

**ORDINANCE NO. 2020-07-14-1**

**WEED CONTROL ORDINANCE FOR  
THE TOWN OF POSEYVILLE, INDIANA**

**WHEREAS**, the General Assembly has provided the method by which a municipality may control weeds and rank vegetation; and

**WHEREAS**, the Town of Poseyville, Indiana wishes to integrate the provisions of Indiana Code 36-7-10.1-1 et seq. into a weed control ordinance;

**WHEREAS**, this Ordinance shall replace and repeal Ordinance No. 1997-10-06-1 upon this Ordinance becoming effective after legal publication.

**NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:**

**1. WEED CONTROL DEFINITIONS:**

- a. "Occupant" – Is defined as the person who resides in, on, or occupies real estate.
- b. "Owner" – Is defined as the person listed as owner of real estate as shown on the records of the Posey County Auditor.
- c. "Person" – Is defined as an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, an agent, the state, an agency of the state, or a political subdivision.
- d. "Weeds, Grass and Rank Vegetation" – Is defined to include any of the following:
  - (1) any plant or vegetative matter, not cultivated in plant beds by the owner or occupant, and not including trees which are being cultivated by the owner or occupant, that exceeds the height of nine (9) inches;
  - (2) the existence of any detrimental plant as defined in Indiana Code 15-3-4-1, as may be amended from time to time, regardless of height;
  - (3) fallen trees, stumps over thirty-six (36) inches, dead trees, cut plant or vegetative matter;

(4) any tree, plant or vegetative matter which obstruct any public way, including streets, alleys and sidewalks, or cause a visual barrier for use of the public way or safety hazard; or

(5) any plant or vegetative matter which is a safety hazard or health hazard.

2. **WEEDS, GRASS, AND RANK VEGETATION TO BE CUT AND REMOVED:** Each and every person owning, occupying, controlling or having a substantial interest in any real estate within the corporate limits of the Town, shall be required to cut and remove all weeds, grass, or other rank vegetation from any real estate within the Town and to cut and remove all weeds, grass, and other vegetation from gutters and sidewalks on or adjoining the real estate and shall be required to cut and remove all weeds, grass, and other rank vegetation from streets and alleys fronting, abutting or adjoining the real estate to the center line of the streets and alleys. Also, no mowed grass clippings or other mowed clippings shall be left in the street for more than one (1) hour. Failure to maintain real estate pursuant to this section shall constitute a violation of this ordinance.

3. **NOTICE OF VIOLATION:** When it shall come to the attention of the Town Marshall that weeds, grass, or other rank vegetation are growing upon real estate within the corporate limits of the Town, in violation of this Ordinance, the Town Marshall shall issue a five (5) day written notice to cut and remove those weeds, grass, or other rank vegetation and the notice shall be served upon the landowner and occupant by personal service or by Certified Mail, return receipt requested, at the last known addresses of the landowner and occupant.

In the event the Town Marshall does not have the occupant's name, the Town Marshall shall request the occupant's name from the landowner and the landowner shall provide the occupant's name to the Town Marshall within two (2) days of the request.

The notice shall list the location of the real estate concerned, require abatement of the violation within five (5) days of the date of the notice and briefly describe the enforcement and collection procedures. The notice shall also notify the owner and occupant that a fine shall be assessed as follows for each parcel of real estate in violation of this Ordinance:

- a. First failure by owner or the occupant to abate a violation within the five (5) day period during a calendar year -- \$25.00 fine;
- b. Second failure by owner or the occupant to abate a violation within the five (5) day period during a calendar year - \$100.00 fine;
- c. Third failure by owner of the occupant to abate a violation within the five (5) day period during a calendar year - \$250.00 fine;

4. **REMOVAL BY TOWN – COLLECTION COSTS:**

a. If the landowner or occupant failed to abate the violation within the time prescribed, the Town Marshall shall issue a written work order to the Town of Poseyville Motor Vehicle/Highway Department. The Motor Vehicle/Highway Department shall cut and remove, or have cut and removed, the weeds, grass or other rank vegetation. The Motor Vehicle/Highway Department shall, upon abating the violation, furnish the Town Marshall a written statement of costs incurred in abating the violation. The Town Marshall shall provide to the owner and occupant a certified statement of the costs incurred by the Motor Vehicle/Highway Department and the Town Marshall for the cutting and removal, or the hire thereof, of the weeds, grass and rank vegetation including administrative costs, attorney fees, and appropriate fine, which statement shall be delivered to the owner and occupant of the real estate by personal service or by Certified Mail, return receipt requested. The owner or occupant shall have not more than ten (10) days from the date of the notice within which to pay that amount to the Clerk-Treasurer.

b. If the owner or occupant fails to pay the sum within the time prescribed, a certified copy of the statement of costs shall be filed with the Auditor's Office of Posey County, and the Auditor shall place the amount so claimed in the tax duplicate of the lands affected by the cutting and removal of those weeds, grass, or other rank vegetation, and the same shall be collected as taxes are collected, and when so collected, shall be disbursed to the General Fund of the Town. The costs due and owing to the Town shall bear interest at the rate of eight percent (8%) per annum from the date of the certification, if not paid within ten (10) days, until paid in full, for the costs certified concerning cutting and removal of the weeds, grass, or other rank vegetation.

c. At the Town's option, the Town may collect the costs, including the Town's reasonable attorney fees and costs of collection, from the occupant.

d. The amounts collected under paragraph 4. a., b., c. above, for the costs certified concerning cutting and removal of the weeds, grass, or other rank vegetation, shall be disbursed to the Poseyville Highway Fund and administrative costs, interest and fines shall be disbursed to the General Fund.

5. **LIEN ON PROPERTY:** The cost of cutting and removing the weeds, grass, and other rank vegetation, administrative costs, fines and interest shall be a lien upon the real estate affected and shall also be enforceable and collected by foreclosure proceedings in the civil courts of the state the same as other liens are enforced and collected.

6. **APPEAL RIGHTS:** An appeal of the written removal notice issued pursuant to this Chapter must be made in writing within five (5) days of the date of the removal notice and must be submitted to the Clerk-Treasurer which shall set this matter for hearing before the Town Council of Poseyville. An appeal of the certification of costs

issued pursuant to this Chapter must be made in writing with five (5) days of the date of certification of costs and must be submitted to the Clerk-Treasurer which shall set the matter for hearing before the Town Council of Poseyville. Following the hearing, the Town Council of Poseyville shall issue its written findings. All appeals from the written findings of the Town Council of Poseyville shall be made to Courts of competent jurisdiction with ten (10) days of the date of the findings.

7. **CONSTRUCTION** – Should any section or part of this Ordinance be declared invalid for any reason, the remainder of this ordinance shall not be affected

8. This Ordinance shall be in full force and effect upon passage and approval by the Town Council of Poseyville, Indiana.

**PASSED, ORDAINED AND ESTABLISHED** this 14<sup>th</sup> day of July, 2020.

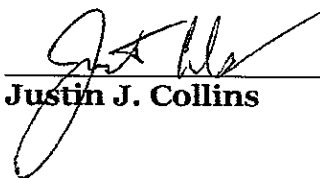
**Town Council of Poseyville, Indiana**



**Bruce C. Baker**

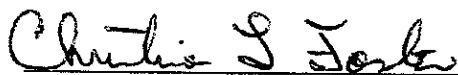


**Michael A. Baehl**



**Justin J. Collins**

**ATTEST:**



**Christina L. Foster**  
**Clerk-Treasurer**