

ORDINANCE AMENDING Title IX, Chapter 94: Weeds

WHEREAS, there presently exists in the Code of Ordinances of the City of Delphi Title IX, Chapter 94 titled "Weeds"; and

WHEREAS, it would be in the best interest of the citizens of the City of Delphi to amend the language to provide more clear guidelines and comply with the Indiana Code; and

WHEREFORE, Title IX, Chapter 94 titled "Weeds" is hereby amended by the Common Council and shall read as follows:

CHAPTER 94: WEEDS

SECTION I

§ 94.01 DEFINITIONS

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates a different meaning.

ADMINISTRATIVE DEPARTMENT. Administrative department refers to the Chief of Police or the Chief's designated agents.

OWNER. The owner refers to the owner of record, as found in the records of the Carroll County Auditor's office and confirmed, if necessary, by the Carroll County Recorder's office.

OWNER'S ADDRESS. The owner's address refers to the most recent mailing address of the owner and being that address to which the County Treasurer sends tax documents and/or statements.

PERSON RESPONSIBLE. The person responsible, a possible exception from the owner, shall mean the tenant or occupant of the premises who has in writing agreed to be responsible for the cutting or maintaining or the weeds and/or rank vegetation.

RANK VEGETATION. Rank vegetation refers to any plant growth, which is or may be harmful to the senses, health or well-being of citizens in this jurisdiction. Rank vegetation includes:

- (1) Canada thistle (*Cirsium arvense*),
- (2) Johnson grass and *Sorghum album* (*Sorghum halepense*);
- (3) Bur cucumber (*Sicyos angulatus*);
- (4) Shattercane (*Sorghum bicolor* (L.) Moench spp. *drummondii* (Seud.) de Wet;
- (5) Poison ivy;
- (6) Poison sumac;
- (7) Poison oak;
- (8) Quackgrass (*Elytrigia repens*);
- (9) Carolina horsenettle (*Soianum carolinense*);
- (10) Cocklebur (*Xanthium strumarium*); and
- (11) Wild mustard (*Brassica kaber* var. *pinnatifida*).

WEEDS. Weeds refer to any growth of vegetation, other than trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food or other agricultural products, that reach ten (10) inches in height. Pursuant to IC 36-7-10.01-3, "weeds and rank vegetation" do not include agricultural crops, such as hay and pasture.

§ 94.02 WEEDS TO BE REMOVED.

- (A) The owner, or person responsible, of property within the jurisdictional area of the city shall be responsible to cut, remove, and maintain all weeds and rank vegetation. The weeds and rank vegetation must not reach a height above ten (10) inches.

- (B) All weeds, as defined above, shall be cut, removed, or maintained in compliance with this ordinance.
- (C) All rank vegetation, as defined above, shall be cut, removed, or maintained in compliance with this ordinance.
- (D) When an owner or person responsible violates this chapter, the administrative department shall issue a notice to the owner to cut the weeds or cut/remove the rank vegetation within ten (10) calendar days. The notice becomes final ten (10) days after the notice is given.
- (E) The city may enforce this section in accordance with IC 36-7-10.1, *et seq.*, by following the procedures in §94.03 and §94.04, or alternatively by any other legal or equitable means.

§ 94.03 NOTICE TO ABATE REQUIRED.

- (A) When real property is found to be in violation of this chapter, the administrative department shall issue a notice to the owner or person responsible for the property.
- (B) The notice shall notify the owner or person responsible to removed weeds and/or rank vegetation giving them ten (10) calendar days to abate the violation. Said notice shall also state the amount of penalty included if the violation is not abated within the ten (10) days. If the violation is remedied, no further action will be taken and no penalty will be imposed.
- (C) The notice must be in writing and shall be served to the owner or person responsible to via first class mail to the owner's address, or an equivalent service permitted under IC 1-1-7-1, to:
 - (1) the owner or record of real property with a single owner, or
 - (2) at least one (1) of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor on the date of notice.
- (D) The notice shall include:
 - a. The location of the violation;
 - b. The nature of the violation;
 - c. The time period for correcting the violation;
 - d. And the penalty if the violation is not abated.
- (E) The owner may appeal the notice of violation within ten (10) days of its issuance, by filing a written request for a hearing with the City of Delphi Board of Public Works and Safety. At the hearing, the city is required to prove by a preponderance of the evidence that the real property is in violation of this chapter.

§ 94.04 ABATEMENT BY CITY; PENALTIES AND/OR LIEN.

- (A) If the violation is corrected by the owner or person responsible within (10) days, no further action will be taken and no penalty will be imposed.
- (B) If the violation is not abated within ten (10) days of the sending of the notice under §94.03, the city or its contractor(s) may enter the real property and abate the violation. At the time of the abatement, the city may post a continuous abatement notice at the property, giving the owner notice that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the city or its contractors.
- (C) If the city abates the violation, the city shall issue a bill to the owner or person responsible of real property for the costs incurred by the city in abating the violation, including administrative costs, removal costs, and the cost of sending notice. If the owner of real property fails to pay a bill issued under this section within fourteen (14)

days of its issuance, the city shall certify to the Carroll 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 city.

(D) The owner may appeal a bill issued under this section within fourteen (14) days of its issuance, by filing a written request for a hearing with the Board of Public Works and Safety.

SECTION II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

SECTION III. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

(Am. Ord. 2016- 5, passed _____)

Passed and adopted by the Common Council of the City of Delphi, Indiana this 4th
day of APRIL, 2016 at 7:00 o'clock, p.m.

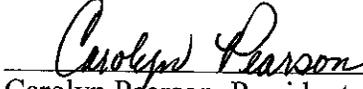


Leanne Aldrich, Clerk Treasurer

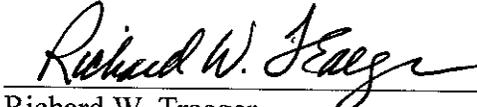
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Shane Evans, Mayor

COUNCIL MEMBERS



Carolyn Pearson, President



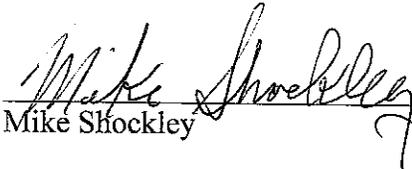
Richard W. Traeger



Brian Garrison



Dale Seward



Mike Shockley