



**ORDINANCES GOVERNING  
COMMUNITY HEALTH, SAFETY & WELFARE**

**February 12, 2024**



**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**ORDINANCES GOVERNING COMMUNITY HEALTH, SAFETY & WELFARE**

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## Indiana Code References

Home Rule authority and “police power” to establish inspection programs and take appropriate enforcement action. I.C. 36-1-3 *et. seq.*

Order to Remove Trash. I.C. §36-7-9-7(a)(4)

Order to Repair/Rehabilitate. I.C. §36-7-9-7(a)(5)

Property Maintenance Code. 15.10.020

Indiana law authorizes cities to enact ordinances to provide for removal of abandoned and junk vehicles because it is considered blight and is a public safety hazard. I.C. 9-22-1 *et. seq.*

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TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE No. 2023-02-C

PROPER MAINTENANCE OF BUILDINGS AND REAL ESTATE;  
PROHIBITING NUISANCES

**WHEREAS**, the Town Council of the Town of Pottawattomie Park has determined it to be necessary to adopt an Ordinance to protect the public health, safety, and welfare of the residents of said Town, and

**WHEREAS**, said Council, after due consideration and public discussion, has determined it to be necessary to enact an Ordinance governing the maintenance of buildings and real estate, and prohibiting nuisances, as described in said Ordinance, for the public health, safety, and welfare of the residents of said Town.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, as follows:

**Section 1. Definitions.**

As used in this Ordinance, these terms shall have the following meanings:

“*Construction materials*” shall mean building materials, equipment, tools, vehicles, or other appurtenances used or associated with building or construction.

“*Nuisance*” shall mean an offensive, annoying, unpleasant, or obnoxious thing or practice, especially a continuing use of property or activity which can be perceived by a human being, or affects one, across a property line.

**Section 2. Unlawful acts prohibited.**

It shall be unlawful and shall constitute a penal offense for any person, persons, firm or corporation to cause or permit any of the following acts or conditions to occur on their premises within the Town of Pottawattomie Park:

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- A. The accumulation or storage of construction materials outside of an enclosed building or carport beyond the time period specified in the appropriate building permit, or extension of same.
  
- B. Lack of proper maintenance of buildings or structures, if the lack of maintenance results in any of the following:
  - (a) Structural deterioration rendering the house, building, or structure unsafe;
  
  - (b) Unsafe or unhealthy conditions of utilities or facilities used in connection with house or building;
  
  - (c) The presence of any condition conducive to the transmittal of illness or disease;
  
  - (d) A gross and notorious state of general disrepair or dilapidation, or an imminent hazard to the public health, safety, and welfare, such that a blight on the neighborhood exists causing economic devaluation of surrounding properties.

**Section 3. Nuisance declared.**

The causing or permitting of any of the conditions specified in Section 2, hereof, shall be a public nuisance and unlawful. Upon the public declaration of such by the Town Council, the Town Marshal shall deliver in person or by certified mail a written order to the offending property owner, setting a reasonable time limit of not more than seven (7) days for the specified nuisance to be removed.

In the event said order is not honored, the Town Marshal shall issue a citation and set forth a new time limit identical to the prior order for said nuisance to be removed. Upon lack of compliance with the Marshal's order, the Town Council may maintain an action in any court of competent jurisdiction for the abatement of the nuisance and recovery of all costs and expenses of the Town, including reasonable attorney's fees. Any judgment entered on behalf of the Town shall become a lien on the property of said owner and be collected in the manner provided by law.

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**Section 4. Provision of proper containers for removal of trash.**

For waste material not provided for by commercial garbage and trash removal services, it shall be the duty of all property owners or tenants occupying any premises to provide containers for the retention of any rubbish and trash as defined in this Code. Said containers shall be provided with covers to prevent the scattering of trash by the wind or in any other manner. No trash and rubbish, whether in containers or not, shall be placed at the pick-up site earlier than twelve (12) hours preceding the scheduled pick-up day and said containers shall be removed from the pick-up site no later than 10:00 p.m. on the scheduled collection day.

**Section 5. Conflict with other provisions.**

Any terms and provisions of the Ordinances of the Town of Pottawattomie Park, Indiana inconsistent with the terms of this Ordinance No. 02-01-2015 are hereby deemed repealed, and all other existing provisions of the Ordinances of said Town not inconsistent with this Ordinance shall remain in full force and effect.

**Section 6. Penalty.**

Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 7. Effectiveness.**

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

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-03-C

REMOVAL OF RUBBISH, TRASH AND LITTER; REGULATING PRESENCE OF WEEDS

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana; and,

**WHEREAS**, the Town has determined that it is necessary to enact an Ordinance governing the removal of rubbish, trash and all other litter, regulating the growth of weeds and removal of weeds for the public health, safety and welfare of its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that:

**Section 1. Definitions.**

The term “Rubbish, Trash and Litter” as used in this code shall be taken to mean dirt, chips, pieces of lumber, sticks, wood, trees and leaves or branches thereof, grass and other clippings, disabled mechanical equipment, bottles, broken glass, crockery, tin cans, woodenware, wooden cases, cardboard or other paper boxes, straw, shoes, paper, circulars, newspapers and magazines, bills, rags, boots, hats, plaster and razor blades, or any other litter or trash whatsoever.

**Section 2. Provision of Proper Containers.**

It shall be unlawful and shall constitute a penal offense for any person, persons, firm or corporation to cause or permit the accumulation of litter, rubbish or trash on their premises. Therefore, it shall be the duty of all property owners or their tenants occupying any premises to provide containers for the retention of any rubbish, trash or litter as defined in this Ordinance. Said containers shall be provided with covers to prevent the scattering of trash by the wind or in any other manner.

**Section 3. Placement & Removal of Garbage & Trash for Pickup.** No trash or rubbish, whether in containers or accumulated for weekly garbage collection, shall be placed at the



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pick-up site earlier than twelve (12) hours preceding the scheduled pick-up day and said containers shall be removed from the pick-up site no later than 8:00 pm on the scheduled collection day.

**Section 4. Growth and Disposition of Weeds.**

- A. It shall be unlawful for any rank weeds or similar vegetation to be allowed to grow to a height of more than four (4) inches on any ground, within the corporate limits of the Town of Pottawattomie Park, Indiana.
- B. Upon receipt of a written warning from the Town Marshal, in person or by certified mail, any such growth shall be cut to the allowable height and hauled away or disposed of in an appropriate manner. Said order shall set a reasonable time limit of not more than seven (7) days to comply.
- C. If any owner or lessee, being duly ordered as herein provided, shall fail or refuse to obey said warning, it shall be the duty of the Town Marshal to issue a citation to the owner or lessee and report the failure to the Town's Maintenance contractor, who will then take steps to remove and dispose of the offending material in an approved manner and subsequently report the expense to the Clerk-Treasurer, who will pay for the expenses from the Town's funds and then notify said owner or lessee of said property of the amount of the expense.
- D. Said owner or lessee shall have ten (10) days to reimburse the Town for said expenses.

**Section 5. Penalty.** Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 6. Effectiveness.**

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

Enacted May 8, 2023.  
Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller  
Attest: Susan Tohell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE No. 2023-04-C

PROHIBITING WRECKED, JUNKED, ABANDONED VEHICLES

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana, finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana; and,

**WHEREAS**, the Town has determined that storage of wrecked, junk and abandoned automobiles within the Town of Pottawattomie Park detracts from the public health, safety and welfare of its inhabitants.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that:

**Section 1.** No person shall park or store any wrecked, junked or abandoned automobile or other vehicle, or parts thereof, nor park or store any Recreational Vehicle (RV) having sleeping accommodation, tractor- and/or semi-trailer, utility trailer, vending motor vehicle or trailer, travel trailer, boat trailer, or conveyance from any other trailer class on private or public property within the Town of Pottawattomie Park, Indiana, hereinafter referred to as the “Town” except in a garage or other enclosure so as not to be exposed to public view.

**Section 2.** Any vehicle shall be deemed to be wrecked, junked or abandoned if such vehicle does not have attached thereto a valid and current license plate; provided, however, that a vehicle may be found to be wrecked, junked or abandoned as a matter of fact even though such vehicle has attached thereto a valid and current license plate.

**Section 3.** The keeping, painting or storing of any wrecked, junked or abandoned vehicle, or part thereof, on private property exposed to public view, except as provided herein, is hereby declared to be a nuisance.

**Section 4.** Any person owning or having on their property a wrecked, junked or abandoned automobile or other motor vehicle or other conveyance described in Section 1, above,

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parked or stored in view of the public, for the purpose of being repaired or for the purpose of providing parts for another vehicle, or for visiting guests or any other purpose may obtain a permit for that purpose from the Clerk Treasurer at his or her office, upon the payment of a fee of One Hundred Dollars (\$100.00) per 30 days, per vehicle for a period not to exceed 90 days. Such permit shall be visibly displayed on the windshield of the vehicle for which the permit was issued.

**Section 5 .** The Town Marshal or any of his deputies is hereby authorized to issue a written warning to the owner, occupant, agent or person in possession of the premises on which any wrecked, junked or abandoned motor vehicle is kept in violation of this chapter notifying such person to remove such vehicle from the premises within ten (10) days from the receipt of such notice. Repeat violations shall be cited without warning.

