ORDINANCE NO. 2026- 5

AN ORDINANCE AMENDED SECTION 91.99 AND §92.00 et. seq. OF THE CODIFIED ORDINANCES OF THE TOWN OF ALBANY, INDIANA CONCERNING PENALTIES FOR VIOLATIONS

WHEREAS, the Town of Albany has a codified set of ordinances which have been adopted by the Town of Albany from time to time; and

WHEREAS, contained within the Codified set of ordinances for the Town of Albany is a section that defines and describes the penalties to be imposed for violations of the Town ordinances; and

WHEREAS, the Town has determined that a review and updating of the fine structure and penalties for ordinance violations.

IT IS THEREFORE ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ALBANY, INDIANA, that:

Section 1: Section 91.99 shall be amended as follows:

a. The Town may impose a fine for a violation of not less than $100 and not more than $500.

b. Each day that a person, firm or corporation is in violation of the Ordinances of the Town of Albany, shall constitute a separate offense.

c. In the event that the Town is required to file an injunction against the person, firm or entity to require compliance with and no further violations of the ordinances of the Town of Albany, the person, firm or entity found to be in violation shall be responsible for any and all attorney fees, court costs and expenses incurred by the Town to obtain an order prohibiting violations of the ordinances of the Town of Albany.

Section 2: Section 92.01 shall be amended as follows:

WEEDS AND OR VEGETATION. Any vegetation which exceeds the height of six inches shall be considered to be a nuisance and in violation of this ordinance; provided however that such definition does not include:

(1) Trees, bushes or shrubs which have been planted or cultivated by the landowner, and which do not block sidewalks, streets and alleys or sight lines at intersections;

(2) Agricultural crops, including hay and pasture grasses; or

(3) Flowers or vegetable matter or cultivated in plant beds.

Section 3. Section 92.05 shall be amended as follows

A) Upon determination by the Town or its designated agent that weeds and/or 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 (10) 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 (10) 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 of appeal of the removal of the weeds and/or rank vegetations shall be delivered to the Albany Town Hall, 210 East State Street, Albany, Indiana 47320.

B) The property owner shall be assessed an administrative fee of $40 for the first written notice. In the event that the Town or its designated agent shall determine that a written violation notice is to be issued more on more than one (1) occasion 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.

C) The notice required by division (A) above shall be served by the Town upon the property owner by mailing a copy of the same by first class mail to the last known address of the property owner of record and the occupant of the property. The notice will state that the property owner and occupant have ten (10) calendar days from the date of the notice to remove the weeds or vegetation growing upon that property. The notice will also state that the failure to remove the weeds or vegetation

will result in the town proceeding to cut and remove the weeds and vegetation on the property.

D) In the event that the Town is required to mow and clear the property of weeds and vegetation, there shall be a fine of $100 for the first time that the Town is required to mow the property in a three (3) year period. In the event that the Town is required to mow the property as second time, the fine shall be $300 in a three (3) year period. In the event that the Town shall have to mow the property a third or any other subsequent time, the fine shall be $500 in a three (3) year period.

E) The notice will also state that failure to pay the town for their costs for removing the weeds and vegetation shall result in a lien placed upon the real estate. Upon the filing of the lien, the property will become eligible for sale at the next scheduled tax sale conducted by Delaware County, Indiana. 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.

F) In the event that the Town shall be required to remove the weeds and/or vegetation from the property identified in the notice to the owner and occupant of the property, then the Town shall remove said weeds and/or vegetation in violation of the ordinance, then the Town shall remove the offending weeds and/or vegetation and shall assess the costs of the removal in addition to any fines or administrative costs.

Section 4: Section 92.03 shall be deleted in its entirety.

Section 5: Section 92.19 shall be amended as follows:

(A) On the failure of the owner, occupant, or person in control of the property to comply with the provisions of this subchapter, and after notice thereof pursuant to §92.18 the Town Council may file an action in the Delaware Circuit Court seeking to require the owner and occupant to cause the violative condition to be abated. Upon receipt of a court order declaring that the owner and occupant have violated the Town's Ordinances, the Town or its agents may enter on the

premises and perform those acts as are necessary to eliminate the nuisance. The owner and occupant of the property shall be responsible for the costs of the remediation to correct the nuisance.

(B) The cost and expenses of abatement of violations of this chapter shall became a lien on the premises and against real estate. Said lien may be sent to the County Auditor and placed on the property. If the lien is not paid, then the property shall become eligible to be sold at the next County Tax Sale. The Town reserves the right to enforce its own lien in the Delaware County Circuit Courts and shall assess the attorney fees and costs against the landowner and occupant for said enforcement.

(C) In the event that the Town determines that a nuisance exists on the property and the determination is not appealed to the Town of Albany, the Town may impose a fine of a maximum amount of Two Thousand Five Hundred Dollars ($2,500.00), Each day that the nuisance exists on the property and the owner and/or occupant fails to abate the nuisance shall be considered to be a separate violation.

(D) In the event that the Town is required to obtain a court order to abate the nuisance, the owner and property owner, jointly and severally, shall be responsible for all attorney fees and expenses incurred and court costs for said action.

(E) Any and all fines, penalties, costs and expenses assessed to the owner and/or occupant shall be placed as a lien on the property and said property may be sold at the next scheduled tax sale for Delaware County.

Section 6: Section 92.25 shall be amended to add a new sub paragraph (F):

(F) Any person, firm or entity found to be in violation of this section shall be subject to a fine and costs as set forth in section 91.99.

Section 7: This ordinance shall be effective ten (10) days after publication.

DULY PASSED AND ADOPTED by the Town Council for the Town of Albany, Indiana, on this, the 10 day of August, 2026.

Steve Hall, Council Member

Randall Dunnuck, Council Member

Spencer Reed, Council Member

Jeff Davis, Council Member

John Blankenbaker, Council Member

ATTEST:

Joyce Hamilton, Clerk-Treasurer
Town of Albany, Indiana