

Health and Sanitation; Nuisances

§ 93.04 STREETS AND SIDEWALKS; ANIMALS AND ANIMAL DRAWN VEHICLES RESTRICTED.

(A) All horses and other animals attached to a wagon, sleigh, or vehicle in any street, alley, or enclosed lot shall be securely fastened or tied when left by its owner.

(B) No horse or other animal, or animal attached to a wagon, sleigh, or vehicle shall be left which would obstruct in whole or in part any crossing or sidewalk.

(C) No animal attached to any vehicle shall be led or driven across any sidewalk at a point where there is no crossing

(D) No automobiles, trucks, all terrain vehicles, motorcycles, mopeds, snowmobiles, two-wheeled motorized scooters, horses, or animal drawn vehicles of any kind, other than vehicles associated with a utility or municipal purpose shall be utilized upon and along any sidewalk in the city. ('83 Code, §6-43) Penalty, see §10.99

§ 93.05 WEEDS

(A) *Title.* This section shall be known and cited as the City of Nappanee Weed Control Ordinance.

(B) *Definition.*

(1) For the Purpose of this section, **WEEDS** shall include any grass and/or uncared for vegetation growing to a height in excess of eight inches on property located within the city and not owned by the city or any Board or Commission thereof, except as set forth in subsection (2).

(2) The following vegetation is exempt from the provisions of this section:

- (a) Agricultural crops;
- (b) Cultivated trees;
- (c) Cultivated shrubs;
- (d) Flowers or other decorative ornamental plants under cultivation;
- (e) Wildflowers;
- (f) Vegetation in woodlands or wetlands;
- (g) Cultivated meadows;

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(h) Meadows in agricultural zones.

(C) **Enforcement.** It shall be the duty of the Code Enforcement Officer or in his or her absence a police officer or authorized representative to enforce the provisions of this chapter, and upon a determination that a violation of this chapter exists, shall ascertain the name and mailing address of the owner of the property and the description of the property where the violation exists. Written notice of violation shall be served upon the owner directing that the weeds and/or rank vegetation shall be cut and removed from the premises within five days or the following action shall be taken: The city shall cause the weeds and/or rank vegetation to be removed, with the cost thereof to be charged against the owner.

(D) **Violation – notice procedure.** Notice of violation shall be made by either:

(1) Posting a copy of the notice on the property; or

(2) Mailing a copy of the notice to the owner by United States Postal Service Certified Mail/Return Receipt Requested. The notice shall be deemed complete on the day the notice is posted and/or mailed.

(E) **Failure to comply.** Should any person who has been provided written notice fail, neglect or refuse to cut or remove the weeds and/or rank vegetation within five days as required by notice, a representative of the city may enter upon the premises and cause the weeds and/or rank vegetation to be cut or removed.

(F) **Bill issued to owner.** In the event that the city is forced to cut or remove weeds and/or rank vegetation, the City Clerk-Treasurer shall issue a bill to the owner of the property for a minimum of \$100 per hour including manpower, labor and equipment, or the actual costs of the abatement, whichever is greater. The Clerk-Treasurer shall keep record of the billing and collect the same as the Clerk-Treasurer does other charges of the city. Payment shall be due to the Clerk-Treasurer's Office ten days after the bill is mailed to the owner.

(G) **Failure to pay.** If the owner fails to pay the bill within 30 days, the city may collect the bill in any manner available by law. The Clerk-Treasurer may also certify to the Elkhart County Auditor the amount of the bill plus any additional administrative costs incurred in the certification. The 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 and shall be disbursed to the general fund of the city as provided by I.C. 36-7-10.1-4.

(H) **Appeals.**

(1) A person receiving a notice of violation issued pursuant to this section or a bill issued pursuant to this section may request, in writing, a hearing before the Nappanee Board of Public Works and Safety to dispute the existence of a violation on his or her property or dispute the accuracy of a bill issued. To the extent an individual desires to dispute the existence of a violation of this section, the request must be received by the Clerk-Treasurer's Office within five days after service of notice of such violation. To the extent and individual desires to dispute the accuracy of

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a bill received from the city, the request must be received by the Clerk-Treasurer's Office within ten days of the date that the bill was first issued. A hearing will be held within 14 days of the city's receipt of a written request for such hearing.

(2) At the hearing before the Board of Public Works and Safety, the person receiving a notice of violation will be given the opportunity to appear, with or without counsel, to present evidence to the Board of Public Works and Safety. Each person appearing shall have the opportunity to cross-examine those persons establishing the violation for the city and testify on their own behalf.

(3) At the hearing the Board of Public Works and Safety shall enter a finding determining whether the party notified is the owner of the property; and depending upon the nature of the appeal, whether the condition of the property is in violation of this section and/or whether the bill issued is accurate. The Board may affirm or modify the notice of violation consistent with the Board's findings.

(4) Any appeal from the findings and order of the Board of Public Works and safety shall be taken in accordance with the provisions of I.C. 36-1-6-9. ('83 Code, §6-46) (Ord. 997, passed 7-15-85; Am. Ord. 1331, passed 7-1-02)

§ 93.06 CARRYING TRASH INTO CITY PROHIBITED.

It shall be unlawful to carry into the city from areas outside the city limits any domestic garbage, trash, refuse, or odd-sized trash to be picked up by the city Department of Streets and Sanitation or contracted refuse collector. ('83 Code, §6-48) Penalty, see §10.99

§ 93.07 ACCUMULATION OF JUNK OR DANGEROUS OR OBNOXIOUS MATTER PROHIBITED.

(A) Except for premises permitted for that use under the terms of the city Zoning Ordinance, it shall be unlawful to accumulate or allow the accumulation, upon any premises within the corporate limits of the city, of garbage, ashes, refuse, rubbish, manure, carcasses, junk, automobile parts and bodies, tires, junk appliances, bedding, junk furniture, junk machinery, clippings from growth, old newspapers, and all other kinds and types of organic or inorganic materials generally classified as junk or refuse; provided, however, that nothing herein contained shall prevent the accumulation and storage of items of value which are stored in a secured building out of the sight of the public and the occupiers of adjoining property when that storage does not constitute a health or fire hazard, and provided further that this section shall not prevent the accumulation and storage in the manner provided by law of items to be picked up by the Department of Streets and Sanitation of the city.

(B) It shall be the duty of the Chief of Police or his or designee to notify the owners and occupying tenants of any property found to have accumulations in violation of division (A) to remove.