

AN ORDINANCE AMENDING CHAPTER 8.16 SECTION 8.16.020
OF THE VANDERBURGH COUNTY CODE
ENTITLED WEEDS AND NOXIOUS PLANTS
AND SECTION 8.16.030 ENTITLED VIOLATION – PENALTY

WHEREAS, it has been recommended by the Vanderburgh County Highway Department that Title 8 Chapter 8.16 Section 8.16.020 and Section 8.16.030 of the Code of Ordinances of Vanderburgh County, Indiana, be amended; and

WHEREAS, the Board of Commissioners of Vanderburgh County, Indiana, wishes to adopt such recommendations by amending Title 8 Chapter 8.16 Section 8.16.020 and Section 8.16.030 of the Code of Ordinances of Vanderburgh County, Indiana.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Vanderburgh County, Indiana, that Title 8 Chapter 8.16 Section 8.16.020 and Section 8.16.030 of the Code of Ordinances of Vanderburgh County, Indiana, is hereby amended as follows:

SECTION 1. AMENDMENT SECTION 8.16.020

Title 8, Chapter 8.16, Section 8.16.020 Weeds or Noxious Plants, shall be amended in its entirety to read as follows:

Section 8.16.020 Weeds and Rank Vegetation

8.16.021 Definitions.

For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Department” refers to the County Highway Department, which shall have the responsibility of administering this article.

“Enforcement authority” refers to the chief administrative officer of the Department authorized to enforce the removal of weeds and rank vegetation, or his or her designee.

“Owner” refers to the owner of record, as found in the records of the Vanderburgh County Recorder’s office.

“Owner’s address” refers to the most recent mailing address of the owner and being that address to which the County Treasurer sends tax duplicates.

“Person responsible” shall mean tenant or occupant of the premises who has in writing agreed to be responsible for cutting the weeds or removal of the rank vegetation.

“Rank vegetation” refers to any plant growth, which is or may be harmful to the senses, health or well-being of citizens of the jurisdiction.

“Weeds” refers 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. Pursuant to IC 36-7-10.1-3, “weeds” and “rank vegetation” do not include agricultural crops, such as hay and pasture.

8.16.022 Prohibitions.

(A) No owner of real property shall allow any growth of grass or weeds in excess of nine inches in height upon his property.

(B) No owner of real property shall allow the growth of rank vegetation upon his property.

(C) When a complaint alleging a violation of this chapter is received by the Department from any person, or through its own employees, if it is determined that an inspector needs to enter the property to complete an inspection, the Department shall seek approval, through an administrative search warrant (see IC 36-7-9-16) or other court order, from a court of law to enter onto any occupied property and make an inspection if the owner or other person in control of the property does not voluntarily give permission to enter the property to make the inspection. The search shall be limited to the places pertinent to the complaint or as outlined in the inspection warrant. No such administrative search warrant or other court approval shall be necessary if the inspection can be made from a public sidewalk, street, alley or other public place or from adjoining property with that owner’s permission, or if the premises is abandoned. The Department shall document any violation of this ordinance and issue a notice to the owner to cut the weeds or cut or remove the rank vegetation within 10 calendar days. The notice becomes final 10 days after notice is given.

8.16.023 Notice of violation.

(A) Notice to Owner – Content. For any property found to be in violation of subsection 8.16.022, the Department may issue a notice to remove weeds and/or rank vegetation to the owner notifying the owner of the violation and giving the owner 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 10 days. If the violation is corrected by the owner or other responsible party within 10 days, no further action will be taken and no penalty imposed.

(B) Manner of Service. The notice to remove weeds and/or rank vegetation shall be in writing and shall be served on the owner of the property in at least two of the following manners: delivery in person, by first class mail, and/or by placement of the notice to remove weeds and/or rank vegetation in a conspicuous place on the property where a violation occurs. As outlined in IC 36-7-10.1-3, the notice shall also state:

- (1) The location of the violation;
- (2) The nature of the violation;
- (3) The time period for correcting the violation;
- (4) The remedy that the Department may seek for the violation.

