

ORDINANCE NO. 7-3-8.1

AN ORDINANCE AMENDING ORDINANCE NO. 7-3-8  
AN ORDINANCE TO REGULATE THE MOVEMENT  
OR REMOVAL OF EARTH BELOW GROUND

WHEREAS, the Board of Commissioners of Morgan County, Indiana, (“Commissioners”) adopted an Ordinance To Regulate The Movement or Removal of Earth Below Ground, (the “Earth Removal Ordinance”) on July 19, 2004; and,

WHEREAS, the Commissioners desire to amend the Earth Removal Ordinance to add provisions to allow for alternative provisions regarding the removal of gravel or stone aggregate; and,

NOW THEREFORE, be it **ORDAINED** by the Board of Commissioners of Morgan County, Indiana that the Morgan County Ordinance To Regulate The Movement or Removal of Earth Below Ground, codified as Ordinance 7-3-8, shall be amended and modified as follows:

1. The following amendments shall be made to the Earth Removal Ordinance.

Deleted language shall be indicated by ~~strikethrough text~~ and inserted language shall be indicated by underline text.

2. “Section 1: Applicability: A.” shall be amended by adding the following to the end of the first paragraph. “An entity that is subject to the provisions of Section 1. C may elect to be regulated under the provisions of Section 12 below, if a majority of the material removed by the entity consists of gravel or stone aggregate. In the event an entity elects to be regulated pursuant to Section 12, then the entity shall be exempt from the provisions of Sections 2, 3, 4, 5, 6, 7 and 9 of this Ordinance.”

3. A new section 12 shall be added to read as follows:

Section 12: Gravel or Stone Aggregate Removal:

A. An entity that elects to be regulated under this section rather than Section 1. C. shall file with the County Surveyor’s office copies of all applicable state and federal permits and filings the entity must have in order to operate, including the following:

1. Copies of dust and particulate emission control permits filed with the Indiana Department of Environmental Management (IDEM) under the provisions of 326 IAC 2-9-7 and 326 IAC 6-4.
2. Copies of all groundwater permits and applications as filed with IDEM under the provisions of 327 IAC 327-2 and with the Indiana Department of Natural Resources under the provisions of I.C. 14-25-7-15, I.C. 25-4-9 and I.C. 25-4-18.

B. An entity operating under this section shall establish a reclamation plan and carry it out under the provisions of the most current version of the Environmental Stewardship Council (ESC) Guiding Principles, as adopted by the Indiana Mineral Aggregates Association (IMAA).

1. A copy of the reclamation plan shall be filed at the County Surveyor's office, along with any subsequent amendments or modifications. Any entity may establish a plan with reclamation standards more stringent than the ESC Guiding Principles.

2. The public may file a complaint that an entity subject to this section is not in compliance with the provisions of this section or this Ordinance, in writing, with the County Surveyor's office. The County Surveyor shall then notify the entity of the complaint and provide the entity a copy of the complaint. Within thirty (30) days of receipt of the complaint, the entity shall take corrective action, if necessary, and notify the County Surveyor in writing of what corrections, if any, have been made. An entity may provide the County Surveyor with an inspection report conducted by the IMAA demonstrating the entity's compliance with the ESC Guiding Principles; in the event an entity subject to this section is not subject to inspection by the IMAA, the County Surveyor shall charge a \$2,000 fee to carry out such an inspection. If no significant violations of the ESC Guiding Principles are found, the County Surveyor may not charge the \$2000 inspection fee again within the following 12 months. The County Surveyor shall then verify that the entity is in compliance with the provisions of this section and the Ordinance. The County Surveyor may, at the request of a Morgan County resident, request a copy of the most recent inspection report carried out regarding compliance with ESC Guidelines, regardless of whether any complaints have been filed.

3. Failure to file a plan or amendments and modifications with the County Surveyor's office, failure to adhere to the provisions of the reclamation plan, failure to take appropriate and necessary corrective action in compliance with subsection 2., or failure to comply with any other provision of this section and this ordinance may be punishable by a fine of up to \$100.00 per day for each day the entity is in violation, an abatement order or injunction. Any enforcement action under this provision may be initiated by the Commissioners and the Morgan County Attorney.

C. The Board of Commissioners may request the following additional information from an entity operating or proposing to operate under this section: i) drawdown surveys of nearby structures to determine water levels in cases where blasting occurs or is proposed, ii) identification of specified roads (including local, county, state or interstate) as the primary means of ingress and egress from the proposed activity, iii) reasonable dust abatement measures, iv) reasonable noise abatement measures, v) berming and buffering of the proposed activity, and vi) other measures reasonably related to the public health and safety.

D. An entity operating under this section shall not engage in production of aggregate material on New Year's Day, Easter Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

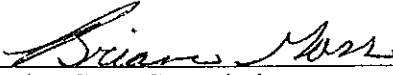
3. All other provisions of the Earth Removal Ordinance shall remain in full force and effect.
4. This Ordinance shall be effective immediately upon passage.

All of which is **PASSED** and **ORDAINED** this 15<sup>th</sup> day of AUGUST, 2005.

**BOARD OF COMMISSIONERS  
OF MORGAN COUNTY**

 (NAY)  
\_\_\_\_\_  
Norman Voyles, Commissioner

  
\_\_\_\_\_  
Jeff Quyle, Commissioner

  
\_\_\_\_\_  
Brian Goss, Commissioner

ATTEST:

  
\_\_\_\_\_  
MAE COOPER  
Morgan County Auditor