

**ORDINANCE 17-02**  
**(Replacing Ordinance #3-11-87 and**  
**Ordinance #02-2001)**

**209015**  
PEGGY ROBERTSON  
OWEN COUNTY RECORDER  
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WHEREAS, there are owners of real estate in Gosport, Indiana, who allow refuse to accumulate and weeds to grow upon their properties, thereby creating unsafe, dangerous and unsanitary conditions which are detrimental to the health, safety and general welfare of the people of this town; and

WHEREAS, the existing ordinances of Gosport, Indiana, are inadequate to correct the situation. Now, therefore,

BE IT ORDAINED BY THE TOWN OF GOSPORT AS FOLLOWS:

**Refuse and Weeds**

**Section 1.**

Definitions.

The following terms have the meanings set forth below unless otherwise designated:

(a) "Garbage" means animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

(b) "Refuse" means all solid wastes (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and industrial wastes.

(c) "Rubbish" means solid wastes consisting of both combustible and noncombustible wastes, such as (but not limited to) paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

**Section 2.**

Deposit of Refuse

It is unlawful for any person within the Town of Gosport to throw, place or scatter any garbage, rubbish, trash, or other refuse over or upon any premises, street, or alley, either public or private, or to suffer or permit any garbage, rubbish, trash or other refuse to be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to later remove, cover or burn it. This provision shall not restrict the filling of low lands within the Town with brick, stone, sand, gravel cold ashes or dirt.



### **Section 3.**

#### Excessive Growth

It is unlawful for the owner or tenant of any lot or tract of ground within the Town of Gosport to allow it to become overgrown with weeds, grass, or noxious plants beyond the height of one foot or to such extent that the growth is detrimental to the public health of the residents of the Town of Gosport. Permitting such overgrowth constitutes a nuisance.

### **Section 4.**

#### Inspections.

It shall be the duty of the Gosport Town Marshal to make a careful examination upon request of any member of the Gosport Town Council of any lots, grounds and tracts of land situated within the corporate limits of the Town of Gosport for the purpose of determining whether there is a violation of this Ordinance. Such examination may also be completed by any member of the Gosport Town Council.

### **Section 5.**

#### Removal Notice.

Whenever the Gosport Town Marshal or a member of the Gosport Town Council finds refuse, weeds or other rank vegetation on the property within the Town of Gosport that is of such a character or to such an extent as to be injurious to the public health or comfort of the residences of the Town, a notice shall be issued by the Gosport Clerk-Treasurer to the offending property owner and his tenant. The notice shall require the total removal of the refuse or vegetation within ten (10) calendar days unless such time period is extended by a majority vote of the Gosport Town Council. The notice as required by this Ordinance shall be served by the Gosport Town Marshal (or his designee) upon the occupant of the property and upon the landowner if he or she is a resident of the Town. Or, the notice may be sent by certified mail addressed to the landowner's last known address if he or she is a nonresident. If the landowner cannot be properly served with the aforementioned notice after a reasonable attempt is made by the Gosport Clerk-Treasurer to complete such service of process, the Town of Gosport shall be permitted to proceed, nonetheless, under the provisions of Section 6 of this Ordinance.

## **Section 6.**

### **Failure to Remove**

If the landowner or tenant fails to completely remove the refuse, weeds or other rank vegetation on the property within 10 days of the receipt of the notice as aforesaid, the Town of Gosport shall proceed as follows:

1. The Gosport Clerk-Treasurer shall notify the landowner and the tenant of the assessment of a One Hundred Dollar (\$100.00) fine for the violation of the provisions of this ordinance. If the landowner and tenant fail to remove completely the refuse, weeds or other rank vegetation on the property within 40 days of the receipt of the original notice, an additional One Hundred Dollar (\$100.00) fine shall be levied for the violation of the provisions of this ordinance. If the landowner and tenant fail to remove completely the refuse, weeds or other rank vegetation on the property within 70 days of the receipt of the original notice, an additional One Hundred Dollar (\$100.00) fine shall be levied for the violation of the provisions of this ordinance. If the landowner and tenant fail to remove completely the refuse, weeds or other rank vegetation on the property within 100 days of the receipt of the original notice, an additional One Hundred Dollar (\$100.00) fine shall be levied for the violation of the provisions of this ordinance. If the landowner and tenant fail to remove completely the refuse, weeds or other rank vegetation on the property within 130 days of the receipt of the original notice, an additional One Hundred Dollar (\$100.00) fine shall be levied for the violation of the provisions of this ordinance. The maximum fine for violation of this ordinance shall be Five Hundred Dollars (\$500.00) during the course of any calendar year.