Upon the failure or refusal of such person to remove such vehicle, within the time specified, the Town Marshal or any of his deputies shall:

(b) issue a citation;

(c) impound such vehicle and cause it to be removed by a licensed towing agency and stored in a place affording it protection from vandalism or other damage;

(d) provide such person with information as to how they can retrieve the vehicle;

**Section 6.** Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 4. Effectiveness.** This Ordinance shall be in full force and effect from and after passage, approval, recording and publication as provided by law.

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-05-C

RESPONSIBILITY FOR MAINTENANCE OF PARKWAY AREAS

**WHEREAS**, there is a need to identify and define areas of the Town of Pottawattomie Park, Indiana which shall be designated as “Parkway,” and

**WHEREAS**, it is deemed to be in the best interests of the safety and well being of the residents of the Town of Pottawattomie Park, Indiana, that provisions be made for the maintenance of Parkway Areas,

**NOW, THEREFORE, BE IT ORDAINED** by the Town Board of Trustees of the Town of Pottawattomie Park, Indiana, as follows:

**Section 1. Definition of “parkway.”**

“Parkway” shall be defined as the area of land lying between the edge of the street, whether paved or unpaved, and the edge of the sidewalk adjacent to and parallel to said street. Where no sidewalk exists the Parkway is that area of land lying between the edge of the street and the property line of the adjacent landowner.

**Section 2. Responsibility for maintenance.**

The landowner whose property abuts a street shall maintain and care for any Parkway which joins or is part of its property. Such maintenance care shall include, but not be limited to, the planting and regular mowing of grass, trimming of bushes and trees and maintenance of flower beds. Bushes in a Parkway cannot exceed 36 inches in height so as not to obstruct vehicular traffic.

**Section 3. Paving on a parkway.**

No person shall pave, re-pave or cause to be paved all or any part of a Parkway except to provide an apron for driveway access to the property or adjoining property.

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**Section 4. Use of parkway.**

- A. It shall be unlawful for any person to erect, post or place on any unpaved parkway any type of sign, poster or other form of communication or other object, including but not limited to, landscaping timbers, rocks, plantings, etc.
  
- B. It shall be unlawful for any person to park a vehicle on any paved Parkway.
  
- C. Parking on an unpaved parkway may be permitted under limited unusual and infrequent circumstances, if the parking provided upon the adjacent property is insufficient to accommodate an unusually large number of temporary guests and/or vehicles. Such use shall not be permitted on any type of frequent or regular basis. Additionally, no person shall park any vehicle upon any street in such a manner or under such conditions as to leave less than 10 feet of width of the roadway for the free movement of vehicular traffic.

**Section 4. Penalties.**

Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 5. Limitation of applicability.**

All the terms, conditions and requirements of other ordinances of the Town of Pottawattomie Park, Indiana, not inconsistent with the Ordinance, as well as any amendatory Ordinances enacted are to remain in full force and effect and shall not be affected by the adoption of this Ordinance.

**Section 6. Effectiveness.**

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

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-06-C

SPEED LIMIT

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana.

**WHEREAS**, the Town has determined upon the basis of an engineering and traffic investigation that a maximum speed limit of 20 miles per hour is appropriate for the environment and should be applicable upon all streets in the Town.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana that:

**Section 1.** No person shall drive a motor vehicle at a speed greater than 20 miles per hour on any street within the Town limits;

**Section 2. Penalty.** Any person who violates this Ordinance shall be cited and fined in accordance with state statutes.

**Section 3. Effectiveness.**

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

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tohell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-07-C

PET ANIMAL RESPONSIBILITIES AND CARE

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana, finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the residents of the Town of Pottawattomie Park, Indiana; and

**WHEREAS**, the Town Council has determined that residents of the Town are impacted by the health and behaviors of pet animals belonging to residents, including our own; and

**WHEREAS**, health issues include the exposure to E. coli due to the presence of pet animal excreta that has not been removed by pet owners, or their agent, and the possibility of rabies transmission following a dog bite; and

**WHEREAS**, behavior issues such as, aggressiveness exhibited by molesting passersby, chasing vehicles, attacking other animals, barking, howling or meowing excessively, depositing excretory matter on private property other than that of the owner, or damaging property are nuisances and an endangerment to the community overall; and

**WHEREAS**, the Town Council intends to mitigate these dangers and nuisances to the greatest extent possible by employing standard best practices for communities like ours, including licensing with inoculation requirements, and

**WHEREAS**, the Town Council aims to ensure due process protections for owners of pet animals by promoting responsible pet ownership, which is essential to the protection of people and animals residing in the city limits,

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that the following sections shall set forth the best practices for the humane and ethical treatment of animals by requiring animal and pet owners to comply with reasonable regulations in order to be responsible pet owners.

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**Section 1. Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned animal* means any pet left behind by its owner when vacating a premise or any animal left unfed and unsheltered for more than five days.

*Agent* means any person(s) 18 years or older authorized by an owner to act on behalf of the owner(s).

*Animal* means any live nonhuman vertebrate creature, domestic, exotic or wild.

*Animal Control Officer* is the enforcement official having legal authority and power to issue citations for any violation of this chapter.

*Dog license* means a license issued by the Town for a pet.

*Animal shelter* means any facility established by any lawful authority in any city or town within the county or any other authorized body to keep, care for, or legally dispose of animals impounded as provided for herein.

*Animal under restraint* means any animal either secured by a leash, harness or lead, or within the premises of the owner, or confined within a crate or cage; or confined within a vehicle or on the premises of another person with the consent of that person; or within an area specifically designated by the director as an animal exercise run when said animal is under the control of a competent person. An animal is not considered to be under restraint if it is secured by means of an invisible fence.

*Bite* means seizure within the teeth or jaws of an animal so that the skin of the human being or animal seized has been pierced or broken.

*Dangerous animal* means any animal which constitutes a substantial threat to people, pets, or property while off the owner's premises, including:

*Dog at large* means any dog found to be roaming away from the premises of its owner or keeper, excepting however, a service dog which may have gotten lost or strayed away from its owner temporarily.

*Licensed animal* means a dog having a license issued by the Clerk-Treasurer for the Town of Pottawattomie Park, Indiana, for a pet that has met all requirements of licensing as required by the laws of the state and/or the Town.

*Livestock animal* means all animals which are normally and have historically been raised on farms in the United States and are used or intended for use as food or fiber, or derivative



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pursuits. This term also includes animals, such as rabbits, mink, and chinchilla, when they are used solely for purposes of meat or fur. This term does not include dogs or cats kept for breeding purposes.

*Non-immunized pet* means any dog or cat over three months of age which has not been vaccinated or immunized against rabies, or for which a booster shot thereafter has not been administered for a period of 12 months from the date of the last vaccination; or 36 months if dog or cat was vaccinated with a three-year approved rabies vaccine.

*Owner* means an individual who has the legal right of possession and control of a domestic animal. A person who routinely keeps and cares for a domestic animal shall be deemed to be its owner.

*Pet* means any dog, cat or other animal kept for companionship under the care and control of an individual, so long as it is not bred for consumption.

*Private Property* means areas owned by residents of the Town, other than the pet owner.

*Rabid* means exhibiting the clinical symptoms of rabies as defined by the state board of health.

*Rabies vaccination* means the injection by a licensed veterinarian of a dog or cat with a rabies vaccine licensed by the USDA and approved by the state board of health.

*Running at large* means roaming free, away from the premises of an animal's owner, excepting however, a service dog which may have been lost or strayed away from its owner temporarily.

*Severe injury* means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

*Service dog* means a dog that is professionally trained to guide, protect, or aid its master.

*Stray animal* means any unlicensed dog or cat that wanders from its owner's property, or any feral cat.

*Vicious* means that propensity of an animal, whether domestic, wild or exotic, to constitute a physical threat to human beings based upon the animal's training, instinct or illness.

*Town property* means the Town's playground, parkway areas, and any areas owned or maintained by the Town.

An *unprovoked attack* by a domestic animal shall be deemed *prima facie* evidence of an animal being vicious.

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*Wild animal* means any animal that is not a domestic or exotic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

**Section 2. Enforcement framework.**

**A. Adoption of state statutory law reference**

1. All laws of the state pertaining to the regulation and control of animals, concerning their ownership, licensing, harboring, abandonment, running at large, rabies control and quarantine, pursuit, capture, or confinement, the prevention and control of disease of domestic animals as defined, and the administrative rules and regulations of the state board of health, are made a part hereof by reference.
2. The provisions of this ordinance are not to replace such laws and regulations but are to be considered supplementary and in addition thereto and shall be fully enforced where not inconsistent with the laws of this state.

**B. Authority to establish administrative regulations.**

The Pottawattomie Park Town Council is authorized to establish whatever administrative regulations are necessary to implement the provisions of this ordinance, and the Town Marshal, in his designated role as Animal Control Officer, is authorized to establish whatever means necessary to enforce said regulations.

**C. Animal Control Officer.**

The Town Marshal of the Town of Pottawattomie Park, Indiana shall be designated as the Animal Control Officer and shall have such special police powers as may be necessary for the enforcement of the provisions of this ordinance. No person shall prevent or attempt to prevent, by the use of force or interference of any other nature, the Animal Control Officer or designee from carrying out their responsibilities under the provisions of this ordinance.

