

**ORDINANCE NUMBER 11-2012
OF THE TOWN OF PLAINFIELD, INDIANA**

**AN ORDINANCE OF THE TOWN OF PLAINFIELD, INDIANA, REGARDING THE
REMOVAL OF WEEDS AND RANK VEGETATION**

WHEREAS, the Indiana General Assembly has authorized the Town of Plainfield to exercise legislative and police powers to conserve or promote the health, safety, or welfare of the community;

WHEREAS, the Plainfield Town Council has previously adopted Ordinance No. 01-2002 that provides for the removal of weeds and rank vegetation in the Town of Plainfield, Indiana;

WHEREAS, the Plainfield Town Council deems it necessary to amend Ordinance No. 01-2002;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PLAINFIELD THAT ORDINANCE NO. 01-2002 IS HEREBY AMENDED AS FOLLOWS:

Section 1. The purpose of this Ordinance is to provide for the removal of weeds and rank vegetation in the Town of Plainfield, Indiana.

Section 2. For purposes of this Ordinance, the following definitions shall apply:

- A. "Weeds and/or "rank vegetation" is defined to be any vegetable matter which exceeds the height of twelve (12) inches; provided however that such definition does not include (1) trees, bushes or shrubs which have been planted or cultivated by the landowner, (2) agricultural crops, such as hay and pasture, or (3) vegetable matter cultivated in plant beds.
- B. "Owner" is defined as the person or persons identified as the owner of real property on the tax records for the subject property in the office of the Hendricks County Assessor.
- C. "Town" is defined as the Town of Plainfield, a municipal corporation located in Hendricks County, Indiana.

Section 3. All Owners of real property located within the corporate limits of the Town of Plainfield shall cut and remove weeds and other rank vegetation growing on the property.

Section 4. Upon determination by the Town Council, Town Manager, Superintendent of Public Works, Building Commissioner, Zoning compliance Inspector or Chief of Police that weeds and/or rank vegetation exist as defined in this ordinance, the Town Manager or Zoning Compliance Officer shall issue a written notice to the Owner that the weeds and/or rank vegetation must be removed within five (5) days of service of the notice. Such notice shall advise the Owner of the penalty for removing such vegetation.

Section 5. The notice required by Section 4 of this Ordinance shall be served upon the Owner either by personal service or by certified mail return receipt requested. If notice cannot be given by either personal service or certified mail, the notice shall be given by first class mail and shall be deemed to be served four (4) days after mailing. Furthermore, after the initial notice of violation of this Ordinance has been provided to the Owner pursuant to Section 4 of this Ordinance, the Town or its designee may post a continuous abatement notice at the property at the time of the removal of the weeds and/or rank vegetation and abatement of the property rather than providing a subsequent notice(s) by certified mail. This continuous abatement notice serves as notice to the Owner that each subsequent violation of this Ordinance during the same calendar year for which the initial notice of the violation was provided may be abated by the Town or its designee without further notice to the Owner.

Section 6. If the Owner fails to remove the weeds and/or rank vegetation within the time prescribed in the notice or any extension of that time granted to the Owner by the Town Council, the Town or its designee(s) may enter the property in order remove, or cause to be removed, such vegetation so as to abate the violation of this Ordinance.

Section 7. In the event that the Town removes, or causes to be removed, such weeds and/or rank vegetation, the Clerk-Treasurer shall prepare a written statement of the cost incurred, including administrative costs, by the Town for the removal and for abating the violation of this Ordinance. The Statement shall be served upon the Owner in the same manner as the service of notice detailed in Section 5 of this Ordinance.

Section 8. After the certified statement is served upon the Owner as prescribed in Section 7, the Owner shall have ten (10) days from service of such statement to pay the same to the Clerk-Treasurer. If the Owner fails to pay the same within ten (10) days of service, the cost shall become a lien upon the subject real estate, and the Clerk-Treasurer shall file a certified statement of the cost incurred for the removal with Auditor of Hendricks County for inclusion on the tax duplicate against the property upon which the work was performed.

Section 9. Any appeal of the removal notice or statement for costs must be made within ten (10) calendar days of the date of the removal notice or statement of costs, whichever is applicable. Any appeal must be in writing and shall be made to the Town Council which shall set the matter for a hearing. The hearing may be at a special or regular meeting of the Town Council. After the hearing, the Town Council shall issue its written findings. Any appeal from the written findings of the Town Council must be made to the Plainfield Town Court within ten (10) calendar days of issuance of the Town Council's written findings.

Section 10. If the Owner fails to give the Town permission to be on their property to remove the weeds and/or rank vegetation as provided in Section 6, the Town may file a complaint against the Owner in the Plainfield Town Court seeking an order from the Court finding a violation of this Ordinance and authorizing the Town to go onto the property for the purpose of cutting, mowing, and removing vegetation that constitutes a violation of this Ordinance and imposing a fine as provided for herein.

Section 11. Monetary fines for violations of this Ordinance shall be assessed as follows:

- A. If the Owner cuts, mows and removes the offending vegetation and agrees to enter a plea of guilty to the Ordinance violation before the initial hearing, the Owner shall be assessed a fine of Fifty Dollars (\$50.00), provided this is the Owner's first offense for violation of this Ordinance. The following fines shall apply for subsequent violations under the circumstances set forth in this subsection:
 - 1. Second Violation: Minimum \$100.00, not to exceed \$250.00.
 - 2. Third Violation: Minimum \$250.00, not to exceed \$500.00
 - 3. Fourth and Subsequent Violations: Minimum \$500.00, not to exceed \$2,500.00.

- B. If the Owner fails to appear and the Town takes a default judgment against the Owner, the monetary fine for the first violation shall be One Hundred Fifty Dollars (\$150.00). The following monetary fines shall apply for each subsequent violation under this subsection:
 - 1. Second Citation: Minimum \$250.00, not to exceed \$500.00
 - 2. Third and Subsequent Violations: Minimum \$500.00, not to exceed \$2,500.00

- C. If the Ordinance violation case is tried and the Owner is found to have violated the Ordinance, the monetary fine shall be not less than Five Hundred Dollars (\$500.00).

- D. Where a violation of this Ordinance is proven in a court of competent jurisdiction, the costs, including all court costs and attorneys' fees relating to such proof, shall be recoverable from the violator in addition to any other fine, abatement, or equitable relief imposed by the court, and a lien against the violator's property may be imposed for failure to pay the fines, costs, and/or attorneys' fees.

Section 12. Any and all costs billed to the Owner in accordance with Section 7 shall not be construed as a fine and shall be added as costs to any fine imposed for a violation of this Ordinance.

Section 13. The provisions of this Ordinance are severable. If any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application.

Section 14. This Ordinance shall be in full force and effect from and after its passage and adoption by the Plainfield Town Council and publication, if any, required by law. All prior Ordinances or parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed

SAID ORDINANCE is hereby passed and adopted this 9th day of July, 2012.

TOWN COUNCIL, TOWN OF PLAINFIELD,
HENDRICKS COUNTY, INDIANA

Robin G. Brandgard
Robin G. Brandgard, President

Kent McPhail
Kent McPhail

Bill Kirchoff
Bill Kirchoff

Edmund L. Gaddie, Jr.
Edmund L. Gaddie, Jr.

Renea S. Whicker
Renea S. Whicker

Constituting a majority of all of the members of the
Town Council

ATTEST:
Wesley R. Bennett
Wesley R. Bennett, Clerk-Treasurer
The Town of Plainfield, Indiana

PUBLISHED:
Hendricks County Flyer JUL 14 2012
Hendricks County Flyer JUL 21 2012