

ORDINANCE NO. 1998- 2

**AN ORDINANCE REQUIRING REMOVAL
OF WEEDS AND RANK VEGETATION
WITHIN THE TOWN OF WESTPORT, INDIANA**

WHEREAS, Indiana Code 36-7-10-1-3 authorizes a town council to require the owners of real property within a town to cut and remove weeds and other rank vegetation growing on the property;

NOW THEREFORE be it ordained by the town council of Westport, Indiana:

Section 1. As used in this ordinance, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

Section 2. The town Street Dept shall be responsible for administering this ordinance.

Section 3. "Weeds and rank vegetation" shall include Canada thistle, Johnson grass, sorghum alumun, bur cucumber, shattercane, and noxious weeds growing in a residential area.

Section 4. The owner of any real estate within the town shall cut and remove any weeds and rank vegetation growing at a height of ten (10) inches or more, or grass at a height of ten (10) inches or more.

Section 5. Upon request of the town council, the town clerk shall send a written notice by certified mail, return receipt requested, to the owner of real estate upon which noxious weeds or rank vegetation is growing. The notice shall specify a date, no

sooner than five (5) days after the date the notice is mailed, for cutting or destruction of the weeds or rank vegetation. The notice shall inform the owner that if the weeds or rank vegetation are not cut or destroyed by the date stated in the notice, the town council shall cause them to be cut or removed in a reasonable and practical manner as determined by the town council.

Section 6. If the weeds or rank vegetation are not cut or destroyed within the time allowed by the notice, the town council may cause them to be cut or destroyed and may hire a person to enter onto the real estate for that purpose. The persons entering the property to cut or destroy rank vegetation are not civilly or criminally liable for damage to other property while on the premises, except for gross negligence or willful or wanton destruction.

Section 7. The person who performs the work shall submit an itemized bill to the town clerk, who shall pay the bill from town funds. The town clerk shall then send by certified mail to the owner of real estate a certified statement of costs, which shall include all costs for mailing notices.

Section 8. If the owner does not pay the amount set forth in the statement within ten (10) days after receiving it, the town clerk shall file a copy of the certified statement in the office of the county auditor. The auditor shall place the total amount certified on the tax duplicate for the property from which

rank vegetation was removed, and the total amount shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the town.

Adopted this 13 day of July, 1998.

WESTPORT TOWN COUNCIL

Clifford W. Byard
Valley W. Pray III
J. Kramer

Barbara Hayden
Clerk-Treasurer

NOTICE TO REMOVE WEEDS

TO: _____

This is to notify you that weeds and rank vegetation are present on the following real estate owned by you in the town of Westport:

As owner of this property, you are responsible to cut, remove, or destroy weeds and rank vegetation. Removal must be complete by midnight on _____. After that time, the town will hire a person to enter the property and cut or destroy the rank vegetation in the manner determined by the town council. **As owner of the property, you will be responsible for all costs.**

Upon your failure to pay the costs for removal or destruction of weeds, the costs will be certified to the Decatur County Auditor for collection as real estate taxes are collected.

Date

Clerk-Treasurer

I.L.E. Health and Safety §§ 1, 7.

36-7-10-3 Repealed

(Repealed by P.L.89-1991, SEC.4.)

Historical and Statutory Notes

P.L.89-1991, Sec.4, emerg. eff. May 12, 1991. See, now, IC 36-7-10.1-1, 36-7-10.1-3, and
Former IC 36-7-10-3 related to removal of 36-7-10.1-4.
weeds and rank vegetation.

Chapter 10.1

Removal of Weeds and Rank Vegetation

Section

- 36-7-10.1-1 Application of chapter
- 36-7-10.1-2 Exclusions from application
- 36-7-10.1-3 Ordinances requiring real property owners to cut and remove weeds and rank vegetation; hay and pasture not weeds or rank vegetation
- 36-7-10.1-4 Failure of real property owner to pay bill; collection of bill as delinquent taxes; disbursement of collections
- 36-7-10.1-5 Disbursement of bill collections to general fund of department enforcing ordinance

Library References

Agriculture ¶8.
WESTLAW Topic No. 23.

C.J.S. Agriculture § 69 et seq.
I.L.E. Agriculture § 7.

36-7-10.1-1 Application of chapter

Sec. 1. This chapter applies to each municipality or county.

As added by P.L.89-1991, SEC.3.

Historical and Statutory Notes

P.L.89-1991, Sec.3, emerg. eff. May 12, 1991.

IC 36-7-10-3.
Acts 1969, c. 252, s. 417.
Acts 1981, P.L.309, SEC.29.
Acts 1981, P.L.310, SEC.70.
P.L.84-1989, Sec. 2.

Formerly:

IC 18-3-1-51.