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**D. Interfering with the Animal Control Officer.**

No person shall prevent or attempt to prevent, by the use of force or interference of any other nature, the Animal Control Officer or designee from carrying out his or her responsibilities under the provisions of this ordinance. This section shall not be construed to limit legitimate free speech interests of any person.

**Section 3. Domesticated animals/pets; Owner responsibilities.**

**A. Animal excreta.**

- (1) The owner of every Pet Animal shall be responsible for the immediate removal of any matter that is excreted from or deposited by their animal on public property or on private property of another, excepting a blind person working with a service dog.
  
- (2) The owner or their agent, walking their domestic animal outside their own personal property limits, must have in their possession a bag or device to be used to pick up all excrement deposited by the animal during the walk.

**B. Duty of owner to protect dogs and cats against rabies.**

It shall be the responsibility of every pet owner to have all such animals over three months of age that are owned by him continually protected against contracting rabies. *See* Harboring a non-immunized dog, IC 35-46-3-1.

If at any time a dog is believed to have rabies or has been bitten by any animal suspected of having rabies, the Animal Control Officer has the discretion to have such dog quarantined and confined within the owner's premises or removed from the owner's premises and taken to a veterinary hospital and placed under observation of a veterinarian at the expense of the owner for a period of ten (10) days. No person knowing or suspecting a dog of having rabies shall allow such dog to be removed from said premises without written permission of the Animal Control Officer. Any owner or other person, upon ascertaining a dog is rabid shall immediately notify the Animal Control Officer who shall either remove the dog to a veterinary hospital or destroy it. *See* Indiana Code 15-17-6-14.

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**C. Concealment, or falsifying ownership, of an animal.**

It shall be unlawful for any person to conceal any animal or falsely to deny ownership of any animal owned or harbored by him, to an official properly authorized to enforce the provisions of this chapter.

**D. Other general animal care requirements.**

(a) Every owner and/or his agent within the city shall see that each pet:

- (1) Is kept in a clean, sanitary, and healthy manner.
- (2) Is not beaten, cruelly ill-treated, tormented, or otherwise abused or neglected, nor shall any person cause, instigate, or permit any dogfight or combat between animals or between animals and humans.
- (3) If an animal is restrained in place by a chain, leash, wire cable or similar restraint, such restraint shall not weigh more than  $\frac{1}{8}$  of the animal's weight. It must be designed and placed to prevent choking, strangulation or entanglement with other objects. Such restraint shall not be less than ten feet and shall have a swivel on both ends. Any chain or tether must be attached to a properly fitting collar or harness worn by the animal. All collars used for the purpose of chaining or tethering an animal must be made of nylon, leather or other durable and nonmetallic material. Using a chain, choke or pinch collar as a primary collar is prohibited. All collars shall fit the animal so as to avoid causing injury to the animal or becoming imbedded in the animal's neck.
- (4) It shall be unlawful for any person to place or confine or allow such animal to be confined in such a manner that it must remain in a motor vehicle under such conditions or for such periods of time as may endanger the health or wellbeing of the animal due to heat, lack of food or water, or any circumstances which might cause suffering, disability, or death.

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- (5) If the Animal Control Officer has reason to believe either: that an animal is in distress caused by mistreatment, exposure to the elements, lack of sanitation, deprivation of proper food or water, restraint of movement, injury, illness, physical impairment or parasites; or that the well-being of an animal is threatened by a dangerous condition or circumstance; or that the distress of the animal or the dangerous condition was caused by the willful act or omission or gross negligence of the owner, agent, or keeper; or that it is likely the animal would be in distress if the owner retains the ownership of the animal, the officer is authorized and empowered to immediately remove and impound the animal if the animal is in plain view.
  - (6) Any person or persons violating this section shall bear full cost and expenses incurred by the Town in the care, medical treatment, impoundment cost, and disposal of said animal(s).
  - (7) When a person has been issued a citation under this section, and the animal has been seized by the Animal Control Officer pursuant to a warrant issued by the court, the owner shall not be allowed to redeem such animal until the citation has been resolved. If the owner is found guilty of violating this section, the court may dispose of such animal in accordance with this ordinance.
- (b) Other pet care requirements.
- (1) When temperatures plummet, pets should not be left outside. Bring small or short haired pets inside when temperatures reach 32 degrees Fahrenheit. Larger breeds and thick-coated dogs may remain outside, with adequate shelter available, to a temperature of ten degrees Fahrenheit, subject to the discretion and judgment of the Animal Control Officer.
  - (2) Regular access to clean, unfrozen water is also critical. If food and water can freeze, so can pets.

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- (3) If any animal is cold to the touch, or their paws and ears are pale, they may be suffering from frostbite. The animal should be moved to a warmer area, and if necessary, be impounded and taken for emergency care.

**E. Penalties.**

Unless otherwise prescribed elsewhere, notwithstanding any other penalties prescribed by the laws of the state, any person who violates any duty imposed by provisions of this Section shall be punished by a fine as set forth in the Schedule of Fines for Ordinance Violations.

**Section 4. Prohibited pet behavior.**

**A. Pets creating nuisance.**

Pets molesting passersby, chasing vehicles, attacking other animals, barking, meowing, howling, or squealing excessively, depositing excretory matter on private property other than that of the owner, or damaging property are declared to be a nuisance.

**B. Running at large.**

No dog shall be allowed on Town roads unless restrained by a suitable, dependable lead not longer than eight feet. Any animal found running at large upon public property or private property of someone other than the dog owner, shall be seized and subject to the provisions of this ordinance. After the first citation, any subsequent violation in that calendar year shall result in the animal being impounded at the owner's expense. The animal will be held until all fines have been paid and all conditions set forth in this Ordinance are complied with.

Exceptions to this would be:

- (a) A dog that is running freely on another's private property with that homeowner's consent.
- (b) A dog that is unleashed but under the full control of the owner, who is present.

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**C. Dogs on the playground or Town property designated as not animal-friendly.**

Except for service dogs, no person shall bring any domestic animal onto—or permit any domestic animal owned by him or under his control to come onto—the Playground or any property designated by the Town as not dog-friendly, whether the animal is on leash or otherwise restrained. Any animal found running at large upon such property shall be subject to the provisions of this ordinance.

**D. Penalties.**

Unless otherwise prescribed elsewhere, notwithstanding any other penalties prescribed by the laws of the state, any person who violates any duty imposed by provisions of this Section shall be punished by a fine as set forth in the Schedule of Fines for Ordinance Violations.

**Section 5. Licensing.**

Every person owning or harboring a dog within the Town shall, on or before the first day of January or within ten (10) days after any such dog becomes six (6) months of age, obtain a Town dog license for each dog so owned or harbored, per the Town’s published schedule of fees, with the following provisions:

- (1) No fee shall be charged for the licensing of any service dog currently being used for such purpose.
- (2) Town dog licenses shall be issued under the supervision of the Town Clerk-Treasurer at such places at such times as may be designated by the Town Clerk-Treasurer.
- (3) The Town Council may, by resolution adopted in regular session, increase or decrease such fees by an amount not to exceed the cost of administering and enforcing this ordinance.

**A. Issuance of the license contingent upon proof of rabies inoculation, submission of the application form and payment of the license fee.**

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- (1) On application for any annual license issued for any dog, the owner therefore shall exhibit a certificate showing the dog to have been inoculated against rabies within the preceding 12-month period, by a duly licensed veterinarian.
- (2) The application form and appropriate fee shall be submitted to the office of the Town's Clerk-Treasurer to receive

**B. Duration of license.**

All Town dog licenses shall be effective for 12 months from the period beginning the 1st day of January and ending on the 31st day of December.

**C. License transferability.**

No tag shall be transferred from one dog to another dog. Individual Town dog license tags shall be attached to the dog for which it is issued and shall pass with the dog. Upon the change of ownership of any dog, every person purchasing or otherwise acquiring such dog shall notify the Town Clerk-Treasurer, in writing, of such change in ownership in order that the license records of the Town may be properly adjusted.

**D. Loss of tag: Fee for duplicate.**

If any Town dog license tag is lost, the owner of the dog for which the Town dog license was obtained, may procure a duplicate Town dog license for use during the balance of the license period, upon making application therefore and paying \$1 to the Town Clerk-Treasurer.

**E. Collar and tag.**

Every dog over the age of six (6) months shall at all times wear a durable collar or harness to which the license tag shall be securely attached. The tag shall not be used on the collar of any other dog than the one for which it was issued.

**F. Removal of tag from collar.**

It shall be unlawful for any person, other than the owner of the dog or his agent, to remove any Town dog license from the dog.



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**G. Penalties for failure to license.**

Unless otherwise prescribed elsewhere, notwithstanding any other penalties prescribed by the laws of the state, any person who violates any duty imposed by provisions of this Section shall be punished by a fine as set forth in Schedule of Fines for Ordinance Violations.

**Section 6. Best practices of the Animal Control Officer regarding animals.**

**A. Removal of abused, neglected or abandoned animals.**

If the Animal Control Officer shall determine that any animal is kept upon any premises without food, water, shelter and proper care for a period of time sufficient within their judgment to cause undue discomfort and suffering and the owner cannot be located after a reasonable search, or the owner shall be known to be absent, it shall be the duty of the Animal Control Officer to obtain the necessary legal process to enter or to cause to have entered such premises to take possession and remove such animal to an animal shelter equipped, able and willing to accept the animal. Redemption and Release processes, as outlined in Section \_\_\_\_\_, shall then be followed by the animal owner.

