

WEEDS AND RANK VEGETATION

§ 92.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

WEEDS AND OR RANK VEGETATION. Any vegetable matter which exceeds the height of six inches; provided however that such definitions does not include:

- (1) Trees, bushes or shrubs which have planted or cultivated by the landowner and which do not block sidewalks, streets and alleys;
- (2) Agricultural crops, such as hay and pasture; or
- (3) Vegetable manner cultivated in plant beds.

(Ord. 2004-29, passed 12-13-04)

§ 92.02 REMOVAL OF WEEDS.

It shall be the duty of all owners of real property located within the corporate limits of the town to cut and/or remove weeds and other rank vegetation growing on the property that they own.

(Ord. 2004-29, passed 12-13-04)

§ 92.03 VIOLATION.

It shall be the duty of the Town Marshal or his or her designated agent to make a careful inspection of any lots, grounds and tracts of land situated within the corporate limits of the town for the purpose of determining whether there is a violation under this subchapter.

(Ord. 2004-29, passed 12-13-04)

§ 92.04 NOTICE OF REMOVAL OF WEEDS.

(A) Upon determination by the Town Marshal or his or her designated agent that weeds and/or rank vegetation, as defined in § 92.01, exist on any lots, grounds, or tracts of land situated within the corporate limits of the town, he or she shall issue a written violation notice to the property owner that the weeds and/or rank vegetation must be removed within ten calendar days. The written violation notice shall also state that in the event that the weeds and/or rank vegetation is not removed within ten calendar days that the property owner shall have the ability to file a written notice appealing said alleged violation and that said written appeal notice shall be delivered to the Albany Town Hall, 210 East State Street, Albany, Indiana 47320. The property owner shall be assessed an administrative fee of \$40 for the first written notice. In the event that the Town Marshal or his or her designated agent shall determine that a written violation notice is to be issued more than one time for the same property in any given year, the property owner shall be assessed an administrative fee of \$50 for a second notice, and an administrative fee of \$75 for each and every subsequent violation notice issued in the same calendar year. The assessment of such fees may be appealed as provided in § 92.05, and provided a property owner does not prevail on appeal, may be enforced as provided.

(B) The notice required by division (A) above shall be served by the Town Marshal upon the property owner by mailing a copy of the same by first class mail or certified mail to the last known address of the property owner of record. The notice will state that the property owner has ten days from the date of the notice to remove the weeds or rank vegetation growing upon that property. The notice will also state that the failure to remove the weeds or rank vegetation will result in the town proceeding to cut and remove the weeds and rank vegetation on the property and charge the cost of clearing and processing the same. The notice will also state that failure to pay the town for their costs for removing the weeds and rank vegetation shall result in a lien placed upon the real estate. Lastly, the notice will state that this is a continuous abatement notice informing the property owner that each subsequent violation during the same year for which the initial notice of the violation was provided shall be abated by the town. A copy of this notice shall also be posted upon the property.

(Ord. 2004-29, passed 12-13-04; Am. Ord. 2007-11, passed 6-11-07; Am. Ord. 2012-14, passed 6-25-12; Am. Ord. 2014-13, passed 7-28-14)

§ 92.05 APPEAL.

Any violation notice issued under this subchapter may be appealed by the property owner to the Town Council. The property owner will be sent an appeal/hearing date with the property owner's violation notice. If the property owner wishes to appeal, the owner or the owner's designee will be required to appear before Town Council on the date assigned. The Town Council will conduct an informal hearing and after considering the information provided by the Town Marshal designated agent and by the property owner, the Town Council will render a decision. If the property owner's appeal is denied by a majority vote of those present and voting at a duly constituted meeting of the Town Council, the property owner shall be required to cut and/or remove the weeds and rank vegetation by the date specified by the Board of Public Works.

(Ord. 2004-29, passed 12-13-04)

§ 92.06 AUTHORITY OF TOWN.

(A) If the property owner fails to cut and/or remove the weeds and rank vegetation or appeal the violation notice received from the Town Marshal within the time limits prescribed in this subchapter, the property owner shall be deemed to have granted permission to the Town Marshal to enter the premises for the purpose of cutting and/or removing such weeds and rank vegetation. The Town Marshal shall then take all necessary actions to cut and/or remove such weeds and rank vegetation from the subject property.

(B) If the town through its designated agent removes weeds and rank vegetation to abate the violation of this subchapter, the Town Marshal shall prepare and deliver to the Clerk-Treasurer a statement of costs listing the actual cost of removing the weeds and rank vegetation, plus the administrative expenses incurred by the town as a result of the enforcement of this subchapter. The statement of costs and the citation shall be served on the property owner by first class mail or certified mail, return receipt requested.

(C) An appeal of a violation notice must be presented on the date of the Town Council meeting assigned. A property owner's failure to appear at such meeting will be deemed a waiver of the property owner's right to appeal.

(Ord. 2004-29, passed 12-13-04; Am. Ord. 2007-11, passed 6-11-07; Am. Ord. 2014-13, passed 7-28-14)