

TOWN OF NEW WHITELAND

ORDINANCE NO. 2017-14

AN ORDINANCE TO REQUIRE OWNERS OF REAL PROPERTY TO CUT AND REMOVE FROM THEIR PROPERTY WEEDS AND OTHER RANK VEGETATION

WHEREAS, pursuant to Indiana Code Chapter 36-7-10.1, the Town of New Whiteland (the “Town”), upon adopting a local ordinance, may require owners of real property located within the Town to cut and remove Weeds and Other Rank Vegetation, as defined herein, from their property;

WHEREAS, pursuant to Indiana Code Chapter 36-7-10.1, if property owners, after receiving proper notice, violate the Town’s local ordinance by not cutting and removing weeds and other rank vegetation growing on their property, the Town enter onto the property and abate that violation;

WHEREAS, the Town may collect from the property owner the costs it incurs to abate the violation, including administrative costs and removal costs, and the cost of sending notice;

WHEREAS, the Town Council, in order to bring current the Town’s policy regarding the abatement of weeds and rank vegetation and to comply with current Indiana Legislation, seeks to repeal all prior Town Ordinances and Code Sections relating to weeds and rank vegetation and to adopt, in their place, the following:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW WHITELAND, INDIANA, AS FOLLOWS:

Section 1. The New Whiteland Town Marshal and deputy marshals will enforce this Ordinance. The Town Council, also, may appoint a code enforcement officer to enforce and administer this Ordinance along with the Town Marshal and deputy marshals.

Section 2. For the purpose of this Ordinance, “Weeds and Other Rank Vegetation” shall mean:

With respect to real estate improved as a residence, whether vacant or occupied, and all real estate, improved and unimproved, located within fifteen feet (15’) of the edge of a public street or within public street right of way (landscaped islands), grass of all types, weeds, and vegetation, (excluding non-volunteer trees, bushes, shrubs, cultivated flowers, and landscaping plants) exceeding eight inches (8”) in height.

With respect to all other unimproved real estate, including, without limitation, unimproved residential and commercial lots, grass of all types, weeds, and vegetation, (excluding non-volunteer trees, bushes, shrubs, landscaping flowers, and landscaping plants) exceeding twelve inches (12”) in height.

With respect to real estate located within dedicated or platted drainage easements, except for platted drainage easements running along and parallel to side yard property lines between residential lots, grass of all types, weeds,

landscaping flowers, and landscaping plants) exceeding thirty inches (30") in height; and

Every kind of grass, weeds, vegetation, trees, or brush that interfere with the public safety or lawful use of governmental property, right-of-way, or easement;

Weeds and Rank Vegetation shall **not** include agricultural crops such as hay and pasture, unless they pose a threat to public safety.

Section 3. It shall be a violation of this Ordinance for any person to allow Weeds and Other Rank Vegetation to exist on their property.

Section 4. If Weeds and Other Rank Vegetation exist on property in Town, an officer of the New Whiteland Police Department, or designated code enforcement officer, shall issue a written warning ("Warning") to the property owner and/or occupants, either by personal delivery or by leaving the notice on an exterior door. The Warning will:

1. describe, with reasonable particularity, the conditions that constitute a violation of this Ordinance;
2. direct the property owner and/or occupants to abate the violation within a prescribed time, not more than five (5) days; and
3. advise the property owner and/or occupants that if the violation is not abated within the prescribed time, a Violation Notice will be issued.

If a violation of this Ordinance is not abated, within the time prescribed in a written Warning, an officer of the New Whiteland Police Department, or designated code enforcement officer, shall issue, by first class mail, registered or certified mail, as prescribed by IC 7-1-1-7, a written notice of violation ("Violation Notice") to the property owner, and all persons with a substantial property interest in the property, at the last address of each, as indicated in the records of the Johnson County Auditor on the date of the notice. The Violation Notice shall:

1. inform the property owner, and all persons with a substantial property interest in the property, of a violation of this Ordinance and describe, with reasonable particularity, the conditions that constitute the violation;
2. direct the property owner, and all persons with a substantial property interest in the property, to abate the violation within ten (10) days;
3. inform the property owner, and all persons with a substantial property interest in the property, that if the violation is not abated the Town may elect to abate the violation and bill the property owner for the costs incurred by the Town, including administrative costs and attorney's fees; and
4. advise the property owner, and all persons with a substantial property interest in the property, that the violation may be appealed by submitting, within ten (10) days from the date of receipt of the Violation Notice, a written notice of appeal.