**B. Removal of a dead animal.**

Town of Pottawattomie Park's Animal Control Officer shall collect any dead animal found on public grounds or roadways within the Town. If the animal is a dog and believed, or known, to be the pet of a resident, the Officer will notify the owner, who shall immediately provide for its burial or cremation.

**C. Destruction of vicious animals or animals in packs**

(1) The Animal Control Officer may only destroy dangerous or vicious animals, or animals in a pack if such animals pose an imminent and unreasonable threat of harm to person or property. If the owner of such dangerous or vicious animals or animals in a pack can reasonably be determined, the Animal Control Officer shall provide notice to the owner before the animal is destroyed.

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- (2) The Animal Control Officer shall maintain a complete record of all pets, their circumstances and current status, and shall provide a comprehensive, updated list to the Clerk-Treasurer and Town officials when requested.

**D. Confinement of animal biting person or suspected of having rabies.**

- (1) When any animal subject to rabies has bitten or attacked any person, or when there is substantial reason to believe that any animal has rabies, it shall be the duty of any person having knowledge of these facts to report them immediately to the Animal Control Officer. The animal shall not be killed but shall be confined in such a way and for such a period of time as the Animal Control Officer shall direct. The confinement of the animal shall be at the expense of the owner or custodian of the animal. No person shall refuse to surrender any animal for quarantine when demand is made by the order of the Animal Control Officer. If the animal dies or is killed, an appropriate laboratory examination of the head shall be made to determine if the animal was rabid.
- (2) If the owner of an animal which has bitten a person has proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, for a period of ten days, unless, in the judgment of the Animal Control Officer, and based upon considerations of public safety, the Animal Control Officer determines the animal should be removed to a facility specializing in managing such a quarantine.

**E. Dangerous animals.**

- (1) Description.
  - (a) Any animal owned or harbored primarily or in part thereof for the purpose of dog or other animal fighting; or which displays signs, *i.e.*, wounds, cuts, or scratches, of having been involved in such fighting.
  - (b) Any animal which has been found to be a vicious dog under state law; or

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- (c) Any animal not in quarantine which is infected with, and/or a carrier of, a disease that is infectious to humans or domesticated or wild animals, which may cause debilitating illness, or serious injury.

**Exception:** No animal may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal, or was committing or attempting to commit a crime.

(2) Handling protocol.

- (a) Upon receipt of a citizen's complaint or other report of an animal bite, attack, threatening behavior or other reason to believe an animal may be dangerous, the Animal Control Officer shall evaluate the seriousness of the complaint or report, and if the circumstances warrant, may conduct an investigation of the facts where practical, including interviewing the witnesses, observing the animal and investigating the scene. The animal control officer shall make a written report as to whether the animal is dangerous as defined above. This report shall include the details and basis of such findings.
- (b) Where there is probable cause to believe that an animal is a dangerous animal, the Animal Control Officer is authorized to impound and hold such animal, at the owner's expense, pending investigation and final resolution of any appeal. Where the animal has caused severe injury or death to any person, the Officer is required to impound and hold such animal, at the owner's expense, pending investigation and final resolution of any appeal. Moreover, in no event shall an animal deemed dangerous be released to its owner before the Officer approves of the location to where the dog is being transferred.

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- (c) Where an animal is declared dangerous and the animal has caused severe injury to any person, the Animal Control Officer may order the humane destruction of the animal, taking into consideration the severity and the circumstances of the injury. Where the owner can be reasonably ascertained, the Officer shall inform him or her that their animal has been declared a dangerous animal, describing the basis for such declaration by specific behavior and date and place of occurrence, setting forth all applicable orders and restrictions imposed and informing the owner of his or her right to appeal such determination by filing a written request for a hearing with the Town's Clerk-Treasurer, within three days of receipt of such notice. A copy of such notice shall be sent to the complainant, if any.

**F. Impoundment.**

- (1) Notification.

Any dog seized by the Animal Control Officer for any reason set forth in preceding sections will be placed with an animal shelter willing to accept the animal and shall be held under the terms of the facility. At the time of impoundment, attempts will be made by the Animal Control Officer to notify the owner as to where their pet is being housed.

- (2) Release.

The impounding fees shall be paid to the Town Clerk-Treasurer, who will present the dog owner or his agent a receipt for the payment. The receipt shall be presented to agents of the facility housing the animal, where sheltering fees will need to be paid before the dog may be released.

- (3) Record Kept of Impounded Dogs.

- (a) The Animal Control Officer shall keep careful record of all dogs seized and the disposition of each dog.

- (b) If any owner shall have lost a dog and shall make inquiry of the Animal Control Officer concerning the whereabouts of a dog that has been

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impounded, the dog owner shall provide a full and complete description of the dog in writing.

**Section 7. Third-party obligations and prohibitions.**

**A. Duties of person striking dog or cat with vehicle.**

Any person who kills or injures a dog or cat while driving a vehicle shall stop at the scene of the accident to render such assistance as is practicable and shall immediately contact the Animal Control Officer and cooperate with them in any investigation. Reasonable efforts shall be made by the Officer to identify and notify the owner of the animal as soon as reasonably possible, who shall immediately provide for its burial or cremation. If unsuccessful locating the owner, the Animal Control Officer shall remove the animal to a facility for proper disposal.

**B. Poisoning pets.**

It shall be unlawful for any person, with the intent to destroy or kill any pet, to feed the pet of another, or one running at large, any poisoned food or to leave poisoned food where it may be found and eaten or consumed by any such pet.

**C. Enticing pets.**

No person shall entice any pet away from the premises of the person owning, keeping or harboring same with the intention of depriving the owner, keeper, agent, or person harboring the same, of the possession thereof, except as authorized in this ordinance.

**D. Trespassing to entice away.**

No person shall enter or invade the private premises of another to capture, entice or take any pet out of the enclosure or premises of the person harboring the same, or molest or seize any such pet anywhere while the same is accompanied by his owner, keeper, agent, or custodian; or bring within the Town any pet for the purposes of impounding or otherwise disposing of the same, or collecting any fee or reward for the return there, except as provided in this chapter or state law.

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**E. Torture or killing of an animal.**

- (1) A person shall not knowingly or intentionally:
  - (a) Torture any animal resulting in serious injury or death to the animal; or
  - (b) Kill a domesticated animal without the authorization of the animals' owner.
  
- (2) It is a defense that the accused person reasonably believes the conduct was necessary to:
  - (a) Prevent injury to the accused person or another person;
  
  - (b) Protect the property of the accused person from destruction or substantial damage; or
  
  - (c) Prevent a seriously injured vertebrate animal from experiencing prolonged suffering.

*See State Law reference— Similar provisions, IC 35-46-3-12.*

**F. Penalties.**

Any violation of this section may result in the issuance of a citation. Unless otherwise prescribed elsewhere, notwithstanding any other penalties prescribed by the laws of the state, any person who violates any provision of this Section shall be punished by a fine as set forth in Section 9 of this Ordinance.

**Section 8. Animals not considered pets.**

Poultry, livestock, bees, wild animals, or venomous/poisonous animals are not considered pets, and shall not be kept or maintained within the Town limits of the Town of Pottawattomie Park, Indiana. Specifically, no person shall:

- (1) Keep any poultry or pigeons, or maintain any place where such poultry or pigeons are kept.
  
- (2) Keep any livestock animal, or maintain any place where such livestock is kept.
  
- (3) Keep bees, or maintain any place where bees are kept.

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**Section 9. Penalties.**

- (1) Any person cited as being in violation of any regulation specified in this Ordinance for which no penalty is otherwise provided shall be fined per the Schedule of Fines for Ordinance Violations
  
- (2) All fines shall be paid within ten (10) days of receipt of the citation.
  
- (3) In-full payment shall be submitted to the Clerk-Treasurer at the current published address.

**Section 9. BE IT FURTHER ORDAINED THAT,** 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 of this Ordinance.

**Section 10. Effectiveness.**

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

**Enacted May 8, 2023.**

**Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller**

**Attest: Susan Tochell, Clerk Treasurer**

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-08-C

DISCHARGE OF A FIREARM

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana,

WHEREAS, the unlawful discharge of a firearm can cause harm, injury or death to unwitting or intentional targets and otherwise leads to an unstable neighborhood environment,

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that:

**Section 1.** No person shall discharge any airgun, rifle, shotgun, revolver pistol or other firearm within the Town limits.

**Section 2.** This prohibition does not extend to cases in which firearms are used in self-defense, in the discharge of official duty or when lawfully authorized.

**Section 3. Penalty.** Any person who violates this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 4. Effectiveness.** This Ordinance shall be in full force and effect from and after its adoption, approval and publication by the Town Council of the Town of Pottawattomie Park, Indiana.

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer



TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-09-C

REGULATING PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana, finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana; and,

**WHEREAS**, the Town has determined that enacting an Ordinance governing the reasonable regulation of peddlers, itinerant merchants and solicitors is necessary for the public health, safety and welfare of its inhabitants.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that:

**Section 1. Definitions.**

The following terms as used in this code shall be taken to mean:

*Peddler*: Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the municipality.

