

Town of Georgetown, IN

Ordinance # G-09- 09

WEED REMOVAL ORDINANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA ("GEORGETOWN"), THAT:

WHEREAS, by prior ordinance G-94-25 Concerning the Disposal of Trash and Cars on Property, the Georgetown Town Council ("Town Council") established certain regulations concerning the removal of weeds,

WHEREAS, §91.50, *et seq.*, of the Town's Code of Ordinances (the "Code"), also addresses the removal of weeds.

WHEREAS, the Town Council desires to make Town regulations, concerning weed removal, consistent with the Code and to improve the efficiency of the process for weed removal.

WHEREAS, the penalty provisions of the Code were previously established by G-94-25 as §91.99, and these are not changed in any way and shall remain as previously established by the Town Council.

WHEREAS, the Town Council desires to make changes to the appeal provisions to under §91.56, as established by G-09-05, and to make certain other clerical corrections.

WHEREAS, the restatement of the relevant portions of the Code is provided as a means of clarification only and that provisions of the Code that are the same have not been amended in any way, but instead have been restated only.

NOW THEREFORE BE IT ORDAINED:

1. That §91.50 of the Code is hereby AMENDED and RESTATED as set forth below, and that any prior Town ordinances concerning weed removal, existing as of the date hereof, are HEREBY REPEALED to the extent the same are inconsistent with the amended and restated version of §91.50, *et seq.*, of the Code set forth below.

WEEDS

§ 91.50 SHORT TITLE.

This subchapter shall be cited as the Weed Ordinance.

§ 91.51 JURISDICTION.

(A) The jurisdiction of this subchapter shall be the corporate limits of the town, as presently defined or as may be modified from time to time by annexation or town ordinance.

(B) This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

§91.52 DEFINITIONS, EXCLUSIONS.

For the purposes of this chapter, the following definitions shall apply.

DESTRUCTION ORDER. The notice served by the town executive, being the president of the Town Council.

PROPERTY OWNER. The fee simple title holder or owner of an equitable estate under a contract.

WEEDS, GRASSES and RANK VEGETATION.

- (1) Canada thistle, thistles, johnson grass, sorghum, alum (such as, allium), bur cucumber, and shattercane.
- (2) Rank vegetation is the uncontrolled, uncultivated growth of annuals and perennial plants.
- (3) **WEEDS** do not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(C) The Indiana Cooperative Extension Service shall be the referenced technical authority for the town executives with respect to the definition of exempt matters, shrubs, trees, cultivated plants and crops.

§91.53 OWNERS AND OCCUPANTS RESPONSIBLE FOR TRIMMING AND REMOVAL.

All property owners, all occupants of single family dwellings, and all occupants of

nonresidential properties within the corporate limits of the town shall be required to remove, cut, dispose, and eliminate weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property. Weeds, grasses, and rank vegetation, shall not exceed 12 inches in height on an area of the property that is 10%, or more, of the unimproved areas of the property.

Notwithstanding the above, all owners of undeveloped property that is approved by the Town for development as residential lots according to a recorded subdivision plat, shall only be required to remove, cut, dispose, and eliminate weeds, grasses, and rank vegetation or other uncontrolled plant growth on such undeveloped residential lots that exceed 18 inches in height on an area comprising 10%, or more, of any such undeveloped lot.

§ 91.54 FILING COMPLAINT.

Any person, including the town, who believes there is property located within the corporate limits of the town which has growing plant matter in violation of this subchapter, shall make a written complaint signed, dated and filed with the Town Clerk-Treasurer. If the town makes the complaint, an employee, officer or Councilmember of the town shall file the complaint in all respects as set out above.

§91.55 NOTICE OF VIOLATIONS.

(A) After a complaint is filed, the town executive shall determine, based upon the complaint and evidence of physical inspections of the property by town employees, officers, or Town Council members, whether probable cause exists that this subchapter has been violated. After such determination, the town executive shall issue a Destruction Order notice to the occupant of the property *and* to the owner of the property. Such notice shall be served by leaving a copy at the property *and* by sending a copy by first class, US Mail, to the property owner. The mailed notice may be sent to the property owner (i) at an address listed within the records of the Town Clerk-Treasurer, (ii) at an address listed with any other town department or agency, or (iii) at an address listed as the current tax billing address for the property owner listed in the property tax records maintained by the county treasurer. The Destruction order shall state that within 10 calendar days after the issuance of the notice, the designated violation shall be removed and abated by the property owner and/or the occupant of any single family dwelling or nonresidential property.

