

ORDINANCE NO. 2025-07

AN ORDINANCE TO AMEND AND REORGANIZE PORTIONS OF TITLE IX OF THE TOWN OF JAMESTOWN CODE OF ORDINANCES REGARDING UNSAFE BUILDINGS AND WEED CONTROL

WHEREAS, the Town of Jamestown, State of Indiana (the “Town”) is empowered to establish reasonable regulations in furtherance of the health, safety, and welfare of the citizens of the Town;

WHEREAS, pursuant to Ind. Code § 36-7-10.1 *et seq.* the Town is empowered to adopt an ordinance requiring owners of real property located within the limits of the Town to cut and/or remove weeds and other rank vegetation growing on said property;

WHEREAS, pursuant to Ind. Code § 36-7-9 *et seq.*, the Town is empowered to adopt an ordinance establishing regulations for the inspection, repair, or removal of unsafe buildings and for the repair and maintenance of vacant structures;

WHEREAS, Title IX, Chapter 95, Section 95.20 through 95.40 and 95.99 of the Town’s Code of Ordinances establish a process for regulating unsafe buildings and for weed control; and

WHEREAS, the Town desires to amend, add to, and reorganize Title IX, Chapter 95, Sections 95.20 through 95.99 to clarify the Town’s policy regarding unsafe buildings, weed control, and penalties.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Jamestown, Indiana that:

1. Title IX, Chapter 95, Sections 95.20 through 95.99 of the Town’s Code of Ordinances are amended, added to, and restated in full to read as follows:

UNSAFE BUILDINGS

§ 95.20 Adoption of the Unsafe Building Law: The Town of Jamestown, State of Indiana hereby adopts Ind. Code § 36-7-9 *et seq.* which establishes the Indiana Unsafe Building Law and explicitly incorporates by reference the definition of “substantial property interest” found in Ind. Code § 36-7-9-2.

§ 95.21 Appointment of Department to Administer the Ordinance: The Town Council shall be the executive department authorized to administer this Unsafe Building Ordinance. The “enforcement authority” as defined by Ind. Code § 36-7-9-2 shall be the Town of Jamestown’s Building Inspector or such organization the Town Council of the Town of Jamestown may contract with to provide building inspection services for the Town of Jamestown. In the event there is no Building Inspector or organization contracted with to provide building inspection services for the Town of Jamestown, the “enforcement authority” shall be the Marshal for the Town of Jamestown. The “hearing authority” for

purposes of the Unsafe Building Ordinance shall be the Town Council of the Town of Jamestown.

§ 95.22 Definitions: The definition of unsafe buildings and unsafe premises described in Ind. Code § 36-7-9-4 and all amendments thereto are hereby supplemented to provide more specific descriptions of the conditions which render a building unsafe. When a violation is cited, the Indiana Code number shall be specified along with a more specific itemized violation(s) set out in this Ordinance. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such condition or defects exist to the extent that life, health, property, or safety to the public or its occupants are endangered. Specific descriptions are as follows:

- (a) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.**
- (b) Whenever the walking surface of an aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.**
- (c) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 ½) times the working stress or stresses allowed for new buildings of similar structure, purpose, or location.**
- (d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.**
- (e) Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.**
- (f) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings or similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.**
- (g) Whenever any portion thereof was wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially**

less resistance to winds or earthquakes than is required in the case of similar new construction.

- (h) Whenever the building or structure, or any portion thereof, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay, or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.**
- (i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.**
- (j) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.**
- (k) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls, or coverings.**
- (l) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated so as to become (1) an attractive nuisance to children, or (2) freely accessible to persons for the purpose of committing unlawful acts.**
- (m) Whenever any building or structure has been construed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the Town of Jamestown, or any law or ordinance of the State of Indiana relating to the condition, location, or structure of buildings.**
- (n) Whenever any building or structure, whether or not erected in accordance with all applicable laws and ordinances, which has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the (1) strength, (2) fire-resisting qualities or characteristics, or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building or like area, height and occupancy in the same location.**
- (o) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation,**

decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the county health department or its designated representatives to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

- (p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistant construction, faulty electric wiring, gas connection, or heating apparatus, or other cause, is determined by the fire chief of the Town of Jamestown or his designated representative to be a fire hazard.
- (q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

§ 95.23 Public Nuisance Declared: All buildings or portions thereof within the Town of Jamestown which are determined after inspection by the enforcement authority to be unsafe are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal pursuant to Ind. Code § 36-7-9 *et seq.*

§ 95.24 Construction: Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

§ 95.25 Penalty for Violation: Violations of this Ordinance shall be addressed as established in Ind. Code § 36-7-9 *et seq.* as it may be amended from time to time.

