

THE BOARD OF COMMISSIONERS OF WABASH COUNTY, INDIANA

GENERAL ORDINANCE NO. 85- 01 , 2011

AN ORDINANCE REGULATING WEEDS AND RANK VEGETATION

WHEREAS, the Board of Commissioners of Wabash County, Indiana believes it would be in the best interests of the citizens of Wabash County, Indiana if an ordinance regulating weeds and other rank vegetation were adopted.

WHEREAS, the Board of Commissioners of Wabash County, Indiana, believes that the presence of high weeds, high grass, brush and other rank vegetation in towns located in Wabash County constitutes a menace to the public safety, health and welfare by reason that such conditions may:

1. Cause a fire hazard;
2. Furnish cover for prowlers;
3. Create a nuisance with potential danger of injury on rocks, debris, holes, etc., covered by excess growth;
4. Obstruct visibility at street intersections;
5. Result in the aggravation of allergies, and/or
6. Furnish a potential harborage or breeding place for disease-carrying insects, mice, rats, animals and poisonous snakes.

WHEREAS, Indiana Code §36-7-10.1-3 provides that the Board of Commissioners may adopt an ordinance requiring the owners of real property located within the unincorporated towns in Wabash County to cut and remove weeds and other rank vegetation growing on the property.

NOW, THEREFORE, IT IS ORDAINED AS FOLLOWS:

Section 1. Definitions. As used in this section, the term:

- 1.1. "enforcement authority" refers to the Wabash County Plan Commission;
- 1.2. "person" means any individual, firm, organization, association, partnership, trust, company, corporation, limited liability company, or any other entity;
- 1.3. "public space" means any and all streets, sidewalks, boulevards, avenues, lanes, alleys or other public ways, and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned, including but not limited to restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, hospitals, clinics, and government buildings;
- 1.4. "responsible party" means any person who has a substantial property interest in

property on which a violation under this ordinance has been committed;

- 1.5. "substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this ordinance, including but not limited to a fee interest, life estate interest, future interest, present possessory interest, or an equitable interest of a contract purchaser; and
- 1.6. "weeds and other rank vegetation" means any weeds, grasses, brush, vegetation, or plants that, when left uncut, produce an excessive growth. This term does not include shade trees, ornamental shrubs, fruit trees, domesticated berry bushes and vines, cover crops and domestic grains and plantings that are appropriately maintained.

Section 2. Weeds and other rank vegetation exceeding eighteen (18) inches in height prohibited. It shall be a violation of this ordinance for a person to cause or permit weeds and/or other rank vegetation exceeding eighteen (18) inches in height to be upon property located in one of the unincorporated towns of Wabash County, Indiana in which he or she has a substantial property interest.

Section 3. Liability of responsible parties.

- 3.1. All responsible parties shall be jointly and severally responsible for maintaining property in compliance with this ordinance.
- 3.2. In the event a violation under this ordinance occurs, each responsible party is deemed to have committed the violation, whether or not such responsible party personally contributed to or was actually aware of the violation.

Section 4. Enforcement. The Wabash County Plan Commission ("Plan Commission") shall be responsible for the administration and enforcement of this ordinance.

Section 5. Inspection.

- 5.1. The Plan Commission or its authorized agent or representative is empowered to the fullest extent of the law, in the performance of its functions, to enter upon any land within Wabash County, that is subject to this ordinance, for the purposes of making inspections, examinations, surveys, or to place and maintain thereon notices or signs in order to effect the provisions of this ordinance.
- 5.2. The Plan Commission or its authorized agent or representative shall, upon request, present proper identification when entering upon any land or structure for the purposes of this ordinance.

Section 6. Notice.

- 6.1. In the event a violation is found to exist, the Plan Commission or its agent shall notify a responsible party of the existence of the violation.
- 6.2. Such notice shall be sent by certified mail, return receipt requested, to the last address of at least one of the property owners as indicated in the records of the

county auditor on the date of the notice.