A person who is a peddler is not an itinerant merchant.

*Itinerant Merchant*: Any person, whether as owner, agent, or consignee, who is engaged in a temporary business of selling goods within the municipality and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the municipality.

*Solicitor*: Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

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A person who is a solicitor is not a peddler.

*Business:* The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

*Goods:* Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

**Section 2. License requirement.**

- A. Any person who is a peddler, itinerant merchant or solicitor shall obtain a license before engaging in such activity with the municipality.
- B. The fee for the license required by this code shall be as set from time to time by the legislative body.
- C. No license issued under this code shall be transferable.
- D. All licenses issued under this code shall expire ninety (90) days after the date of issuance thereof.

**Section 3. Application procedure.**

- A. All applicants for licenses required by this chapter shall file a written, sworn application with the Clerk-Treasurer. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. Applications should be made on forms available in the office of the Clerk-Treasurer. The application shall state:
  - 1. The name and address of the applicant;
  - 2. (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the municipality;

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- (b) The local address of such an individual;
  - (c) The permanent address of such individual;
  
  - (d) The capacity in which such individual will act;
3. The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
  4. The time period or periods during which it is proposed to carry on applicant's business;
  5. (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;
  
  - (b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;
  
  - (c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
  6. The nature of advertising proposed to be done for the business;
  7. Whether or not the applicant, or the individual identified in the division (A) (2) (a) above, or the person identified in division (A) (3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.
- B. All applications for peddler or solicitor licenses shall state, in addition to statements required in A.:
1. A description of the applicant;
  
  2. A description of any vehicle proposed to be used in the business, including its registration number.

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- C. All applicants for licenses required by this chapter shall attach to their application the following:
  - 1. Two letters of recommendation from any person residing or doing business in the municipality certifying the applicant's good moral character and business responsibility; or, in lieu of such letters, other evidence which may be used by the Clerk-Treasurer to satisfy their duties under Section 4;
  - 2. If required by the Clerk-Treasurer, copies of all printed advertising proposed to be used in connection with the applicant's business;
  - 3. Credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.
- D. Applicants who propose to handle foodstuffs shall also attach to their application, in addition to attachments required under division (c), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.
- E. Upon receipt of the application, the Clerk-Treasurer shall cause a set of applicant's fingerprints to be taken and attached to the application.

**Section 4. Standards for issuance.**

- A. Upon receipt of an application, the Clerk-Treasurer shall cause an investigation of the applicant's business reputation and moral character to be made.
- B. The Clerk-Treasurer shall approve the application unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. Specifically, valid reasons for disapproval of the application are tangible evidence that the applicant:
  - 1. has been convicted of a crime of moral turpitude; or
  - 2. has made willful misstatements in the application; or

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3. has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
4. has committed prior fraudulent acts; or
5. has a record of continual breaches of solicited contracts; or
6. has an unsatisfactory moral character

**Section 5. Revocation procedure.**

Any license or permit granted under this chapter may be revoked by the Clerk-Treasurer after notice and hearing, pursuant to the standards in Section 6. Notice of hearing for revocation shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

**Section 6. Standards for revocation. Any license granted under this chapter may be revoked for any of the following reasons:**

- A. Any fraud or misrepresentation contained in the license application; or
- B. Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- C. Any violation of their chapter; or
- D. Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- E. Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

**TOWN OF POTTAWATTOMIE PARK, INDIANA  
REGULATING PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS**

**Section 7. Appeal procedure.**

- A. Any person aggrieved by a decision under Sections 4 or 6 shall have the right to appeal to the legislative body. The appeal shall be taken by filing with the legislative body within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The legislative body shall set the time and place for such a hearing, and notice for such hearing shall be given to such person in the same manner as provided in Section 5.
  
- B. The order of the legislative body after the hearing shall be final.

**Section 8. Provision for service of process.**

- A. Requirement of successful applicant.
  - 1. Upon receipt of notice of approval of his or her application, the applicant shall file with the Clerk-Treasurer an instrument appointing the Clerk-Treasurer as his true and lawful agent with full power and authority to acknowledge service of process for and on behalf of applicant in respect to any matter arising under this chapter.
  
  - 2. Forms for the required statement are available at the Clerk-Treasurer's office. Such form or instrument shall contain recitals to the effect that the applicant consents and agrees that service of any notice or process may be made upon this agent, and when so made shall be taken and held to be as valid as if personally served upon the applicant, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement.
  
- B. Duty of Clerk-Treasurer. Immediately upon service of any process upon the Clerk-Treasurer under this chapter, the Clerk-Treasurer shall send, by registered mail, a copy of the Process to the Licensee at his last known address.

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REGULATING PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS**

**Section 9. Exhibition of licenses and badges.**

- A. Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the municipality shall be used to conduct the business licensed, separate licenses shall be issued for each place.
  
- B. The Clerk-Treasurer shall issue a badge to each peddler or solicitor licensed under this chapter. The badge shall contain the words, “Licensed Peddler” or “Licensed Solicitor,” the expiration date of the license, and the number of the license. The badge shall be worn conspicuously by the licensee during such time as he or she is engaged in the business licensed.
  
- C. Peddlers or solicitors shall exhibit their license at the request of any citizens.

**Section 10. Penalty.**

Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 11. Effectiveness.**

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

**Enacted May 8, 2023.**

**Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller**

**Attest: Susan Tochell, Clerk Treasurer**

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-10

REGULATING THE PARKING OF VEHICLES ON TOWN PROPERTY

**WHEREAS**, it has been reported to the Town Council that motor vehicles have from time to time been parked, and remained overnight, at the parking area of the Town Park; and

**WHEREAS**, this Council has discussed this information and has determined that overnight parking of motor vehicles on Town Property constitutes a public nuisance which detracts from the public health, safety, and welfare of its inhabitants; and

**WHEREAS**, this Council finds it necessary to adopt an ordinance to better protect said public health, safety, and welfare of its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, that:

**Section 1. Definitions.**

*Town Property* means the Town's Park, playground, and playing fields located on Garden Trail between Pontiac Drive and Warren Drive.

*Parked Vehicle* means a stopped and stationary vehicle, whether occupied or not, remaining in a fixed position other than temporarily while actually engaged in loading or unloading.

*Overnight* means the hours between 8:00 p.m. on any day of the year and 8:00 a.m. on the day following.

*Vehicle* means automobile, truck, trailer, recreational vehicle, motorcycle, or any other conveyance on wheels, other than equipment owned by the Town of Pottawattomie Park.

**Section 2.**

No person shall park or store any vehicle on Town Property after 8:00 p.m. on any day, excepting equipment owned by the Town of Pottawattomie Park. Any such vehicle parked on Town Property shall be removed by its owner at or prior to, 8:00 p.m. on any day of the year.



**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**REGULATING THE PARKING OF VEHICLES ON TOWN PROPERTY**

**Section 3.**

Any person who shall perform any act prohibited by the Ordinance or who shall fail to perform any act required by this Ordinance shall be deemed guilty of a Class C infraction and upon conviction shall be fined in a sum not exceeding One Hundred and Fifty Dollars (\$150.00). The fine, costs, and fee shall be payable to the Town Clerk-Treasurer.

**Section 4.**

Any vehicle parked in violation of this Ordinance may be towed and impounded at the Owner's expense, under the procedures described hereafter in this Ordinance.

**Section 5.**

If, in the determination of the Town Council, a vehicle parked in violation of this ordinance constitutes an unsafe condition, or other nuisance on the Town Property, the Town Marshal is hereby authorized to take action to have said vehicle towed and impounded at the Owner's expense, under the procedures described in the following sections of this Ordinance.

**Section 6.**

In the event a determination as described in Section 5 is made, the Town Marshal shall arrange for a towing company registered with the Town as described below to provide towing services upon such a vehicle and shall provide said towing service company with a written order which shall state:

- (a) The name, address, and phone number of the towing company and the name of the tow truck driver
- (b) A description of the make, model, color, and license plate number of the vehicle
- (c) The date and time and by whom the vehicle was first observed
- (d) The date and time of the vehicle tow away and tow driver's receipt
- (e) The citation of the Town Ordinance and a description of the violation

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**REGULATING THE PARKING OF VEHICLES ON TOWN PROPERTY**

**Section 7.**

No liability shall be incurred by the Town for tow service costs, storage costs, or damages caused by the towing process itself. All such costs shall be charged against the vehicle's owner.

**Section 8.**

The Town is hereby authorized and directed to order the placing and maintaining of signs at the Town's Playground providing notice to the public of the parking restrictions set forth in this Ordinance, and warning of the penalties for the violation thereof. All such signs shall conform to the State Manual of specifications approved by the Indiana Department of Transportation (INDOT), and shall be sufficiently legible to be seen by an ordinarily observant person.