WEED AND RANK VEGETATION CONTROL

§ 95.40 Definitions: For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) “Department” shall mean and refer to the Town Marshal or his or her designee.
- (b) “Property Owner” or “Owner” shall mean the person, firm, or legal entity whose name appears on the current tax duplicate in the office of either the Auditor of Boone County, State of Indiana, or the Auditor of Hendricks County, State of Indiana, as the owner of such real estate.
- (c) “Weeds and other rank vegetation”
 - 1. Shall include the following:

- a. All plants identified in Ind. Code § 15-16-7-2 or plants that are poisonous or detrimental to human health or have been determined to be noxious by the Indiana legislature or by rule of the Indiana Department of Natural Resources or Indiana Department of Agriculture; and
- b. Grass in excess of six (6) inches tall.

2. "Weeds or other rank vegetation" shall not include the following:
 - a. Wetlands;
 - b. Woods;
 - c. Nature preserves;
 - d. Undeveloped areas;
 - e. Storm water best management practice areas;
 - f. Agricultural crops such as hay and pasture;
 - g. Grasses or landscape intended to provide a teeing ground, fairway, rough, controlled and maintained heather, hazard or putting area for a golf course that is in operation; or
 - h. Vegetable matter cultivated in plant beds.

(d) "Town" is defined as the Town of Jamestown, State of Indiana.

§ 95.41 Administration and Enforcement: The Department is authorized to administer and enforce the terms and provisions of the Weed and Rank Vegetation Ordinance. The Town Council for the Town of Jamestown may from time to time also appoint duly authorized representatives to enforce the terms of the Weed and Rank Vegetation Ordinance.

§ 95.42 Enforcement Discretion: The Department, or duly authorized representative appointed by the Town Council, shall have all rights and authorities as are provided under Ind. Code § 36-7-10.1 *et seq.* as the department authorized to administer and enforce this Ordinance. It is hereby acknowledged, understood, and declared by the Town Council for the Town of Jamestown, State of Indiana that the Department is required to exercise and is vested with authority to exercise its discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the Town of Jamestown, State of Indiana in administering and enforcing this Ordinance. The authority of the Department to issue or revoke, or fail or refuse to issue or revoke any notice,

approval, order, or similar action under this Weed and Rank Vegetation Ordinance is hereby declared to be discretionary.

§ 95.43 Required Action: It shall be the duty of any property owner of real estate within the limits of the Town of Jamestown, State of Indiana to cut and remove all weeds and rank vegetation growing upon such real estate when such weeds and rank vegetation exceed a height of six inches, as measured from the ground, including but not limited to, that portion of such real estate that is adjacent to or abutting upon any sidewalk, alley, or street.

§ 95.44 Violation Notice:

- (a) If weeds and other rank vegetation are found to be growing in violation of provisions of this Ordinance, the Department shall give written notice to the Owner upon whose property such weeds and other rank vegetation are growing, identifying the violation and stating that such Property Owner is required to cut and/or remove such weeds and other rank vegetation growing on such property within seven calendar days of the notice. The notice shall be served upon the Property Owner by first class mail or an equivalent service permitted under Ind. Code § 1-1-7-1 at the last known address as recorded in the Auditor's Office.
- (b) If an initial violation notice was provided by certified mail, first class mail, or equivalent service permitted under Ind. Code § 1-1-7-1, a continuous abatement notice may be posted at the property at the time of abatement. A continuous abatement notice serves as notice to the Property Owner that each subsequent violation of this Weed and Rank Vegetation Ordinance during the same calendar year for which the initial notice of the violation was provided may be abated by the Town of Jamestown, its designee, or contractor(s) without further notice to the Property Owner.
- (c) Any notice of violation issued pursuant to this section may be appealed if written notice of appeal is served by the Property Owner to the Town Clerk-Treasurer within five days of the date of notice of violation. The appeal shall be heard before the Town Council at a special or regular meeting of the Town Council. After the hearing, the Town Council shall issue its written findings. The timely appeal of a notice of violation shall toll the abatement period pending the issuance of a decision thereon.

§ 95.45 Cutting and Removal by Town:

- (a) From the date the notice of violation is mailed or delivered, the Property Owner has seven days to abate the violation. After seven days and if no appeal is timely filed, the Department will perform a site inspection. If the Property Owner has abated the violation, the Department will note in its file that the Property Owner has come into compliance and the violation is closed. If the Property Owner fails to abate the violation, then the

Property Owner shall be deemed to have granted permission to the Town or its designated employee or contractor to enter the Property Owner's property in order to remove, or cause to be removed, such weeds or other rank vegetation so as to abate the violation of this Weed and Rank Vegetation Ordinance.

(b) If the Property Owner fails to abate the violation within the time period prescribed by the notice of violation, the Property Owner shall be liable for a fine up to \$1,000 subject to the following:

- 1. If the Property Owner has not previously violated this Ordinance, the fine shall be at least \$250;**
- 2. If the Property Owner has previously committed one violation of this Ordinance, the fine shall be at least \$500;**
- 3. If the Property Owner has previously committed two or more violations of this Ordinance, the fine shall be at least \$750.**

§ 95.46 Statement of Costs Incurred: In the event the Town removes or causes to be removed such weeds or other rank vegetation, the Clerk-Treasurer shall mail, via first class mail, an invoice to the Property Owner reflecting the total costs incurred by the Town in abating the violation, administrative costs associated with abating the violation, and a citation for the appropriate minimum fine as outlined in Section 95.45.

