

ORDINANCE NO. 2025-12

**AN ORDINANCE OF THE TOWN OF WESTPORT, INDIANA, CONCERNING
PUBLIC NUISANCES, AND REPEALING ALL PRIOR CONFLICTING
ORDINANCES**

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

WHEREAS, Indiana Code 36-4-6-18 authorizes the Town Council of the Town of Westport, Indiana ("Town") to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

WHEREAS, the creation or maintenance of public nuisances within the Town of Westport is detrimental to the public health, safety, and welfare, and to the quality of life within the community; and

WHEREAS, Indiana Code § 36-1-3-1 et seq. and § 36-8-2-4 and 32-30-6-6 authorize municipalities to regulate and abate public nuisances and to impose penalties for violations; and

WHEREAS, the Town Council of the Town of Westport finds that it is in the best interests of the Town and its residents to amend and restate its public nuisance ordinance to provide for consistent enforcement and to repeal all prior conflicting ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTPORT, INDIANA:

SECTION 1. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- A. **Public Nuisance** means any act, omission, occupation, condition, structure, or use of property that:
1. Substantially annoys, injures, or endangers the comfort, health, repose, or safety of others;
 2. Renders the public insecure in life or the use of property;
 3. Greatly offends the public morals or decency;
 4. Unlawfully and substantially interferes with, obstructs, or renders dangerous the passage on any public way; or
 5. Is injurious to health, indecent, or offensive to the senses so as to interfere with the comfortable enjoyment of life or property. (IC 32-30-6-6)

- B. **Person** means any individual, firm, partnership, corporation, association, trust, estate, or other legal entity.
- C. **Premises** means any lot, parcel, building, or structure, whether occupied or vacant, and includes any yard, parking area, or open space adjoining such structure.
- D. **Enforcement Officer** means the Town Marshal, the Town Superintendent of Public Works, or any other Town employee or contractor designated in writing by the Town Council to enforce this Ordinance. All enforcement officers shall have concurrent authority to issue notices of violation, citations, and orders under this Ordinance.

SECTION 2. Nuisance Prohibited.

No person shall erect, create, cause, permit, or maintain any public nuisance within the Town of Westport. Each day that a nuisance exists shall constitute a separate offense.

SECTION 3. Specific Public Nuisances.

Without limiting the generality of Section 2, the following are hereby declared public nuisances within the Town of Westport:

- A. Accumulation of garbage, refuse, junk, scrap metal, inoperable or unlicensed vehicles or tires visible from a public right-of-way.
- B. Weeds, grass, or rank vegetation exceeding ten (10) inches in height.
- C. Standing water, filth, or decayed matter or material that attracts insects or vermin or in which insects or vermin may breed.
- D. Any building, structure, or property so dilapidated, unsafe, or unsanitary as to endanger life or property.
- E. Any emission of smoke, fumes, dust, odor, noise, or vibration that unreasonably interferes with the comfort or safety of others.
- F. Open or unguarded pits, wells, excavations, refrigerators, or similar hazards accessible to the public.
- G. Any place where disorderly conduct, lewdness, or other offensive acts occur in violation of law.
- H. Loud, unnecessary, or unreasonable noise that disturbs another's comfort, including but not limited to amplified music, shouting, or engine revving between 11:00 p.m. and 7:00 a.m.
- I. Obstructions of streets, alleys, sidewalks, or drainage ways not otherwise authorized by law.
- J. Any accumulation or condition that substantially interferes with the use or enjoyment of neighboring property.

This Section 3 shall not apply to: (i) businesses lawfully operating pursuant to all required federal, state, and local permits and licenses, including those issued by the Indiana Department of Environmental Management; (ii) the controlled burning of natural yard waste, including tree limbs and leaves, when conducted in compliance with applicable law and during daylight hours under proper supervision; or (iii) properly supervised backyard fire pits, campfires, or grills used for customary residential or recreational purposes, provided such activities are conducted in a safe manner and in compliance with all applicable laws and regulations.

The enumeration of specific nuisances in this section shall not be deemed to be exclusive. Any condition meeting the definition of a 'public nuisance' in Section 1 shall be subject to enforcement under this Ordinance.

SECTION 4. Inspection and Notice of Violation.

