

## ARTICLE 6: WEEDS

**Section 1.** *Duty of owner to keep weeds, grass or other vegetation cut and/or removed.* It shall be the duty of any owner or occupant of real estate within the geographical limits of the town to cut and remove all weeds, grass or other vegetation, other than trees, bushes, flowers or other ornamental plants, which exceed a height of ten inches, as measured from the ground, including but not limited to that portion of such real estate that is adjacent to or abutting any sidewalk, alley or street.

**Section 2.** *Failure to cut; notice.*

1) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in Section 1 of this article, the Clerk-Treasurer shall prepare and serve or cause to be served upon such owner or occupant a written notice calling for the cutting and removal of such weeds, grass or other plants by such owner or occupant, within seven days from the date that notice was served upon the owner or occupant. Notice shall be served upon the owner or occupant by United States first-class mail, postage prepaid, at the last known address of the owner as shown by the records of the County Treasurer by personal delivery or by posting the same in a prominent place upon the premises. If notice is by mail, then notice shall be considered served on the date of mailing.

2) If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail or equivalent service pursuant to statute, a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail or equivalent service. A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or county or its contractors.

**Section 3.** *Removal by town.* If a written notice has been issued, as described under Section 2 of this article and the owner or occupant of the real estate within the geographical limits of the town has not cut and removed the weeds, grass or other vegetation described in the notice within the prescribed time, the Council may cause to be cut and removed if necessary, such weeds, grass or other vegetation. Whenever the Council causes weeds, grass or other vegetation to be cut and removed if necessary, the town may use either its own work force and equipment or it may contract with an outside agency to perform the work.

**Section 4.** *Declared nuisance; removal.* If a property owner or occupant has failed to perform his or her duty to cut and remove weeds, grass or other vegetation, as provided in Section 1 of this article and such weeds, grass or other vegetation obstruct, either in whole or in part, the normal and usual view of any street or vehicular traffic from an intersecting street, alley or drive, such weeds, grass or other vegetation may be declared to be a public nuisance by the Council. Such weeds, grass or other vegetation may be cut and removed if necessary by the town immediately and without the necessity of the seven-day written notice described in Section 2 of this article. The cost of such cutting and removal shall be paid by the owner or occupant of the real estate or collected as taxes are collected as provided in Section 5(3) of this article, notwithstanding the omission of the seven-day written notice referred to herein and described in Section 2 of this article.

## Weeds

### **Section 5. Penalties.**

1) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in Section 1 of this article, the second and each subsequent time that the Clerk-Treasurer prepares and causes to be served upon such owner or occupant a written notice calling for the cutting and removal of such weeds, grass or other plants, by such owner or occupant, the Clerk-Treasurer shall serve, in the same manner set forth in Section 2 of this article, a certified statement containing the legal description or common address of the premises and a reasonable administrative fee of not less than \$50 for preparing and causing to be served each such notice.

2) In the event the town causes the weeds, grass or other vegetation to be cut and, removed if necessary, the Clerk-Treasurer shall serve, in the same manner set forth in Section 2 of this article, a certified statement containing the legal description or common address of the premises, the date the weeds, grass or other vegetation was cut and removed if necessary, the reasonable expenses and costs incurred by the town, a reasonable administrative fee and a reasonable fine for violation of this article. Any person or entity violating this article shall be deemed guilty of an offense and fined not less than \$50 for a first offense, not less than \$100 for a second offense and not less than \$200 for all subsequent offenses. The payment of a fine for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

3) The owner or occupant shall pay to the Clerk-Treasurer the amounts set forth in the certified statement within 15 days from the date that the certified statement of costs is served upon such owner or occupant. If the owner or occupant of the real estate fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be delivered to the County Auditor's Office. The County Auditor shall place the amount shown on such certificate on the tax duplicate against such real estate and the amount shall be collected when taxes are collected. When collected, such amount shall be disbursed to the town for deposit in the General Fund.

**Section 6. Foreclosure of lien.** Real estate subject to a lien for unpaid weed, grass or other vegetation cutting or removal charges shall be sold for nonpayment of the same and the proceeds of such sale shall be applied to pay the charges set forth in the certified statement after deducting costs, which includes reasonable attorney fees, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town. The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matters.

**Section 7. Procedure for appeal.** Any owner or occupant that wishes to appeal the notice of violation or certified statement of costs under this article shall file a written appeal to the Clerk-Treasurer within ten days of the notice of violation or certified statement of costs being served upon the owner or occupant. The Council shall conduct a hearing thereon within 30 days of the written appeal being filed with the Clerk-Treasurer. The owner or occupant appealing shall have the opportunity to present evidence to the Council at such hearing.

**Section 8. Effective date.** The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.

**Weeds**

(Ord. 2002-01, passed, 8-7-2002; Ord. 2012-04, passed 7-3-2012)