**Section 9. Penalty.**

Any person, firm or corporation who violates any provision of this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Section 10. Effectiveness.**

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

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-11-C

IMPLEMENTATION OF AND ENFORCEMENT OF COMPLIANCE  
WITH TRAFFIC CONTROL DEVICES AT THE INTERSECTIONS OF MARQUETTE TRAIL  
WITH WARREN DRIVE AND JACK PINE DRIVE

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana (the “Town Council”) did receive and consider a number of reports from citizens complaining that various automobile drivers operate their vehicles at speeds exceeding posted speed limits on Marquette Trail within said Town, and

**WHEREAS**, the Town Council and its representatives did investigate said complaints and did conclude that said complaints were well founded, and

**WHEREAS**, on August 3, 2009, the Town Council did conduct a public hearing pursuant to due notice published in the Michigan City News Dispatch to consider the placement of stop signs for traffic north bound or south bound on Marquette Trail at its intersections with:

- (a) Warren Drive
- (b) Jack Pine Drive

which intersections each have stop signs for west bound traffic and a dead end for traffic at each intersection with Marquette Trail, thus resulting in a three-way traffic stop at each intersection, and

**WHEREAS**, the Town Council having heard public comment and concluded its investigation, and being duly advised, finds that in order to ensure public safety on Town streets, the appropriate legislative action is to provide stop signs at Marquette Trail and Warren Drive and at Marquette Trail and Jack Pine Drive for north bound and south bound traffic on Marquette Trail,

**TOWN OF POTTAWATTOMIE PARK, INDIANA  
COMPLIANCE WITH TRAFFIC CONTROL DEVICES**

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, as follows:

**Section 1.** That the appropriate officer of the Town shall obtain and cause to be installed, appropriate STOP signs, at the intersections of Marquette Trail with:

- (a) Warren Drive
- (b) Jack Pine Drive,

to control traffic, both north bound and south bound, on Marquette Trail.

**Section 2.** That all operators of motor vehicles in the Town of Pottawattomie Park shall comply with said traffic control signs in the manner described in, and required by, the Indiana Code of Statute and the Indiana Traffic Code.

**Section 3.** Any person who violates this Ordinance shall be deemed guilty of a traffic offense and shall be fined in accordance with state statutes.

**Section 4. Effectiveness.**

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

Enacted May 8, 2023.

Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller

Attest: Susan Tochell, Clerk Treasurer

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-12-C

ESTABLISHING GOLF CART USAGE REGULATIONS WITHIN THE TOWN

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana (hereafter, the “Town Council”), has been informed by residents in the Town, of interest in the use of golf carts to be operated on public streets within the Town; and

**WHEREAS**, the Town Council has assessed the request of its citizens to use golf carts on Town public streets, and has directed review assessment of said request by the Town Marshal; and

**WHEREAS**, the Town Council, upon its own review, as well as the information provided by the Town Marshal, and review of applicable law, now concurs and agrees that it is appropriate, advisable, and in the best interests of its citizens for that usage of golf carts on public streets in the Town of Pottawattomie Park, regulations be established consistent with applicable law, as such regulations are in the best interests of the residents of the Town for their general health, well-being and safety;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, as follows;

**Section 1.**

There are hereby established regulations for the use and operation of golf carts on public streets, roads and alleys in the Town Pottawattomie Park, Indiana, as set forth hereafter in this enabling Ordinance. The use and operation of golf carts on public streets in the Town of Pottawattomie Park is permitted and authorized when such use and operation is in compliance with the stated regulations herein and applicable provisions of I.C. § 9-13-2-69.7, *et seq.*, as amended.

**Section 2. Definitions.**

The definition of golf cart is as specified hereafter, namely: “Golf Cart” means a four-wheeled motor vehicle originally and specifically intended/constructed to transport one (1) or more individuals. For purposes of this Ordinance, and as amended hereafter from time to time, a

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**ESTABLISHING GOLF CART USAGE REGULATIONS WITHIN THE TOWN**

golf cart shall be included in the definition of a slow moving vehicle as the same is defined in I.C. § 9-21-9-0.5 and is not, under ordinary circumstances, moved, operated, or driven at a speed greater than twenty (20) miles per hour, and is manufactured for use as a golf cart regardless of being registered and titled as a vehicle with the State of Indiana.

**Section 3. License requirement.**

Any individual seeking to use and operate a golf cart, as defined, on public streets in the Town of Pottawattomie Park, Indiana, shall be a licensed driver under applicable Indiana Law, which includes recognition of sister state licenses. Such individual using and operating a golf cart in the Town of Pottawattomie Park shall have such license on his or her person at all times, as when operating a motor vehicle, during the use and operation of any golf cart in the Town.

**Section 4. Operation requirements.**

The following regulations are hereby established for the operation and usage of golf carts on public streets in the Town of Pottawattomie Park, Indiana, namely:

- A. **Registration fee.** All golf carts used and operated on public streets in the Town of Pottawattomie Park, Indiana, shall be registered annually with the Town; fees shall be collected by the office of the Clerk/Treasurer. The owner of such golf cart shall complete a registration form and pay the applicable fee for same. The initial/annual registration fee for golf carts shall be the amount of Fifty Dollars (\$50). The registration, upon issuance, shall be valid for the calendar-year period, with each registration expiring December 31. For purposes of the registration fee, the annual calendar year shall be the term of the registration, and the full amount of the fee shall be charged and collected. Upon compliance with registration requirements, the Town shall issue one (1) registration tag, which shall be affixed to the front of the golf cart in a clearly visible location.
  
- B. **Insurance; Proof of insurance; Financial responsibility.** All golf carts to be operated and used on public streets in the Town of Pottawattomie Park, Indiana, shall be insured, with said proof of insurance to be provided to the Town with the initial and subsequent annual registrations. Insurance proof shall be maintained and kept in a golf cart at all times during any usage and operation of said golf cart.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**ESTABLISHING GOLF CART USAGE REGULATIONS WITHIN THE TOWN**

- C. **Slow moving vehicle emblem display.** All golf carts registered for operation and usage on public streets in the Town of Pottawattomie Park, Indiana, must display at all times a Slow Moving Vehicle Emblem and/or a red or amber flashing light, unless the vehicle is equipped with taillights which must be operational and turned on while driving. Further, all golf carts operated, or operating after dusk and before dawn, shall be equipped with headlights, taillights, and turn signals in working order.
  
- D. **Compliance with traffic law and town ordinances.** All operators and users of a registered golf cart on public streets in the Town of Pottawattomie Park, Indiana, shall comply with and follow State Traffic Laws under the provisions of I.C. § 9-21, *et seq.*, as amended, and all applicable provisions of the Town Code as currently in effect, or as amended hereafter from time to time, pertaining to Motor Vehicle Operation in the Town.
  
- E. **Places of operation.** Usage and operation of golf carts shall be restricted to the public streets, roads and alleys in residential neighborhood in the Town. Such golf carts shall operate and be used at a maximum speed of twenty (20) mph. Exceeding a speed of twenty (20) mph shall be a violation of this Ordinance.
  
- F. **Occupancy.** There shall be no usage or operation of a golf cart on public streets in the Town of Pottawattomie Park, Indiana, with any more passengers, including operator, than designed for the golf cart to transport. An operator and/or passengers shall remain seated in a designated seat and no extension of any body part outside the interior of the golf cart shall occur while the golf cart is being used and operated.
  
- G. **Parking.** Golf carts are subject to the same parking requirements and restrictions outlined in the parking ordinances adopted by the Town of Pottawattomie Park.

**Section 5. Penalties.**

Any individual violating any provision of this enabling Ordinance, as amended hereafter from time to time, shall, upon determination of violation, be fined in accordance with the Schedule of Fines for Ordinance Violations.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**ESTABLISHING GOLF CART USAGE REGULATIONS WITHIN THE TOWN**

**BE IT FURTHER ORDAINED THAT**, all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance are, hereby deemed null, void, and of no legal effect, and are specifically repealed.

**BE IT FURTHER ORDAINED THAT**, if any section, clause, provision, or 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 section, clause, provision or portion of this Ordinance.

**Section 6. Effectiveness.**

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

**Enacted May 8, 2023.**

**Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller**

**Attest: Susan Tochell, Clerk Treasurer**



TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-13-C

PROHIBITING THE FEEDING AND TRAPPING OF WILDLIFE AND STRAY ANIMALS

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana; and

**WHEREAS**, the Town Council finds that the feeding of wildlife has resulted in a high concentration of wildlife within the Town; and

**WHEREAS**, the feeding of wildlife has been shown to draw wildlife into the Town thereby causing or increasing the following detrimental incidents to the safety and property of Town residents:

- (1) the possibility of collisions between vehicles and wildlife
- (2) damage to personal property of Town residents in their landscaping and gardens
- (3) danger from aggressive behavior of large animals such as deer and/or coyotes during certain seasons
- (4) danger from the threat of Lyme disease and other bacterial infections for residents and/or their pets

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, as follows;

**Section 1.** The findings set out in this Ordinance are found to be true and correct by the Town Council of Pottawattomie Park and made a part hereof for all purposes.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**PROHIBITING THE FEEDING AND TRAPPING OF WILDLIFE AND STRAY ANIMALS**

**Section 2. Definitions.**

*Food* is defined as meat, bread products, corn, fruit, oats, hay, nuts, wheat, alfalfa, salt blocks, feed, grain, vegetables, commercially sold wildlife feed or livestock feed. Excluded are live naturally growing shrubs, live crops, plants, flowers, vegetation, gardens, trees, and fruit or nuts that have fallen to the ground or are within reach of wildlife.

