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ORDINANCE 2016-07

AN ORDINANCE REGARDING THE REMOVAL OF MUD AND OTHER SUBSTANCES FROM WHITESTOWN STREETS

WHEREAS, mud, dirt, sand, gravel, stone, and/or other similar substances are, from time to time, deposited on roads and streets within the Town of Whitestown ("Town") as the result of construction, landscaping, or other activities; and

WHEREAS, the deposit of mud, dirt, sand, gravel, stone, and/or other similar substances on Town roads and streets is not only unsightly but may also create certain hazardous conditions; and

WHEREAS, the Whitestown Town Council ("Town Council") desires to adopt policies and procedures that require the party responsible for the deposit of mud, dirt, sand, gravel, stone, and/or other similar substances to either prevent such deposit or otherwise remove the deposits from Town roads and streets in a timely manner, and provide certain penalties for non-compliance; and

WHEREAS, the Town Council finds that the provisions set forth in this Ordinance are in the best interest of the public health, safety, and general welfare of the Town.

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

Section 1. No person, partnership, corporation or other entity shall, during construction, landscaping, or other activity, cause any mud, dirt, sand, gravel, stone, or other similar substance to be removed from its property, or from property upon which same is working on behalf of another, and deposited upon any Town road or street at any time beyond the earlier of:

(1) The cessation of the construction, landscaping, or other activity which resulted in the deposit; or

(2) Thirty minutes after dusk on the date on which the deposit occurred.

Section 2. The penalty for a violation of Section 1 above shall be as provided for in the table below. For the purposes of calculating the penalty, each day shall constitute a separate violation:

Violation	Penalty
First Violation	$200 plus court costs
Second Violation	$500 plus court costs
Third & Subsequent Violations	$2,500 plus court costs

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Section 3: In addition to the penalties otherwise set forth in this Ordinance, the Town may remove any substance deposited on any Town street in violation of this Ordinance and shall charge the cost of such removal against the owner of the property and/or contractor of the project being performed on the property from which the deposit came.

Section 4: In addition to the penalties otherwise set forth in this Ordinance, the Town, upon receiving notice that a second or subsequent complaint and summons for a violation of this Ordinance has been issued for the same property or project, shall issue a "stop work order" on the property or project at issue. Moreover, upon receipt of such notice, the Town shall not issue an occupancy permit for the property or project at issue unless the owner thereof first posts a bond in the amount of $5,000 with the Town, such bond to be used to pay for the removal of any further substances which may be deposited from said property or project on Town roads and streets during the pendency of the legal proceedings regarding such second or subsequent violation(s) of this Ordinance.

Section 5: In a new residential subdivision section under construction, this Ordinance shall not apply to a Town road or street until houses are completed and ready for occupancy on fifty-percent (50%) or more of the lots platted on that portion of said street that is located within the subdivision section.

Section 6: The provisions of this Ordinance are severable, and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

Section 7: All ordinances and parts of ordinances inconsistent or in conflict with the terms of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 8: This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to the laws of the State of Indiana.

PASSED AND ADOPTED by the Whitestown, Indiana Town Council this 9th day of March, 2016.

[Signatures on next page]

THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA — YAY/NAY

ORIGINAL

Eric Miller, President — Yes

Susan Austin, Vice President — Yes

Kevin Russell — YAY

Clinton Bohm — YAY

Jeffrey Wishek — Yes

ATTEST:

Shannon Metzger, Dep Clerk
Matthew Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

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