

ORDINANCE NO. 2012-4

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WESTVILLE, INDIANA, PROHIBITING THE PLACEMENT OR DISPOSAL OF GRASS CLIPPINGS, LEAVES, TRASH OR RUBBISH IN OR UPON ANY STREET, ALLEYWAY, SIDEWALK OR PUBLIC RIGHT OF WAY WITHIN THE TOWN OF WESTVILLE, INDIANA.

WHEREAS, grass clippings, leaves, trash and rubbish are considered to be sources of nonpoint water pollution; and

WHEREAS, the placement and/or disposal of grass clippings, leaves, trash, or rubbish in or upon the streets, alleyways, sidewalks or public rights of way within the Town of Westville, Indiana, creates an impediment to the drainage and disposal of storm water within the Town to the detriment to the public health, safety and welfare of the citizens of the Town; and

WHEREAS, the placement or disposal of grass clippings, leaves, trash, or rubbish in or upon the streets, alleyways, sidewalks or public rights of way within the Town of Westville, Indiana, is unsightly and has necessitated the expenditure of Town funds in order to unclog storm water drains and otherwise protect the integrity of the Town's storm water system.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Westville, Indiana, as follows:

Section 1. Unlawful Disposal of Grass Clippings, Leaves, Trash or Rubbish. It shall be unlawful for any person or corporate entity to place or dispose of any grass clippings, leaves, trash, or rubbish in or upon the streets, alleyways, sidewalks or public rights of way within the Town of Westville, Indiana. Every owner or operator of any premises shall keep the alleys, street, sidewalks and public rights of way abutting on such premises free and clear of all grass clippings, leaves, trash or rubbish.

Section 2. Exceptions. The Town Council of the Town of Westville, Indiana, may, as it deems necessary, allow for exceptions to Section 1 of this Ordinance to enable the Town of Westville Street Department to collect leaves and other yard waste during the limited time frames permitted by the Town Council.

Section 3. Enforcement Authority. The Town of Westville, Indiana, Town Marshal and/or his authorized designee shall be responsible for enforcing the terms of this Ordinance. The Town Marshal and/or his authorized designee shall have the authority to make inspections, determine violations and take all actions necessary to enforce the provisions of this Ordinance.

Section 4. Initial Notice of Violation. Upon discovery of an initial violation of this Ordinance in any calendar year, the persons or persons in violation shall be given written notice as follows:

The notice shall contain the following information:

- a. Date;
- b. Name of the person(s) to whom the notice is given, however, if the name of the occupant cannot reasonably be determined, it will be deemed sufficient for the notice to be given to "Occupant";
- c. Address and/or parcel number of the real property that is subject to the notice;
- d. Nature of the violation and if action is required, the period of time in which such action is required to be accomplished; and
- e. Statement briefly describing what action can be taken by the Town of Westville, Indiana, in the event that the person(s) continues to violate this Ordinance.

Service of the notice is deemed sufficient if given by:

- a. Sending a copy by registered or certified mail, return receipt requested, to the person(s) to be notified; or
- b. Delivering a copy personally to the person(s) to be notified; or
- c. Leaving a copy at the residence of the person(s) to be notified.

Persons shall only be entitled to receive one (1) initial notice of violation for each calendar year. To the extent that any person continues to violate this Ordinance after receiving an initial notice of violation, said person shall be subject to the provisions of Sections 7 and 8 of this Ordinance without further notice from the Town.

Section 5. Appeal. In the event that a person does not believe that he or she is in violation of this Ordinance, said person may request an appeal to the Westville Town Council.

Section 6. Abatement of Violation by Town; Collection of Costs. The Town of Westville, Indiana, may take action to abate a violation of this Ordinance if any person who has been provided the initial notice of violation continues to violate the requirements of this Ordinance. The Town may abate the violation by contract with a contractor or with Town personnel and equipment. The owner and occupant of the real property in violation of this Ordinance shall be jointly and severally responsible for the Town's cost for the abatement of the violation of this Ordinance. The costs for abatement shall be Fifty Dollars (\$50.00) or the actual cost of the work performed by the Town and/or its contractor, whichever is greater. The Clerk-Treasurer shall send a bill to the person violating this Ordinance for the Town's cost for the abatement of the violation. Payment shall be due fifteen (15) days after the billing date.

Section 7. Penalty. In addition to the Town's right to abate any violation of this Ordinance, any person who violates a provision of this Ordinance may also be subject to the imposition of the following fines:

1st offense: \$50.00
2nd offense: \$75.00
3rd offense: \$100.00
Each subsequent offense: \$250.00

Each day that a violation of this Ordinance exists shall constitute a separate offense.

Section 8. Repealer. All other ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency and all other respects of the ordinances or parts of ordinances are hereby ratified, reestablished and confirmed.

Section 9. Severability. If any portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other portion or provision of this Ordinance.

Section 10. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

PASSED AND ADOPTED by the Westville Town Council on this 9th day of October, 2012.

WESTVILLE TOWN COUNCIL

By:

Michael Albright
Dwayne Russell
Paul D. Stotts
Lisa Manger
Jim Stotts

ATTEST:

Carol Rotzien
Carol Rotzien
Clerk-Treasurer
Town of Westville, Indiana