

ORDINANCE NO. 2006- 09

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA REGULATING RANK WEEDS AND VEGETATION**

WHEREAS, the Board of Commissioners of Warrick County, State of Indiana finds that weeds and rank vegetation within Warrick County adversely affect the public health of the citizens of Warrick County; and

WHEREAS, the Board of Commissioners of Warrick County, State of Indiana desires to provide for the public health of the citizens of Warrick County by reducing the weeds and rank vegetation within Warrick County.

**BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA, as follows:**

**A. DEFINITIONS**

**Sec. 1. "Health Officer" defined.**

"Health Officer" means the Health Officer of the Warrick County Health Department.

**Sec. 2. "County" defined.**

"County" means the County of Warrick, State of Indiana.

**Sec. 3. "Weeds and Rank Vegetation" defined.**

"Weeds and rank vegetation" means any vegetative matter, not cultivated in plant beds by the landowner, which exceeds the height of twelve (12) inches. Such definition shall not include trees, bushes or shrubs planted or cultivated by the landowner. Further, such definition shall not include agricultural crops, such as hay and pasture.

**Sec. 4. "Person" defined.**

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

**Sec. 5. "Substantial property interest" defined.**

"Substantial property interest" has the meaning as found in Indiana Code § 36-7-9-2, and includes the holder of a recorded fee interest, life estate interest, future interest, present possessory interest, or equitable interest of a contract purchaser.

**B. WEEDS AND RANK VEGETATION PROHIBITED**

**Sec. 1. Requirement to cut weeds and rank vegetation**

All owners of real property within the Warrick County shall cut and remove all weeds and/or rank vegetation growing upon the property.

**Sec. 2. Notice to owners to comply.**

The Health Officer is hereby authorized to issue a written notice (“Notice of Violation”) to all persons holding a substantial property interest in the premises on which there is a violation of Section 1, notifying such person to remove the weeds and rank vegetation from the premises within ten (10) days from the receipt of the notice. Such Notice of Violation shall:

- (a) Be in writing;
- (b) Include a statement of the reasons why it is being issued;
- (c) Allow time for the performance of any act it requires, as indicated on said Notice of Violation;
- (d) Be served upon every person holding a substantial property interest in the premises, as the case may require; such service shall be effectuated by personal service or certified mail to the address listed in the books of the Auditor of Warrick County; if a person’s location and mailing address can not be determined, or if the person refuses to accept certified mail, then any other means of service under Indiana law may be used, including without limitation, leaving a copy of the Notice of Violation at the premises in violation of this ordinance followed by mailing by regular U.S. Mail to the last known address.

A person receiving a Notice of Violation may appeal to the Board of Commissioners. The person must file such an appeal within ten (10) days of receiving the Notice of Violation. Appeals from the Board of Commissioners may be taken as other appeals are taken per Indiana Code § 36-2-2-27.

**Sec. 3. Removal of weeds and rank vegetation upon owner's failure to comply with Notice of Violation.**

- A. Upon the failure or refusal of the persons in receipt a Notice of Violation to appeal or remove the weeds and rank vegetation within the time specified in the Notice of Violation, the County (including officers, employees and contractors of the County) may enter upon the affected premises and take appropriate action to bring the premises into compliance with this Ordinance, at the expense of the owner of the premises.

- B. Pursuant to Indiana Code § 36-1-6-2 and 36-7-10.1-4, the County may issue a bill to the owner of the real property for the costs incurred by the County in bringing the property into compliance with the ordinance, including administrative costs and removal costs. Such bill is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.
- C. If the County takes action to bring property into compliance with this Ordinance, the expenses incurred by the County to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the Warrick County Recorder.
1. The lien can not exceed:
    - a. two thousand five hundred dollars (\$ 2,500) for real property that:
      - (A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or
      - (B) is unimproved;
    - b. ten thousand dollars (\$ 10,000) for all other real property not described in subdivision (a).
- D. The County, when it deems it necessary, may direct the Health Officer to prepare the list(s) described in Indiana Code § 36-1-6-2(d), as hereafter amended, regarding delinquent fees and penalties, including the owners of the property and other matters required by Indiana Code § 36-1-6-2(d) to file a lien with the County Recorder. The amount of a lien shall be placed on the tax duplicate by the Auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the County.

#### **Sec. 4. Violations and Enforcement.**

- A. It shall be a violation of this Ordinance to fail to bring the affected property into compliance within ten (10) days of receipt of the Notice of Violation, or within such time stated in the Notice of Violation.
- B. A person violating any provision of this Ordinance shall be fined by the County, through its Building Commissioner or such other person as determined by the Board of Commissioners, as follows:
1. for a first violation, seventy-five dollars (\$75.00);

2. for a second violation, one-hundred fifty dollars (\$150.00);
  3. for a third violation, two hundred fifty dollars (\$250.00);
  4. for a fourth and subsequent violations, an amount not less than five hundred dollars (\$500.00) but not exceeding seven-thousand five hundred dollars (\$7,500.00).
- C. Each day such violation is committed or permitted to continue shall constitute a separate offense.
- D. In addition to the fine schedule listed above, the owner of the property is also responsible for the costs described under Sec. 3. Removal of rank weeds and vegetation upon owner's failure to comply with notice.
- E. The County may enforce this Article through any other means provided by law, including but not limited to Indiana Code 36-1-6.
- F. The remedies provided by this Ordinance are cumulative and not exclusive.

**Sec. 5. Severability.**

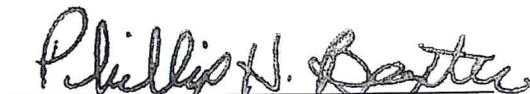
If any provision, section or part of a section of this Ordinance shall be declared to be unconstitutional or invalid, such partial invalidity shall not be construed to affect the validity of the remainder of the Ordinance, and all other provisions thereof shall remain valid and enforceable.

**PASSED AND ADOPTED** by the Board of Commissioners of Warrick County, State of Indiana, on the 38<sup>th</sup> day of JUNE, 2006.

**BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA**

  
 Carl Jay Conner, President

  
 Don Williams, Commissioner

  
 Phillip Baxter, Commissioner

ATTEST:

  
 Richard I. Kixmiller, Auditor