

ORDINANCE NO. 1995-1

BE IT ORDAINED by the town council of Westport, Indiana:

Section 1. All parking lots owned by the Town of Westport shall be closed between the hours of 10:00 p.m. and 5:00 a.m.

Section 2. It shall be unlawful and a violation of this ordinance for any vehicle to be driven on or through a city-owned parking lot between 10:00 p.m. and 5:00 a.m., except that vehicles parked before 10:00 p.m. may be removed.

Section 3. It shall be unlawful and a violation of this ordinance for any person to enter or be in a city-owned parking lot between 10:00 p.m. and 5:00 a.m., except that a person may enter a lot in order to promptly remove a vehicle.

Section 4. Any person who violates this ordinance shall be fined up to one hundred dollars (\$100.00).

Section 5. Appropriate signs shall be posted in all city-owned parking lots showing the hours the lots are closed.

Adopted this 11 day of September, 1995.

WESTPORT TOWN COUNCIL

Clifford D. Byard
Halley W. Pray III
J. H. Cromer

Barbara Hayple
Attest: Clerk Treasurer

DECATUR COUNTY
OFFICE OF PROSECUTING ATTORNEY

PROSECUTING ATTORNEY
WILLIAM O. SMITH

DEPUTY PROSECUTORS
JAMES B. ROSENBERY
STEPHEN T. TAYLOR

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69TH JUDICIAL CIRCUIT
2ND FLOOR, COURTHOUSE
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GREENSBURG, INDIANA 47240-2030
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W. MICHAEL WILKE
DEPUTY PROSECUTOR
CHILD SUPPORT DIVISION
119 E. MAIN ST.
GREENSBURG, IN 47240-2031
(812) 663-2879

August 23, 1995

Peg Polanski
125 West Washington
Greensburg, IN

Dear Peg:

In response to your letter dated August 18, 1995, a copy of which is attached.

This office will agree to handle violations initially and see what develops.

But I caution and I reserve my commitment as follows:

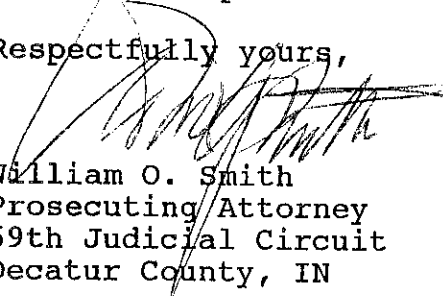
1. This office does not want to support what may appear to be police harassment. The citations must be reasonable and appropriate.

2. This office will withdraw from this agreement if these citations appear to be a priority over more appropriate and needed law enforcement activities in the area.

3. This office will not support citations that are used as a pretext to create a situation that will generate a criminal arrest, i.e., resisting law enforcement, disorderly conduct, etc.

In summary, we will agree to assist in the enforcement citations, but reserve the right to withdraw from the agreement or refer the citation to you because we feel is not appropriate for this office to enforce. Please remind police officers that an infraction is not an arrestible offense. Also emphasize the SPANGLER case and related disorderly conduct cases where basically the police in a civil situation were told to "go to hell" (or worse) and that person walked away. The police arrested the person either based upon "resisting" or "disorderly" and the appellate court's determined that the charge and its arrest were unlawful. In other words, this ordinance could create more problems than it solved.

Respectfully yours,



William O. Smith
Prosecuting Attorney
69th Judicial Circuit
Decatur County, IN

WOS/sv

cc: Cliff Byard
Jim Rosenberry

WATTS AND POLANSKI

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

125 WEST WASHINGTON STREET

GREENSBURG, INDIANA 47240

GEORGE R. WATTS
MARGARET A. POLANSKI

TELEPHONE
(812) 663-4923
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(812) 663-4241

August 18, 1995

Mr. William O. Smith
Prosecuting Attorney
150 Courthouse Square
Greensburg, IN 47240

RE: Westport Parking Lots


Dear Bill:

The Westport town council has asked me to draft an ordinance to close all municipal parking lots after 10:00 p.m. These lots are owned by the town and are too open to make it feasible to put up gates or other physical barriers.

I've enclosed a draft of an ordinance. If an ordinance is passed, would your office agree to handle violations written up on traffic tickets, similar to infractions? I assume that it would be better to simply fine people for violations, rather than to arrest and prosecute for criminal trespass, even though 35-43-2-2(b)(2) implies that "no entry" signs could be the basis for a trespass charge.

I would appreciate your comments.

Yours very sincerely,


Margaret A. Polanski

MAP:gb
Enclosure
cc: Cliff Byard