2. If the landowner and tenant fail to completely remove the refuse, weeds or other rank vegetation on the property within 131 days of the date of receipt of the original notice (regardless as to whether the landowner or tenant has paid in a timely fashion the fine levied under the provisions of paragraph 1. above), the Town of Gosport shall cause the refuse, weeds or other rank vegetation on the property to be removed by Town personnel or by a contractor hired by the Gosport Town Council. This Ordinance shall permit entry upon the premises of the landowner or tenant for the sole purpose of removal of the offending refuse, weeds or vegetation.

3. The Gosport Clerk-Treasurer shall prepare a certified statement of the actual costs incurred by the Town for the refuse, weed or other rank vegetation removal and the statement shall be delivered to the landowner of the property and his tenant by the Gosport Town Marshal (or by his designee) or shall be sent by certified mail. Thereafter, the landowner and his tenant shall pay within ten (10) days any actual costs incurred by the Town of Gosport for the refuse or vegetation removal as aforesaid and additionally shall pay any fines previously levied under the provisions of paragraph 1.

4. If the landowner and his tenant shall fail and refuse to pay within ten (10) days any actual costs incurred by the Town of Gosport for the refuse or vegetation removal as aforesaid, a statement of the costs as prepared by the Gosport Clerk-Treasurer shall be filed in the Office of the Owen County Auditor. The Auditor shall place the amount claimed on the tax duplicate against the property affected by the work and the amount shall be collected as taxes are collected and disbursed to the general fund of the Town of Gosport. In the alternative, the Gosport Clerk-Treasurer, within 30 days of the completion of the work, may seek to file a Notice of Intention to Hold a Mechanic's Lien against the landowner's property if permitted by law and may thereafter seek to foreclose upon same to collect the actual costs of refuse or vegetation removal as assessed.

5. If the landowner and his tenant shall fail and refuse to pay any fines levied under the provisions of paragraph 1. above, the Town of Gosport may file a collection lawsuit through the Owen Circuit Court against the landowner and his tenant. In such event, the Town of Gosport shall be permitted to recover its reasonable costs of collection, including litigation expenses, court costs, and attorney fees as part of such action.

6. If the landowner and his tenant shall dispute in court the right of the Town of Gosport to go upon the premises of the landowner or tenant for the sole purpose of removal of the offending refuse, weeds or vegetation, the Town of Gosport shall be permitted to recover from the landowner and his tenant its reasonable litigation expenses, court costs, and attorney fees as part of such action.

#### **Section 7.**

##### Conflicts With Existing Ordinances; Effective Date

All existing ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are deemed null, void, and of no legal effect and are specifically repealed.

This Ordinance shall take effect, and be in full force and effect, from and after passage and publication in conformance with applicable law by the Town Council of the Town of Gosport.

This ORDINANCE was passed and adopted by the Town Council of the Town of Gosport, Indiana, on the 11th day of April, 2017.

\_\_\_/s/Mitch Pearce\_\_\_\_\_  
Mitch Pearce, President,  
Gosport Town Council

\_\_\_/s/Jamie Neibel\_\_\_\_\_  
Jamie Neibel, Member  
Gosport Town Council

\_\_\_/s/Brian Gessler\_\_\_\_\_  
Brian Gessler, Member  
Gosport Town Council

Attest:

\_\_\_/s/Don Hall\_\_\_\_\_  
Don Hall  
Gosport Clerk-Treasurer