36-7-10.1-2 Exclusions from application

Sec. 2. This chapter does not apply to the following:

(1) An ordinance adopted before May 15, 1991.

(2) An action taken by a municipal corporation under IC 36-1-6-2.

As added by P.L.89-1991, SEC.3.

↳ Attached

36-7-10.1-3

PLANNING AND DEVELOPMENT

36-7-10.1-3 Ordinances requiring real property owners to cut and remove weeds and rank vegetation; hay and pasture not weeds or rank vegetation

Sec. 3. (a) The legislative body of a municipality or county may by ordinance require the owners of real property located within the municipality or the unincorporated area of the county to cut and remove weeds and other rank vegetation growing on the property. As used in this chapter, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

- (b) An ordinance adopted under subsection (a) must specify the following:
(1) The department of the municipality or county responsible for the administration of the ordinance.
(2) The definitions of weeds and rank vegetation.
(3) The height at which weeds or rank vegetation becomes a violation of the ordinance, specifying the appropriate heights for various types of weeds and rank vegetation.
(4) The procedure for issuing notice to the owner of real property of a violation of the ordinance.
(5) The procedure under which the municipality or county, or its contractors, may enter real property to abate a violation of the ordinance if the owner fails to abate the violation.
(6) The procedure for issuing a bill to the owner of real property for the costs incurred by the municipality or county in abating the violation, including administrative costs and removal costs.
(7) The procedure for appealing a notice of violation or a bill issued under the ordinance.

As added by P.L.89-1991, SEC.3.

Historical and Statutory Notes

Formerly:
IC 18-3-1-51.
IC 36-7-10-3.
Acts 1969, c. 252, s. 417.
Acts 1981, P.L.309, SEC.29.
Acts 1981, P.L.310, SEC.70.
P.L.84-1989, Sec.2.

36-7-10.1-4 Failure of real property owner to pay bill; collection of bill as delinquent taxes; disbursement of collections

Sec. 4. If the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the department specified in the ordinance shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipality or county.

As added by P.L.89-1991, SEC.3.

HISTORIC PRESERVATION

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Formerly:

IC 18-3-1-51.
IC 36-7-10-3.

36-7-10.1-5 Disbursement

Sec. 5. Notwithstanding may provide that the amount of the department specified As added by P.L.89-1991, SE

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Table with 2 columns: Section and Description. Rows include 36-7-11-1 through 36-7-11-21 with descriptions like 'Application of cl', 'Continuation of missions; con', 'Legislative inter', 'Historic district', 'Powers of board', 'Maps of histor', 'Approval of may', 'Additional surve', 'Assistance from', 'Construction pu', 'Applications for', 'Approval or dep', 'Reconstruction and structure', 'Demolition of b', 'Conformance to', 'New buildings', 'Compatibility f', 'Ordinances; pe', 'Phases; certifi', 'Changes in pai', 'Interested pa', 'liability; attc'

Health and Environment 25 WESTLAW Topic No. 199. C.J.S. Health and Environmen

HISTORIC PRESERVATION

Historical and Statutory Notes

Formerly:

IC 18-3-1-51.
IC 36-7-10-3.

Acts 1969, c. 252, s. 417.
Acts 1981, P.L.309, SEC.29.
Acts 1981, P.L.310, SEC.70.
P.L.84-1989, Sec.2.

36-7-10.1-5 Disbursement of bill collections to general fund of department enforcing ordinance

Sec. 5. Notwithstanding section 4 of this chapter, the municipality or county may provide that the amounts collected shall be disbursed to the general fund of the department specified to enforce the ordinance.

As added by P.L.89-1991, SEC.3.

Chapter 11

Historic Preservation Generally

Section

- 36-7-11-1 Application of chapter
- 36-7-11-2 Continuation of existing historical preservation commissions; new commissions; commissions for the preservation of historic street area
- 36-7-11-3 Legislative intent; conflicts between zoning districts and historic districts
- 36-7-11-4 Historic district boards of review; establishment
- 36-7-11-5 Powers of boards
- 36-7-11-6 Maps of historic districts; classification of historic buildings and structures
- 36-7-11-7 Approval of maps of historic districts
- 36-7-11-8 Additional surveys and maps
- 36-7-11-9 Assistance from unit officials; legal counsel
- 36-7-11-10 Construction projects within historic districts; certificates of appropriateness required; exception
- 36-7-11-11 Applications for certificates of appropriateness
- 36-7-11-12 Approval or denial of application for certificates of appropriateness
- 36-7-11-13 Reconstruction, alteration, maintenance and removal of historic buildings and structures; preservation of historic character
- 36-7-11-14 Demolition of buildings following failure to secure certificates of appropriateness; notice
- 36-7-11-15 Conformance to statutory requirements for buildings
- 36-7-11-16 New buildings and nonhistoric buildings within historic districts; compatibility required; exception
- 36-7-11-17 Compatibility factors; exception
- 36-7-11-18 Ordinances; penalties for violations
- 36-7-11-19 Phases; certificate of appropriateness; objections
- 36-7-11-20 Changes in paint colors; exclusion from activities requiring certificate of appropriateness
- 36-7-11-21 "Interested party" defined; private rights of action; allegations; bond; liability; attorney's fees and costs; revenue; other remedies