- A. Upon complaint or observation that a public nuisance exists, the Town Marshal, the Town Marshal's designee, the Town Superintendent of Public Works, or the Town Superintendent of Public Work's designee, or other designated enforcement officer shall inspect the property and prepare a written report of findings.
- B. If a nuisance is found, written Notice of Violation shall be served upon the property owner and occupant, stating:
 - 1. The nature of the nuisance;
 - 2. The corrective action required; and
 - 3. That the nuisance must be abated within ten (10) days (or such longer period, not to exceed thirty (30) days, as the enforcement officer deems reasonable).
 - 4. A statement that failure to comply may result in further enforcement action, including fines, abatement by the Town, and recovery of costs.
- C. Service may be made by personal delivery, certified mail, or by posting the notice conspicuously on the property when other means are unsuccessful.
- D. A Notice of Violation shall be deemed properly served if delivered personally to the owner or occupant, or sent by certified mail to the last known address as listed on the Decatur County property tax records. Proof of service shall be documented in the enforcement file and shall constitute prima facie evidence of proper notice in any civil or administrative proceeding.

SECTION 5. Failure to Abate.

- A. If the nuisance is not abated within the time prescribed, the Town may:
 - 1. Cause the nuisance to be removed or otherwise abated by Town personnel or a contractor; and

2. Certify the itemized costs of abatement, including administrative expenses, to the Clerk-Treasurer, who shall issue a statement of costs to the owner.
- B. If the owner fails to pay within ten (10) days of billing, the Clerk-Treasurer shall certify the costs to the Decatur County Auditor for placement as a lien on the property and collection as delinquent taxes under IC 36-7-10.1-4 and IC 36-1-6-2. In addition to certification as a lien, the Town may also collect such costs by filing a civil action to recover expenses, administrative costs, and attorney fees pursuant to IC 36-1-6-2 and IC 34-28-5-1.

SECTION 6. Administrative Appeal.

- A. A person receiving a Notice of Violation may file a written appeal with the Town Clerk-Treasurer within ten (10) days of service.
- B. Upon receipt of an appeal, the matter shall be placed on the next regular or special meeting agenda of the Town Council for hearing.
- C. At the hearing, the appellant may present evidence and argument. The Council may affirm, modify, or rescind the Notice of Violation. The decision of the Council constitutes the Town's final administrative determination, subject to judicial review under IC 36-7-9-8 and IC 4-21.5.
- D. The filing of an appeal under this Section 6 shall stay further enforcement proceedings, except for emergency abatement under Section 7, until the Town Council has rendered its decision. All hearings shall be recorded, and the Council's decision shall be in writing in the meeting minutes.

SECTION 7. Emergency Abatement.

If a condition presents an immediate danger to life, health, or property, the Town may summarily abate the nuisance without prior notice, provided that written notice and a statement of costs are issued to the property owner as soon as practicable thereafter.

SECTION 8. Penalty.

- A. Any person who violates any provision of this Ordinance shall be liable for a civil penalty as follows:
 1. First offense – fine not to exceed \$100;
 2. Second offense within 12 months – fine not to exceed \$500;
 3. Third and subsequent offenses within 12 months – fine not to exceed \$1,000 per day of continuing violation.
- B. Each day a violation continues after notice constitutes a separate offense.
- C. The Town may, in addition to the above, seek injunctive relief, specific performance, or other equitable remedies authorized by law.

- D. Civil penalties, costs of abatement, administrative fees, and attorney fees may be collected in any manner permitted by law, including as a lien on the property or by civil action. Unpaid fines shall accrue interest at the statutory rate until paid in full.

SECTION 9. Enforcement and Collection.

- A. The Town Attorney is authorized to pursue collection of unpaid fines, costs, and liens and to initiate civil or injunctive proceedings as necessary.
B. Each day a nuisance continues after notice constitutes a separate violation.
C. In any action to enforce this Ordinance, the Town shall be entitled to recover all reasonable attorney fees, administrative expenses, and court costs incurred in enforcement, in addition to any penalties or abatement costs imposed.

SECTION 10. Repealer

All prior ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 11. Severability.

If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions that can be given effect without the invalid provision.

SECTION 12. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

ADOPTED AND PASSED by the Town Council of the Town of Westport,
Indiana, this 8th day of June, 2025.

AYES

NAYS

Bryan Gatewood

Glen D. Black

Dolores Honeycutt

AD

Presented to me by the Town Council of Westport, Indiana on this 8th day of
June, 2025.

Mark Chen
Clerk-Treasurer