If an initial Violation Notice is provided by certified mail or registered mail, a continuous abatement notice may be posted at the property, at the time of abatement, instead of by certified mail or equivalent service as required by IC 36- 7-10.1-3. A continuous abatement notice serves as notice to the property owner, and all persons with a substantial property interest in the property, that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the Town or its contractors.

The issuance of a written Warning, prior to the issuance of a Violation Notice is the adopted policy of the Town, but is discretionary and not a prerequisite to the issuance of a Violation Notice or abatement action by the Town; particularly for second and subsequent violations on the same property.

Section 5. The property owner and/or the occupants of property that is the subject of a violation of this Ordinance shall be fined Fifty and 00/100 Dollars (\$50.00) for the first violation; One Hundred Fifty and 00/100 Dollars (\$150.00) for a second violation, dated one year or less from the date of the most recent prior violation; and Three Hundred and 00/100 Dollars (\$300.00) for each subsequent violation, dated one year or less from the from the date of the most recent prior violation.

Section 6. In the event a violation or of this Ordinance is not abated within the time prescribed in the Violation Notice, the Town may enter on to the property and abate the violation or contract with a private contractor to abate the violation. The Town may abate an ongoing violation in the same manner and as often as the conditions on the property require.

Section 7. The Town Clerk-Treasurer's Office shall prepare and mail to the property owner(s), at the tax billing address, via certified mail, return receipt requested, a bill for abating the violation. The bill shall state that payment is due to the Clerk-Treasurer's office within thirty (30) days and that if such payment is not timely made the Clerk-Treasurer will certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The amount of the total bill, plus accrued interest, will be placed on the property tax bill for the property affected, to be collected as delinquent property taxes are collected.

Section 8. A property owner may appeal a notice of violation or a bill issued under this chapter. In order to appeal, a property owner must, within seven (7) days of receipt of the Violation Notice or bill, as the case may be, submit to the Town Clerk-Treasurer's office at 540 Tracy Road, Suite A, New Whiteland, IN, 46184, a written notice of appeal stating the basis of the appeal and requesting a hearing at the next regular meeting of the Town Council. Upon receiving a timely appeal, the Clerk-Treasurer shall include the appeal on the agenda of the next regular Town Council meeting. At the hearing on the appeal, the property owner will be provided the opportunity to present to

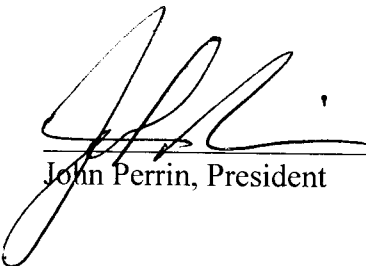
the Town Council evidence. Upon the conclusion of the hearing the Town Council shall make a final decision concerning the appeal, take the matter under advisement, or take such other action as the Town Council deems advisable in its discretion. During the pendency of the appeal, the Town shall not: 1) abate the conditions that constitute the violation, or 2) certify the amount of the bill; as the case may be.

Section 9. This Ordinance repeals and replaces all ordinances, and parts thereof, with which it may be in conflict.

Section 10. This Ordinance shall be effective upon its final adoption and publication as required.

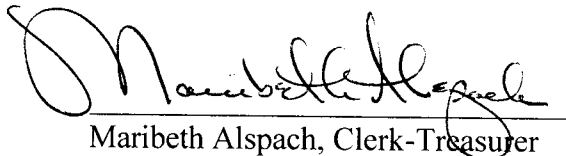
Introduced and adopted on first reading by the Town Council of the Town of New Whiteland on the ^{7th}~~18th~~ day of ^{November}~~October~~, 2017

Adopted on second and final reading by the Town Council of the Town of New Whiteland on the ^{21st}~~7th~~ day of November, 2017



John Perrin, President

ATTEST:



Maribeth Alspach, Clerk-Treasurer