Library References

Health and Environment §25.5(8).
WESTLAW Topic No. 199.
C.J.S. Health and Environment §§ 61, 115.

I.L.E. Health and Safety §§ 1, 7.
I.L.E. Zoning § 1 et seq.

36-1-5-6

LOCAL GOVERNMENT

an original ordinance or amendment thereof, then the legal conditions for the effectiveness of an original ordinance need not be met. Such a restated or reenacted provision shall be considered reordained by the adoption of the code. *As added by Acts 1980, P.L.211, SEC.1.*

Historical Note

Formerly:

IC 18-5-12-5.
Acts 1965, c. 194, s. 5.

Library References

Counties §55.	I.L.E. Counties § 15.
Municipal Corporations §106(1), 120.	I.L.E. Municipal Corporations §§ 54, 55.
C.J.S. Counties §§ 82, 92.	
C.J.S. Municipal Corporations §§ 416, 442, 443.	

CHAPTER 6

ENFORCEMENT OF ORDINANCES

Section

- 36-1-6-1 Application of chapter
- 36-1-6-2 Real property; action to bring compliance; expense as lien against property
- 36-1-6-3 Proceeding to enforce ordinance; law applicable
- 36-1-6-4 Injunction
- 36-1-6-5 to 36-1-6-8 Repealed

36-1-6-1 Application of chapter

Sec. 1. This chapter applies to all municipal corporations having the power to adopt ordinances. *As added by Acts 1980, P.L.211, SEC.1.*

Historical Note

Acts 1980, P.L. 211, Sec. 1, eff. Sept. 1, 1981, added this title. See, also, Historical Note under section 36-1-1-1 for effect of recodification by Acts 1980, P.L. 211.

Acts 1980, P.L. 211, was part of a codification, revision and rearrangement of laws relating to local government.

Cross References

Ordinances, municipalities with power to adopt, see section 36-1-4-11.

36-1-6-2 Real property; action to bring compliance; expense as lien against property

Sec. 2. If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before

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action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity to bring the property into compliance. If action to bring compliance is taken by the municipal corporation, the expense involved may be made a lien against the property. *As added by Acts 1980, P.L.211, SEC.1.*

Historical Note**Formerly:**

IC 18-1-1.5-5.
IC 18-3-1-37.
IC 18-3-1-51.
IC 18-4-2-18.
IC 18-5-10-3.

IC 18-5-10-7.
Acts 1969, c. 173, s. 218.
Acts 1969, c. 239, ss. 202, 206.
Acts 1969, c. 252, ss. 403, 417.
Acts 1971, P.L.250, SEC.1.

Cross References

Building and safety standards, city ordinances, see section 22-11-1-19.
Explosives, municipal regulations, see section 22-11-13-19.

Library References

Municipal Corporations \Leftrightarrow 601.1.
C.J.S. Municipal Corporations §§ 224, 225.
I.L.E. Municipal Corporations §§ 54, 78, 612.

36-1-6-3 Proceeding to enforce ordinance; law applicable

Sec. 3. A proceeding to enforce an ordinance must be brought in accordance with IC 34-4-32. *As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.108, SEC.39.*

Historical Note

Acts 1981, P.L. 108, Sec. 39, rewrote the section, which prior thereto read: "A proceeding to enforce an ordinance must be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit."

Formerly:

IC 17-2-2.5-9.
IC 18-1-14-13.

IC 18-1-14-14.
IC 18-3-1-49.
IC 18-3-1-54.
IC 18-5-12.5-1.
Acts 1905, c. 129, ss. 226, 227.
Acts 1969, c. 252, ss. 415, 502.
Acts 1971, P.L.264, SEC.1.
Acts 1972, P.L.11, SEC.9.
Acts 1975, P.L.158, SEC.1.
Acts 1977, P.L.195, SEC.4.
Acts 1978, P.L.85, SECS.1, 2.

Cross References

Infraction and ordinance violation enforcement proceedings, see section 34-4-32-1 et seq.

Library References

Municipal Corporations \Leftrightarrow 121.
C.J.S. Municipal Corporations § 428 et seq.
I.L.E. Municipal Corporations § 351 et seq.