(B) All notices sent under this subchapter are to be in writing and all filings are to be made with the Town Clerk-Treasurer. All notices from the town executive shall be deemed issued as of the date the same are postmarked.

§91.56 APPEALS.

(A) The property owner, and/or the occupant of a single family dwelling or nonresidential property, may appeal by delivering a written notice of objections with the Town Clerk-Treasurer. Such appeal notice must be filed within 5 days after the issuance of any notice, excluding the date of such notice. The 5 day period shall be tolled if the same ends on a weekend or a holiday, until the next business day on which the Town Clerk-Treasurer's office is open. An appeal

notice may be delivered in person to the Town Clerk-Treasurer's office or by US certified mail, and will be deemed received on the date of in person delivery or the postmark for US certified mail.

(B) An appeal by the property owner, and/or the occupant of a single family dwelling or nonresidential property, shall be heard by the Town Council and shall be decided by a majority vote of the Town Council in attendance. Such appeal may be heard at a regularly scheduled meeting or a special meeting.

§91.57 ABATEMENT BY TOWN.

In the event that the property owner, and/or the occupant of a single family dwelling or nonresidential property, fails to comply with the Destruction Order within 10 calendar days from issuance of notice, or fails to timely file a notice of appeal, then the town executive may direct town employees or outside contractors to remove the weeds, grasses, and rank vegetation.

§91.58 LIABILITY.

(A) The property owner, and the occupant of a single family dwelling or nonresidential property, shall be liable for all reasonable costs of removal of weeds, grasses, and rank vegetation, together with the town's reasonable attorney fees, and costs of collection associated with recovering such costs or penalties under this subchapter. If the town's employees are employed to effect removal and abatement, the reasonable hourly fees for such employees, reasonable costs for equipment used, shall be recoverable costs. All sums payable shall be certified by the Town Clerk-Treasurer and notice of the same shall be provided by the town executive in the same manner as Destructive Orders in §91.55.

(B) All sums payable shall be paid to the Town Clerk-Treasurer and shall be deposited in a general fund, as compensation for expenses and costs incurred by the town. Such payments shall be due and payable within 7 days from the issuance of the notice concerning the same.

§ 91.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Fines for noise violations of § 91.02 are:

- (1) First offense: warning notice, in effect for 90 days, no fine;
- (2) Second offense: within 90 days of a warning notice, issue a complaint and summons with a \$50 fine;
- (3) Third offense: within 90 days of the first complaint and summons, issue a complaint and summons with a \$100 fine; and

(4) Fourth offense: within 90 days of the second complaint and summons, issue a complaint and summons with a mandatory court appearance, and a fine to be determined up to \$500.

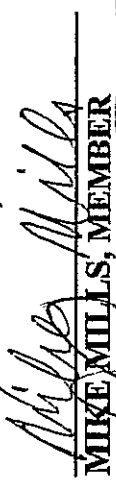
(C) For each day any person or entity shall be in violation of §§ 91.30 through 91.35 after the 5-day notice period, the violator shall be fined an amount not less than \$50 per day or not more than \$500 per day.

§91.100 COLLECTION THROUGH PROPERTY TAX LIEN.

Furthermore, to the extent permitted by law, if the town causes the abatement of any conditions in §91.30 through 91.58, the town may cause an amount, which is the sum of all penalties levied and the costs of removal, abatement, or cleanup, together with reasonable attorney fees and collection costs, to be certified to the county auditor and treasurer as a charge against the taxes due and payable to the county treasurer, together with any penalty or other cost allowable through such certification as a lien.

Adopted by the Town Council of the Town of Georgetown, Indiana, this 10th day of August 2009.


BILLY STEWART, PRESIDENT


MIKE MILLS, MEMBER


AARON STREGEL, MEMBER


EVERETT PULLEN, MEMBER


KARLA PERKINS, MEMBER

ATTEST:

DOUGLAS COOK, CLERK/TREASURER