



May 22, 2000

BUS General Partnership  
ATTN: Ron Sabatino  
6563 Worthington-Galena Road  
Worthington OH 43085

RE: Mowing of Vacant Properties within Powell

Dear Ron,

In response to your letter to the Association of Powell Place Homeowners dated April 5, 2000 that you graciously copied me, I would like to inform you that the area you describe as being "the mounds and trees along Liberty Road to Seldom Seen" are NOT part of the area that is reserved to be maintained by the Association.

Even though this area was constructed as part of Powell Place Phase 1, it was not a requirement of the approved development plan. The plat for Powell Place Phase 1 indicates "Entrance Feature and Landscaping Easement" and "Landscaping and Utility Easement", both of which do not indicate the area that includes your referenced "mounds and trees along Liberty Road to Seldom Seen."

BUS General Partnership is the owner of the property in question and is responsible for its maintenance as required by Chapter 557 of the Codified Ordinances of Powell. At this time, all property owned by BUS General Partnership in the vicinity of Powell Place subdivision is in violation of Section 557.01(c)(3) of the Codified Ordinances of Powell by allowing the growth of grass and herbage of rank growth in excess of ten inches. You are required to cut and destroy this growth by 5:00 pm May 29, 2000. If not completed by this time, the Village will pursue remedies allowed by Section 557.04.

On May 5, 2000, I faxed a note to you as a friendly reminder that the mowing of vacant properties is required. That note incorrectly identified "the mounds and trees along Liberty Road to Seldom Seen" as being required as part of the development plan. After further research, I found that it was not required.

## CHAPTER 557 Weeds

557.01 Cutting required.  
557.02 Notice to cut.  
557.03 Failure to comply.

557.04 Procedure when owner fails  
to comply with notice.  
557.99 Penalty.

### CROSS REFERENCES

Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.  
Destruction of weeds - see Ohio R.C. 971.33 et seq.  
Noxious weeds - see OAC 901:5-31

#### **557.01 CUTTING REQUIRED.**

Duties of owner and occupant; cutting required.

- (a) Council has determined that in order to protect the public health, safety and welfare of its citizens and to provide for the orderly appearance of properties within the Municipality, it is necessary to provide for the cutting and destruction of weeds, grass, and other undesirable vegetation as set forth herein. It is the intention of Council that this chapter be liberally construed to effect the intention as stated above.
- (b) The record title owner and any occupants shall be the individuals or entities subject to the provisions of this chapter. Neither the owner nor occupant may raise as a defense the obligation of the other to comply with this chapter.
- (c) No person, whether an owner or occupant having charge or care of land in the Municipality, shall permit:
  - (1) Noxious weeds, including but not limited to (Shatter Cane, Russian Thistle, Johnsongrass, Wild Parsnip, Wild Carrot, Oxeye daisy, Wild Mustard, uncultivated grapevines, Canada Thistle, Poison Hemlock, Cressleaf Groundsel, Musk Thistle, Purple Loosestrife, Mile-A-Minute Weed, burdocks, jimsonweed, ragweed, milkweed, mullein, poison ivy, poison oak), to grow thereon, or fail to destroy and cut such weeds when notified by the Municipal Manager or his designated Agent.
  - (2) Growth of grass, herbage of rank growth, or undesirable vegetation, grasses or vines, growing on developed property to reach a height in excess of seven inches, not including ornamental grasses, or fail to cut and destroy such grass, herbage of rank growth, or undesirable vegetation, grasses or vines when notified to do so by the Municipal Manager or his designated agent.
  - (3) Growth on undeveloped properties of grass, herbage of rank growth, or undesirable vegetation, grasses or vines to a height in excess of ten inches or to spread mature seeds thereon, or to fail to cut and destroy such weeds, herbage, vegetation, grasses or vines when notified by the Municipal Manager or his designated agent.

the master grading plan for the subdivision, the decision of the Village Engineer shall be final.

S. SIGNS

No sign of any kind shall be displayed to the public view on any lot except (1) one professional sign of not more than one square foot, (2) one sign of not more than five square feet advertising the property for sale or rent, or (3) signs used by the Developer or a builder to advertise the property during construction and sales period which shall not be restricted in size.

T. SIGHT DISTANCE AT INTERSECTIONS

No fence or any portion of any fence of any type shall be erected or placed on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In addition, no fence, wall, hedge or shrub planting which obstructs sight elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot with the triangular area formed by the street property line and a line connecting them at points twenty five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. These same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement.

U. EASEMENTS

Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and other instruments of record. Within the limits of these easements, the grade specified on the master grading plan must be complied with, and no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, operation or maintenance of the utilities, or which may change the direction of the flow of drainage channels or may obstruct or retard the flow of water through drainage channels within the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility is responsible.