*Wildlife* is defined as undomesticated animals living in the wild.

**Section 3. Feeding of wildlife is hereby declared an unlawful act and is hereby prohibited.**

- A. A person commits an offense if the person intentionally feeds wildlife by making food available for consumption on private or public property within the territorial limits of the Town.
- B. A person shall be deemed to have purposely fed or caused wildlife to be fed if the person places food, as defined above, in any form (not including live vegetation such as ornamental landscaping or flowers) on the ground or within reach of wildlife.
- C. A person who violates any provision of this Ordinance commits an offense.

**Section 4. Feeding of stray animals is hereby declared an unlawful act and is hereby prohibited.**

- A. It shall be unlawful for any person to feed stray animals by leaving open containers of food outside a structure for more than two hours.

**Section 5. Exceptions**

- A. This Ordinance does not apply to the placement of food into feeders kept at a minimum of 5 feet above the ground surface and intended for birds.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**PROHIBITING THE FEEDING AND TRAPPING OF WILDLIFE AND STRAY ANIMALS**

- B. This Ordinance does not apply to an animal control officer, veterinarian, peace officer, federal or state wildlife official, who is acting pursuant to a lawfully authorized program to treat, manage, capture, trap, hunt, or remove wildlife and who is acting within the scope of the person's authority.

**Section 6. Setting of animal traps is hereby declared an unlawful act and is hereby prohibited.**

- A. It shall be unlawful for any person within the Town to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any traps except cage-type live traps. When used, such traps must be placed in a shaded area and must be checked no less than every 24 hours.
  
- D. This prohibition shall not apply to any trap designed specifically for rats, moles or gophers as long as the owner of the property is aware of the location of the traps.

**Section 7. Enforcement.**

- A. The Town Marshal is hereby given full power and authority to enforce this Ordinance.
  
- B. It is a violation to hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Ordinance.
  
- C. Nothing in this section shall be construed as to limit any civil action the Town may take to enforce the terms of this Ordinance.

**Section 8. Penalty.** Any person who violates this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**PROHIBITING THE FEEDING AND TRAPPING OF WILDLIFE AND STRAY ANIMALS**

**BE IT FURTHER ORDAINED THAT**, 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 of this Ordinance.

**BE IT FURTHER ORDAINED THAT**, all 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 in all other respects, the Ordinances or parts of Ordinances are hereby ratified, re-established and confirmed.

**Section 9. Effectiveness.**

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

**Enacted May 8, 2023.**

**Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller**

**Attest: Susan Tochell, Clerk Treasurer**

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 2023-14-C

PROHIBITING THE DUMPING OF LITTER, YARD WASTE OR ORGANIC DEBRIS

**WHEREAS**, the Town Council of the Town of Pottawattomie Park, Indiana finds it necessary to adopt an Ordinance to better protect the public health, safety and welfare of the inhabitants of the Town of Pottawattomie Park, Indiana; and

**WHEREAS**, the Town Council of the Town of Pottawattomie Park has determined it to be necessary to adopt an Ordinance to protect property ownership and preserve the aesthetic appearance within the Town; and

**WHEREAS**, the improper disposal of solid wastes can be injurious to human health, plant and animal life; can contaminate surface and ground waters; can provide harborage to vermin and disease vectors; can interfere unreasonably with the enjoyment of life or property; can negatively impact the value of affected and adjacent properties; can degrade aesthetic appreciation of the natural environment; and can significantly diminish current and future economic development potential within the Town; and

**WHEREAS**, it is the desire and duty of the Town Council of the Town of Pottawattomie Park to protect human health, natural resources and the environment, and the future economic development potential of the Town; and

**WHEREAS**, the Town provides a service by which yard waste and organic debris can be disposed of;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Pottawattomie Park, Indiana, as follows:

**Section 1.** The findings set out in this Ordinance are found to be true and correct by the Town Council of Pottawattomie Park and made a part hereof for all purposes.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**PROHIBITING THE DUMPING OF LITTER, YARD WASTE OR ORGANIC DEBRIS**

**Section 2. Definitions.**

“*Litter*” is defined as trash, garbage or any items no longer wanted.

“*Yard Waste*” is defined as vegetative matter resulting from landscaping maintenance and land clearing projects and may include any naturally growing shrubs, chips, dirt, sticks, grass, live crops, plants, flowers, vegetation, gardens, trees, branches, and fruit or nuts that have fallen to the ground.

“*Organic Debris*” is defined as stumps, bushes, pieces of lumber and other organic matter, including animal waste, which naturally decomposes.

**Section 3. Dumping is declared an unlawful act and is hereby prohibited.**

- A. A person commits an offense if the person intentionally places litter, yard waste or organic debris on private property owned by someone else or public property within the territorial limits of the Town.
- B. It is the responsibility of homeowners who hire landscaping contractors, to instruct them of the content and meaning of this Ordinance.
- C. A person who violates any provision of this Ordinance commits an offense.

**Section 4. Provision of proper containers.**

It shall be unlawful and shall constitute a penal offense for any person, persons, firm or corporation to cause or permit the accumulation of Litter, Yard Waste or Organic Debris on their premises. It shall be the duty of all property owners or tenants occupying any premises to provide containers for the retention of any Litter, Yard Waste or Organic Debris as defined in this Ordinance. Said containers shall be provided with covers to prevent the scattering of its contents by wind or any other reason.

**Section 5. Placement and removal of garbage and trash containers.**

All approved containers for Litter, Yard Waste or Organic Debris shall be placed at the designated pick-up site no earlier than 12 hours preceding the scheduled pick-up day. Said containers are to be removed from the pick-up site no later than 8:00 pm on the scheduled collection day.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**PROHIBITING THE DUMPING OF LITTER, YARD WASTE OR ORGANIC DEBRIS**

**Section 6. Exceptions.**

- A. The creation of a controlled, contained, properly maintained compost area located within your property, observing a 10-foot setback from your property line.

**Section 7. Enforcement.**

- A. The Town Marshal is hereby given full power and authority to enforce this Ordinance.
- B. It is a violation to hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Ordinance.

**Section 8. Penalty.**

- A. Any person who violates this Ordinance shall be fined in accordance with the Schedule of Fines for Ordinance Violations.

**BE IT ORDAINED THAT**, 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 of this Ordinance.

**BE IT FURTHER ORDAINED THAT**, all 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 in all other respects, the Ordinances or parts of Ordinances are hereby ratified, re-established and confirmed.

**Section 9. Effectiveness.**

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

**Enacted May 8, 2023.**  
**Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller**  
**Attest: Susan Tohell, Clerk Treasurer**

TOWN OF POTTAWATTOMIE PARK, INDIANA  
ORDINANCE NO. 021224-C

TREE CARE LIABILITY AND RESPONSIBILITY

WHEREAS, the Town Council of the Town of Pottawattomie Park has determined that the Town's extensive mature tree canopy comprises dense areas of tall trees on plots of undeveloped land and along Marquette Trail, high numbers of scattered roadside trees and high numbers of trees on developed property; and

WHEREAS, said Council is committed to safeguarding the community from damage to persons and property due to tree falls; and

WHEREAS, said Council is committed to safeguarding the community from the risk of widespread wildfire fueled by unchecked plant undergrowth, tree population density and weakened tree stock; and

WHEREAS, said Council is committed to preserving the aesthetic appeal and environmental benefits of the Town's tree population; and

WHEREAS, said Council, after due consideration and public discussion, has determined it prudent to enact an Ordinance:

- 1) establishing the authority and power to require certain actions be taken by private property owners in order to prevent harm to persons or property caused by unsafe trees, as described in said Ordinance, and
- 2) asserting that the Town shall have the right to plant, prune, maintain, and remove trees, plants and all other woody vegetation within the right-of-way and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds, for the public health, safety, and welfare of the residents of said Town.



**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**TREE CARE LIABILITY AND RESPONSIBILITY**

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

I) APPLICABILITY

**A. Private Property**

**B. Public Property**

II) FUNDING

The Town Council member serving on the Tree Board will, annually, request a budget in the motor vehicle highway fund in addition to an allotment from the General Fund. Additional funds will be sought from the Department of Natural Resources Forestry Division.

III) DEFINITIONS

**Consulting arborist.** A certified arborist who advises the Town as to managing the health of Town trees. The consulting arborist shall coordinate his or her activities through the Council representative on the Tree Board.

**Certified arborist.** A highly trained professional experienced in the science of planting, caring for, and maintaining trees, who has passed the International Society of Arboriculture (ISA) certification exam.

**Designated authority.** The Town's consulting arborist or other agent of the Town acting on a temporary basis, with powers and responsibilities determined by the Town's Tree Board.

**Nuisance.** Any plant that harbors insects or disease which constitutes a potential threat to other trees within the Town; a dead or dying tree or plant that may pose a hazard to pedestrians, structures or vehicles within the public space; a tree or part of a tree or plant when it interferes with the proper visibility of any traffic control device or sign or obstructs the free passage of pedestrians or vehicles; or any other situation that may constitute a hazard to life or property.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**TREE CARE LIABILITY AND RESPONSIBILITY**

***Parkway.*** The area of land lying between the edge of the road and aligned parallel to and within the public right-of-way of said roadway.