Any notices to be given hereunder by first class mail shall be deemed sufficiently given when placed in an envelope directed to the owner at the owner’s address as defined in subsection

8.16.021 and deposited in a United States Post Office mailbox postage prepaid.

(D) Emergency Action. No section of this Code shall prevent the Department from executing emergency action as set forth in IC 36-7-9-9.

8.16.024 Penalties.

(A) Notice to Owner – Content. For any property found to be in violation of subsection 8.16.022, the Department may issue a notice to remove weeds and/or rank vegetation to the owner notifying the owner of the violation and giving the owner 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 10 days. If the violation is corrected by the owner or other responsible party within 10 days, no further action will be taken and no penalty imposed.

(B) Manner of Service. The notice to remove weeds and/or rank vegetation shall be in writing and shall be served on the owner of the property in at least two of the following manners: delivery in person, by first class mail, and/or by placement of the notice to remove weeds and/or rank vegetation in a conspicuous place on the property where a violation occurs. As outlined in IC 36-7-10.1-3, the notice shall also state:

- (1) The location of the violation;
- (2) The nature of the violation;
- (3) The time period for correcting the violation;
- (4) The remedy that the Department may seek for the violation.

Any notices to be given hereunder by first class mail shall be deemed sufficiently given when placed in an envelope directed to the owner at the owner's address as defined in subsection 8.16.021 and deposited in a United States Post Office mailbox postage prepaid.

(C) Emergency Action. No section of this Code shall prevent the Department from executing emergency action as set forth in IC 36-7-9-9.

Any owner or occupant of any lot or ground within Vanderburgh County, after notice has been served upon him as provided in Section 8.16.023, who shall fail to comply with the order of the Department within ten (10) days thereafter shall be fined not more than one hundred dollars (\$100.00) and costs for the first violation; two hundred and fifty dollars (\$250.00) and costs for the second violation; and five hundred dollars (\$500.00) and costs for all subsequent violations.

8.16.025 Removal of weeds and/or rank vegetation by the Department.

Any owner or occupant of any lot or ground within Vanderburgh County, after notice has been served upon him as provided in Section 8.16.023, who shall fail to comply with the order of the Department within ten (10) days thereafter shall be fined not more than one hundred dollars

(\$100.00) and costs for the first violation; two hundred and fifty dollars (\$250.00) and costs for the second violation; and five hundred dollars (\$500.00) and costs for all subsequent violations.

A) If the violation has not been abated by the owner as noticed, the Department may enter the property and abate the violation utilizing its own employees and equipment or a contractor engaged by the Department pursuant to a public bidding process. The Department or its contractor shall not be responsible for the removal of any trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food.

B) The Department may issue an invoice to the owner or occupant of the real estate for the costs incurred in removing the weeds or rank vegetation, including administrative costs and penalties pursuant to subsection 8.16.024. If the owner or occupant of the real estate fails to pay an invoice issued under this section, the Department may, after thirty (30) days, certify to the county auditor the amount of the actual cost of removal. The county auditor shall thereupon place the amount of the cost of removal of the weeds or rank vegetation plus administrative costs on the tax duplicate as a charge against the owner or occupant of the real estate. The cost shall be a lien thereon and shall be collected by the county treasurer at the same time and in the same manner as taxes due the county and state are collected.

SECTION 2. AMENDMENT OF SECTION 8.16.030

Title 8 Chapter 8.16 Section 8.16.030 Violation-Penalty, shall be amended to remove subsection B in its entirety.

SECTION 3. EFFECTIVE DATE

Title 8 Chapter 8.16 Section 8.16.030 Violation-Penalty, shall be amended to remove subsection B in its entirety.

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Vanderburgh County and following publication once each week for two (2) consecutive weeks as provided in IC 5-3-1.

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Vanderburgh County and following publication once each week for two (2) consecutive weeks as provided in IC 5-3-1.