- 6.3. The written notice shall inform the responsible party of the action that must be taken to correct a violation, provide a deadline by which the responsible party must correct the violation, which deadline shall not be less than thirty (30) calendar days, and shall inform the responsible party of the possible penalties that may result if corrective action is not taken by the deadline.

Section 7. Administrative process and procedures. An order issued under this ordinance becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a substantial interest in the subject real estate. If so requested, a hearing shall be conducted by the Plan Commission.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given.

(c) The person to whom the order was issued, or any person having a substantial property interest in the subject real estate may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order.

Section 8. Penalties for violations of this Ordinance. If a responsible party is found to have committed a violation under this ordinance and has not corrected the violation by the deadline provided in the notice described hereinabove, the Plan Commission may do any or all of the following:

- 8.1. issue an order requiring a responsible party to take action(s) to remedy violations of this ordinance;
- 8.2. take action(s) to remedy the violation of this ordinance and assess the responsible party for costs incurred in so doing, which costs may be added to property taxes and/or collected through an action in court. Such costs shall include the actual cost of curing the violation, the administrative costs associated the curing the violation, and the costs of notice;
- 8.3. issue an order imposing a fine upon a responsible party, provided that such a fine may not exceed:
 - 8.3.1. Two thousand five hundred dollars (\$2,500.00) for first time offenses; and
 - 8.3.2. Seven thousand five hundred dollars (\$7,500.00) for subsequent offenses;

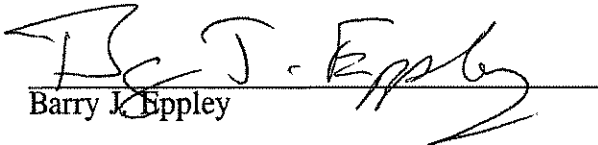
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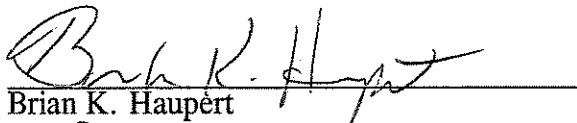
- 8.4. issue any other order against a responsible party that is, in its discretion, necessary to remedy violations of this ordinance, penalize violations of this ordinance, and/or deter future violations of this ordinance.
- 8.5. This Ordinance may also be enforced, at law or in equity, by action filed in the Wabash Circuit Court or the Wabash Superior Court. Any person violating any of the provisions of this Ordinance shall be liable for the expense, loss or damage occasioned by reason of such violation, including reasonable attorneys' fees and costs, including all costs of enforcement. Such remedies provided herein shall be cumulative and in addition to any other remedy provided herein or by law.

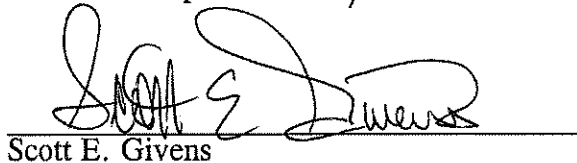
Section 9. Miscellaneous.

- 9.1. Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provisions that may supersede it related to the same or similar subject matter.
- 9.2. Should any section, paragraph, sentence, clause or any other portion of this ordinance be declared by a Court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Board of Commissioners in adopting this ordinance.
- 9.3. This ordinance shall be in full force and effect upon publication pursuant to Indiana law.

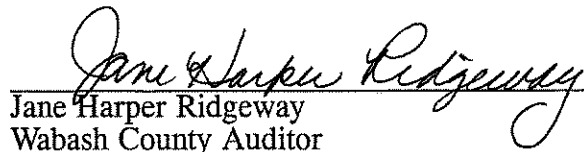
Adopted by the Board of Commissioners of Wabash County, Indiana this 18th day of APRIL, 2011.


Barry J. Eppley


Brian K. Haupt


Scott E. Givens

Attest:


Jane Harper Ridgeway
Wabash County Auditor