***Pave, repave and cause to be paved.*** The act of covering or surfacing an area with asphalt, concrete, gravel, rock or other materials used in road construction.

***Private property trees.*** Trees whose trunks, when measured at a point four and one-half feet above ground level (diameter at breast height “DBH”) are situated more than 51 percent on private property.

***Property owner.*** The owner of record of a particular land parcel within the Town.

***Pruning.*** The removal of selected limbs or branches to improve form, reduce risk of failure, provide clearance for utilities or other structures, reduce wind resistance and damage, maintain overall tree health and improve overall aesthetics.

***Public road.*** The entire width of every public way or right-of-way when any part is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

***Right-of-way trees.*** Trees, shrubs and all other woody vegetation located on the Town’s roadside right-of-way and other utility easements.

***Tree board.*** The Council-appointed group charged with overseeing the provisions of this ordinance as detailed herein.

***Trees, shrubs and all other woody vegetation.*** All vegetation except lawn grass and flowers less than 24 inches in height.

***Tree topping.*** Tree topping is herein defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

***Town.*** The Town of Pottawattomie Park

***Town-owned property and public property.*** Property within the Town limits owned by the Town expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public access or easements.

***Town trees.*** Trees, shrubs and all other woody vegetation not located on private property, including but not limited to the playground, Warren Drive lots, five landscape island intersections and roadside rights of way.

#### IV) EXISTING TREES ON PUBLIC PROPERTIES AND TOWN RIGHTS OF WAY

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**TREE CARE LIABILITY AND RESPONSIBILITY**

The Town has the right and obligation to take remedial action on any tree on public property or in the Town's right-of-way.

- 1) To ensure public safety
- 2) To limit the spread of fungi, insects or other pests
- 3) To enhance the beauty of public spaces

**A. Trees as obstructions.**

The Tree Board may recommend to the Town Council that they order that any tree overhanging any street or right-of-way within the Town shall be pruned so that the branches shall not obstruct the view of any street intersection or sign, and so that there shall be a clear space of 13 feet above street surface or eight feet above any sidewalk surface.

**B. Impact on infrastructure.**

The Tree Board may recommend to the Town Council that they approve the removal, or cause or order the removal, of any Town tree, shrub or other woody vegetation, or part thereof, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.

**C. Restrictions.**

1) **Distance from fire hydrants.**

No tree shall be planted within ten feet of any fire hydrant.

2) **Excavation and paving.**

No person shall excavate any ditches, tunnels or trenches, nor shall they pave any area within a radius of ten feet from any public tree without first obtaining the approval of the Tree Board, who will recommend to the Town council that the permit be granted.

3) **Other root interference.**

No person shall deposit, place, store or maintain upon any public location within

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**TREE CARE LIABILITY AND RESPONSIBILITY**

the Town, any stone, brick, sand, concrete or other materials that may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, without first obtaining the approval of the Tree Board, who will recommend to the Town council that the permit be granted.

**4) Utilities.**

No trees may be planted under or within ten horizontal feet of any overhead utility wire or within five lateral feet of any underground utility.

**5) Tree limbs near utilities.**

Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements without disfiguring or killing the tree.

A utility tree trimming company and the Tree Board must review the utility tree trimming policy before any trimming is performed by that utility company.

**D. Approval is required for a private property owner to prune existing trees on the Town's right-of-way or other public properties.**

A person, utility or contractor shall obtain approval for pruning a tree in the Town's right-of-way. Pruning of limbs less than three inches in diameter is exempt from permit requirements.

**E. Approval required for planting of new trees on the Town's right-of-way or other public properties.**

No tree, shrub or other woody vegetation shall be planted in the Town's right-of-way without the prior approval of a permit by the town council.

New trees shall not be planted in parkways without notice to and the consent of the adjacent property owner.

**F. Approval required for the removal of trees from the Town's right-of-way or other public properties.**

**TOWN OF POTTAWATTOMIE PARK, INDIANA  
TREE CARE LIABILITY AND RESPONSIBILITY**

A person, utility or contractor shall obtain a permit for removing a tree in the Town's right-of-way. Pruning of limbs less than three inches in diameter is exempt from permit requirements.

**G. The Town Council shall approve or disapprove a permit application within 10 (ten) business days of its submission.**

In approving or disapproving a permit application, the Town Council shall consider the following facts:

- 1) The recommendation of the Tree Board;
- 2) The effect the proposed tree, shrub or other woody vegetation may have upon vehicular and pedestrian safety; and
- 3) The effect the proposed tree, shrub or other woody vegetation may have on any public improvement, including but not limited to roads, sidewalks, sewers, water lines and other utilities.

**V) EXISTING TREES ON PRIVATE PROPERTY**

**A. Tree falls from private property onto public property.**

- 1) The Town will remove trees from private property that have fallen onto a public way, by clearing and removing only those portions of the tree that block the public way.
- 2) The property owner shall be notified, both in person at or near the time of the incident and in writing delivered by certified mail, of their responsibility for removal of the remainder of the tree.

**TOWN OF POTTAWATTOMIE PARK, INDIANA**  
**TREE CARE LIABILITY AND RESPONSIBILITY**

**B. Issues of neighboring trees.**

- 1) Private property owners are responsible for cleaning up leaves, acorns, twigs or other debris from a neighbor's tree that falls onto your property.
- 2) Private property owners may cut back any branches or roots from neighboring trees that cross over their property line and shall assume full financial responsibility for doing so. Liability for any such actions that cause damage or ultimately kill a neighbor's tree may be up to three times the replacement cost of the tree.
- 3) A properly maintained neighboring tree with no sign of disease or rot that falls onto a neighbor's property will—in most circumstances—be deemed an Act of God because the situation could not have been anticipated by a reasonable person. Any damage caused will be the receiving neighbor's responsibility.
- 4) A neighboring tree with obvious signs of disease or rot, or one in a condition such that the neighbor filed a complaint with the Town or with the property owner will be one for which the property owner will be liable for any damage caused and could be considered negligent for failing to remove a known hazard before damage occurred or for failing to properly inspect and maintain the trees on your property.
- 5) Where the trunk of a tree straddles (is bisected by) the boundary line between adjoining parcels, the law considers the tree to be the joint property of both property owners. In that situation, neither owner acting alone has the right to remove or harm the tree without the other's consent.

**VI) NUISANCE TREE, SHRUB, WOODY VEGETATION DECLARATION**

The following are hereby declared public nuisances:

- 1) Any dead or dying tree, shrub or woody vegetation—whether located on public or private property—declared to be a nuisance by a designated authority of the Town.

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- 2) Any otherwise healthy tree, shrub or woody vegetation—whether located on public or private property—harboring insects or diseases which reasonably may be expected to injure or harm any other tree, shrub or other woody vegetation, as declared by a designated authority of the Town.
  
- 3) Any tree, shrub, or woody vegetation, or portion thereof—whether located on public or private property—which, by reason of location or condition, constitutes an imminent danger to the health, safety or welfare of the general public as declared by a designated authority of the Town.

**A. Right to Inspect.**

The Town’s authorized personnel have a right to access private property for inspection purposes whereon there is located a tree, shrub, or other woody vegetation that is suspected to be a public nuisance, and to declare it so and order its removal, if necessary.

**B. Declaration and Abatement of Public Nuisances.**

Private property owners are compelled to comply with the provisions of a declared nuisance order.

- 1) **Notification of a declared public nuisance.** The Tree Board will notify the owner of a private property that a tree, shrub, or other woody vegetation on their property has been declared a public nuisance and require its removal within sixty (60) days of notification. Such notification shall be served in person, when possible, and by the certified mailing of a copy of the order to the last known address of the property owner.
  
- 2) **Exceptions to response timeline.** The notification time to completion time can be reduced if the public nuisance is urgent and causing a public safety hazard.

**C. Failure to comply.**

In the event of the private property owner’s failure to respond to the declaration and remove the public nuisance, the Town shall have the authority to remove such tree, shrub or other woody vegetation and charge the cost of the removal to the owner.

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**VII) VIOLATIONS AGAINST PUBLIC TREES**

**A. Intentional damage.**

It shall be a violation of this ordinance for any person to abuse, destroy or mutilate any public trees, shrubs or woody vegetation or to attach or place any rope, wire, chain, sign, poster, handbill or other things to or on any tree growing in a public place, or to allow any gaseous, liquid or solid substance which is harmful to such trees to contact their roots, trunks, or leaves.

**B. Interference.**

It shall be a violation of this ordinance for any person to prevent, delay or interfere with any contractor or designated authority while they are engaged in inspecting, planting, cultivating, mulching, pruning, spraying or removing of any Town trees, or any trees on private property after being given proper notice.

**C. Topping.**

It shall be unlawful as a normal practice for any person, firm or agent of the Town to top, or direct the topping, of any tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the discretion of the Town Council upon recommendation by the consulting arborist.

**VIII) PENALTIES FOR VIOLATING ANY ORDINANCE PROVISION**

Any individual violating any provision of this enabling Ordinance, as amended hereafter from time to time, shall, upon determination of violation, be fined in accordance with the Schedule of Fines for Ordinance Violations.

**Enacted February 12, 2024.  
Council Members: Linda Pompeii, Regina Ruddell, Vincent Miller  
Attest: Susan Tohell, Clerk Treasurer**