Within ten (10) days of the date the invoice is mailed, the Property Owner shall:

- (a) Pay to the Clerk-Treasurer all amounts owed as reflected in the invoice; or**
- (b) File a written appeal with the Clerk-Treasurer setting forth the address of the property; the name of the property owner; the basis for the appeal; and any documentation supporting the appeal. The basis for appeal may be: (1) cut and removal of weeds and rank vegetation was not performed on the property; (2) cut and removal of weeds and rank vegetation was performed on the property before the time period set forth in the notice of violation; (3) amount of invoice is incorrect; or (4) the Property Owner was not properly served legal notice. If an appeal is timely filed, the Clerk-Treasurer shall set the matter for a hearing before the Town Council at a special or regular meeting of the Town Council. After the hearing, the Town Council shall issue its written findings. Any appeal from the written findings of the Town Council must be made to a court of record in the county where the property is located within ten (10) calendar days of the issuance of the Town Council's written findings.**

In any proceeding under this Weed and Rank Vegetation Ordinance, the Town shall be entitled to recover reasonable attorney fees and costs if it is the prevailing party.

§ 95.47 Payment of Costs Incurred and Lien: If the Property Owner fails to pay the invoice or file a written appeal within ten (10) days or fails to pay the invoice within ten (10) days of an adverse determination rendered by the Town Council or court of record, the Clerk-Treasurer shall certify to the appropriate County Auditor the amount incurred by the Town to abate the violation, including the associated administrative costs. If the cost of abatement is \$0-\$100, the administrative fee shall be \$100. If the cost of abatement is \$101-\$200, the administrative fee shall be \$200. If the cost of abatement exceeds \$200, the administrative fee shall be \$300. The limitation on administrative fees shall not limit whatever might be necessary in costs to collect the outstanding balances, including court costs and attorney fees. The Auditor shall place the certified amount on the tax duplicate against such real estate and the amount shall be collected as taxes are generally collected and when collected shall be disbursed to the Town for deposit in the General Fund.

2. Title IX, Chapter 95, Section 95.99 of the Town's Code of Ordinances is amended to read as follows with additions in **bold text** and deletions indicated by ~~strikethrough text~~:

PENALTY

§ 95.99 Penalty:

- (a) Any person violating any provision of this chapter for which there is no specific penalty prescribed shall be subject to § 10.99 of this Code of Ordinances.
- (b) Any person, firm, or corporation who violates any of the provisions § 95.01 or who interferes in any way whatsoever with the due process of enforcement of any of the provisions of § 95.01 or does not obey within the time fixed any order pursuant to § 95.01, and who shall be found guilty thereof, shall be fined \$100 for first offense, \$150 for second offense, and \$200 for third offense. Each motor vehicle involved shall constitute a separate offense, and a separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Prior Code, Title 3, Article 9, Ch. 1, § 7).

- (c) Each day's violation of § 95.02 shall constitute a separate offense punishable by fine, not exceeding \$100 for first offense, \$150 for second offense, and \$200 for third offense.

(Prior Code, Title 3, Article 9, Ch. 2, § 2).

- (d) Any person, firm, or corporation violating the terms of either §§ 95.03 or 95.04 may be fined in any sum not exceeding \$25 for each days' violation thereof.

(Prior Code, Title 3, Article 7, Ch. 3, § 3).

(e) Any person ~~violation~~ **violating** the provisions of §§ 95.20 through **95.25 95.34** or I.C. 36-7-9-28, for each day such violation continues, for each unsafe building condition violation, such person, firm, or corporation as defined herein, may be fined up to a maximum of \$100 for each violation of §§ 95.20 through **95.25**~~95.34~~.

(Prior Code, Title 3, Article 4, Ch. 1, § 7).

(f) If the Property Owner fails to abate the violation within the time period prescribed by the notice of violation given in § **95.44 95.37**, the Property Owner shall be liable for a fine up to \$1,000 subject to the following:

1. If the Property Owner has not previously violated § **95.44 95.37**, the fine shall be at least \$250.
2. If the Property Owner has previously committed one violation of § **95.44 95.37**, the fine shall be at least \$500.
3. If the Property Owner has previously committed two or more violations of § **95.44 95.37**, the fine shall be at least \$750.

Effective Date

This Ordinance shall be in full force and effect from and after the date of its passage.

Adopted by the Town Council of the Town of Jamestown, Indiana, this _____ Day of _____, 2025.

JAMESTOWN TOWN COUNCIL

Shane Childress, Council Member

Carol Leike, Council Member

Michael Stokes, Council Member

Attest: _____
Lori Hieston, Clerk-Treasurer