

## ORDINANCE #106-12

### AN ORDINANCE FOR THE REMOVAL OF WEED AND OTHER RANK VEGETATION IN THE TOWN OF FRANKTON, INDIANA

**WHEREAS**, Indiana section §36-1-3-1 et.seq. Permit any town in the state of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by other law, or is not expressly granted by any other law to another governmental entity:

**WHEREAS**, the Town Council of the Town of Frankton is the Town legislative body and is by law authorized to adopt ordinances and resolutions for the performance of functions for the Town of Frankton.

**WHEREAS**, Indiana Code Section §36-7-10.1 et.seq. provides authorization for the Town Council of the Town of Frankton to adopt an ordinance requiring the cutting and removal of weeds and other rank vegetation growing on the property in the Town of Frankton, Indiana.

**WHEREAS**, Ordinance #105-11, An Ordinance for the Removal of Weeds and Other Rank Vegetation in the Town of Frankton, Indiana, is hereby repealed;

**WHEREAS**, the Town Council of the Town of Frankton, Indiana deems it to be within the public interest to further the public safety, health, welfare, general aesthetics, and common good within the Town of Frankton that Ordinance #106-12 be established;

**NOW, THEREFORE, BE IT ORDAINED, ORDERED, RESOLVED, AND ESTABLISHED** by the Town Council of the Town of Frankton, Indiana as follows:

1. **IDENTIFICATION OF ORDINANCE:** This Ordinance may be identified and referred to as the Frankton Weed Control Ordinance.
2. **DEFINITION:** For the purposes of the Ordinance, Aweed and other rank vegetation@ shall mean grass and other vegetation that is un-kept and un-mowed over a period of time and left to grow to a height in excess of eighteen (18) inches. The term shall no include:
  - A. Agricultural and vegetable crops such as corn, wheat, hay, and pasture;
  - B. Designated wetlands, parklands, and forest preserves;
  - C. River banks, creek banks, and drainage ditches from the centerline of the waterway to the area within ten (10) feet of the top edge each bank.
3. **VIOLATION OF ORDINANCE:** Weeds and other rank vegetation are prohibited in the Town of Frankton and the existence of which shall constitute a violation of this Ordinance subjecting the landowner to a civil fine of One Hundred Dollars (\$100.00). Each day a violation continues after receipt of a notice of violation shall constitute a separate offense. The civil fine shall be in addition to the cost collection procedures set forth in Indiana Code §36-7-10.1-4 and payable at the Frankton Town Hall, 204 East Sigler Street, Frankton, IN 46044.
4. **NOTICE OF VIOLATION:** Upon receipt of information from the Frankton Police Department that a violation of this Ordinance exists, the Frankton Clerk-Treasurer shall issue an initial written notice to cut and remove the weeds and other rank vegetation, which shall be sent by certified mail, return receipt requested, or an equivalent service permitted under Indiana Code §1-1-7-1, addressed to at least one of the owners of real property at the last address of the owner of the property as indicated in the records of the County Auditor on the date of the notice. Such notice should indicate future notices of violations of the

ordinance during the same year for which the initial notice of the violation was provided may be abated by the municipality and/or its contractors and notice of the same will be posted at the property at the time of abatement. For each subsequent abatement in the same calendar year, a continuous abatement notice shall be posted at the property at the time of the abatement and shall serve as notice to the real property owner of a subsequent violation.

5. **REMOVAL BY TOWN:** If the landowner fails to cut and remove the weeds and other rank vegetation within the five (5) day time prescribed by the written notice of violation, the Town Street Department or a contractor of its hiring may enter the real property to cut and remove weeds and other rank vegetation and abate the ordinance of violation.

6. **NOTICE OF COSTS TO LANDOWNER:** Following any abatement of the ordinance violation by the Town of Frankton Street Department or its contractor, the Frankton Clerk Treasurer shall prepare a certified statement of the actual costs incurred by the Town in the cutting and removal of the weed and other rank vegetation, including administrative costs and removal costs. The certified statement shall be delivered to the landowner by the Frankton Police Department or by registered mail addressed to his last known address, if he is a non-resident of the Town of Frankton. If the landowner fails to pay the certified amount within ten days (10) days after notification, the Frankton Clerk-Treasurer shall certify to the Madison County Auditor, the amount of the original certified statement plus any additional administrative costs incurred in the certification process. The Madison County 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 general fund of the Town of Frankton.

7. **ADMINISTRATION OF ORDINANCE:** This Ordinance shall be administered by the respective Town of Frankton officers, employees, and departments as directed and specified within the particular terms and provision of this ordinance.

8. **APPEALS:** the landowner may appeal in writing, a notice of violation or a certified statement of costs issued under this ordinance to the Frankton Town Council shall conduct an investigation of the appeal and make a written determination which shall be forwarded to the landowner and to the Frankton Clerk-Treasurer. The decision of the Frankton Town Council on all appeals shall be final.

9. **EFFECTIVE DATE:** This ordinance shall be effective and enforceable following its date of passage and upon compliance with the publication requirements provided by law but not prior to July 1, 2012

BE IT ORDAINED AND ADOPTED this 13<sup>th</sup> day of August, 2012.

Frankton Town Council

SIGNATURE ON FILE

President, Hobart Chandler

SIGNATURE ON FILE

Councilmember, Howard Sowers

Attest:

SIGNATURE ON FILE

SIGNATURE ON FILE

Councilmember, Jeff Borum  
Clerk-Treasurer, Jack Brown