

IC 32-26-4

Chapter 4. Cutting Live Fences Along Public Highways

IC 32-26-4-1

Obstruction of view; trimming and maintaining; application of law

Sec. 1. (a) This chapter:

(1) does not apply to:

(A) a highway intersection located within a city or town; or

(B) a building of a substantial character that is located at the intersection of highways; and

(2) except for the provisions of this chapter concerning hedge fences, applies only to the intersection of a state highway with another state highway, a county highway, or a township highway.

(b) Except as provided in subsection (c), the owner of a hedge or live fence along the line of a highway shall cut and trim down the hedge or live fence to a height of not more than five (5) feet once in each calendar year.

(c) This subsection applies if a hedge, live fence, or natural growth other than a tree connects with or is found at a highway intersection, adjacent to a curve where the view of the highway may be obstructed, or at a railway right-of-way. The owner of a hedge, live fence, or other growth to which this subsection applies shall trim and maintain the hedge, live fence, or other growth at a height of not more than five (5) feet above the level of the center of the traveled road bed in the highway that adjoins the hedge, live fence, or other growth:

(1) throughout the year;

(2) for a distance of:

(A) one hundred (100) feet, if the obstruction is a hedge or live fence; or

(B) fifty (50) feet, if the obstruction consists of any other natural growths; and

(3) beginning at the intersection of the highway and continuing along the lines dividing the highways and the adjoining property.

(d) This subsection applies to a tree growing within fifty (50) feet of the intersection of a highway with:

(1) another highway; or

(2) a steam or interurban railroad.

The owner of a tree to which this subsection applies shall trim the tree so that the view at the intersection is not obstructed.

(e) Except for a natural elevation of land, an obstruction to the view at the intersection of a highway with another highway or a steam or interurban railroad that exceeds a height of five (5) feet above the center of the highway may not be maintained at the intersection.

(f) After May 22, 1933, a building may not be erected within fifty (50) feet of an intersection to which this chapter applies.

As added by P.L.2-2002, SEC.11.

IC 32-26-4-2

Examination of live fences; notice to cut or trim; collection of expenses

Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township. If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, county highway superintendent, or Indiana department of transportation shall immediately:

- (1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and
- (2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

As added by P.L.2-2002, SEC.11.

IC 32-26-4-3

Actions; recovering expenses of cutting or trimming

Sec. 3. The prosecuting attorney shall prosecute a suit under section 2(e) of this chapter in the name of the state on relation of the supervisor or county highway superintendent. The prosecuting attorney shall receive a fee of ten dollars (\$10), collected as a part of the costs of the suit, for bringing a suit under this section.

As added by P.L.2-2002, SEC.11.