V. MAINTENANCE OF COMMON IMPROVEMENTS

The maintenance of the common improvements and storm water facilities, including the retention pond and storm sewer line outside of the village of Powell, in a well maintained, attractive and aesthetically appealing condition shall be the responsibility of the Developer until such time as those rights and responsibilities are granted to the Association of Homeowners. That responsibility shall include, but not be limited to, caring for and maintaining those improvements,

including seeding and mowing when needed, maintaining the unrestricted flow of water in drainage areas,

- W. TRANSFER TO ASSOCIATION  
The foregoing to the contrary notwithstanding, at any time if Developer no longer wishes to retain the rights granted to it in this Declaration after January 1, 1995, it may transfer those rights to an Association of Homeowners, and by such written transfer this Declaration will be deemed to be amended so that every reference to "Developer" or "Grantor" herein shall be changed to "Association".
- X. ENFORCEMENT  
Enforcement shall be proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violations or to recover damages or both.
- Y. SEVERABILITY  
Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, BUS Partnership has hereunto caused this instrument to be executed on this 12th day of March, 1993.

Signed and acknowledged in the presence of:

BUS General Partnership  
An Ohio Partnership

By

P. Ronald Sabatino  
P. Ronald Sabatino  
General Partner

Beverly Jo McMahon  
Beverly Jo McMahon

Cynthia S. Flaherty  
Cynthia S. Flaherty

STATE OF OHIO  
COUNTY OF FRANKLIN ss:

Before me, a notary public in and for said county and state, personally appeared P. Ronald Sabatino, General Partner, of BUS General Partnership, to sign this instrument on behalf of said partnership on March 12, 1993.

Beverly Jo McMahon

4414

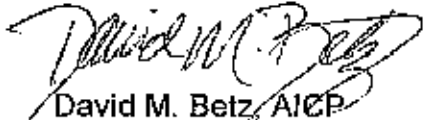
DELAWARE COUNTY, OHIO	
FILED FOR RECORD	MAR 17 1993
9:00	0:00
RECORDED	March 23 1993
Dec'd	RECORD
VOL 555	PAGE 441
Ray E. Corbin	
COUNTY RECORDER	
FEE \$19.00	



BEVERLY JO McMAHON  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JANUARY 18, 1994

I have enclosed a copy of Chapter 557 for your information. A notice to cut rank growth has also been posted on the appropriate properties. Your continued compliance with this ordinance is appreciated and expected.

Sincerely,



David M. Betz, AICP  
Director of Development

cc: Village Manager  
Association of Powell Place Homeowners

- (4) The growth of lawn, hedges, bushes, and/or noxious weeds, herbage of rank growth, or undesirable vegetation, grasses or vines such that the same overhang a public or private sidewalk or a driveway or obstruct in any way a doorway.
- (d) The Municipal Manager or his designated Agent shall determine when lots in the Municipality contain noxious weeds as defined in subsection (c)(1) hereof, herbage of rank growth, or other undesirable vegetation, grasses or vines which constitute a nuisance or endanger the public health and safety and shall see that such weeds, herbage, vegetation, grasses or vines are removed or the nuisance abated.  
(Ord. 97-50. Passed 10-7-97.)

#### **557.02 NOTICE TO CUT.**

(a) The Municipal Manager or his designated Agent shall cause written notice to be served as frequently as said Manager or Agent deems appropriate upon the owner and occupant notifying him that noxious weeds, herbage of rank growth or other undesirable vegetation, grasses or vines are growing on such land and that they shall be cut and destroyed within seven days after mailing of such notice and posting such notice at the property and thereafter during the growing season with such frequency to prevent such weeds, herbage, vegetation, grasses or vines from violating the provisions of Chapter 557. Such written notice shall be transmitted by means of ordinary mail to the owner at the tax billing address indicated by the County Auditor and further by posting a notice on the property in question for purposes of notifying the occupant.

(b) In those instances where the address of the owner is unknown, it shall be sufficient to publish a notice once in a newspaper of general circulation in the county.  
(Ord. 97-50. Passed 10-9-97.)

#### **557.03 FAILURE TO COMPLY.**

No owner or occupant having the care of a lot or land, shall fail to comply with the notices provided for in Section 557.02 within seven days of mailing and posting of the notice.  
(Ord. 97-50. Passed 10-7-97.)

#### **557.04 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE.**

(a) If the owner or occupant having the care of the lands mentioned in Section 557.01, fails to comply with the notice provided for in Section 557.02, the Village shall cause such noxious weeds and grass to be cut and removed. Such cutting and removal shall be immediately due and payable to the Municipality provided, however, that the administrative fee shall not exceed five hundred dollars (\$500.00). The cost and administrative fee shall be assessed against the lot or land.

(b) Notice of such assessment shall be given to the owner of the lot of land charged therewith, and the occupant by mailing such notice to the address utilized by the County Treasurer for tax billing purposes and by posting a Notice of Assessment at the subject premises. All assessments not paid within ten days after such mailing and posting, after approval by Council, shall be certified by the Clerk of Council to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected. (Ord. 97-50. Passed 10-7-97.)

#### **557.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Each day a violation occurs or continues shall be deemed a separate offense.