetzig, Commissioner

(SEAL)
ATTEST:

s/ Susan L. Bailey
Susan L. Bailey