

19-28

SPONSORS: Pedro "Pete" Torres
2nd District Councilman

Dave Woerpel
5th District Councilman

ORDINANCE NO. 9453

**AN ORDINANCE TO AMEND ORDINANCES 4633, 4673, 4994, 6035, 7657, 7661, 8435, 8612, 8718, 9081, 9249, 9258 ALSO KNOWN AS SECTION 94.090, 94.091, AND 160.03 OF THE HAMMOND MUNICIPAL CODE AS IT PERTAINS TO THE ENFORCEMENT OF HIGH GRASS AND WEEDS, DECLARATION OF SAME AS NUISANCES AND ALLOWING THE INSPECTIONS DEPARTMENT TO ABATE WITH TEN DAYS NOTICE
(AS AMENDED)**

WHEREAS, the Inspections Department of the City of Hammond is tasked with enforcement during the spring, summer, and fall months, of tall grass and high weeds; and

WHEREAS, the Inspections Department and their inspectors follow up on complaints lodged by residents in a timely manner and do an outstanding job enforcing the ordinances of the City of Hammond relating to property maintenance and upkeep; and

WHEREAS, under the current city ordinance, and common practice, inspectors issue citations and the process between the date of complaint and date of the "cut and clean" order issued by the court is usually 30-45 days, during which time the tall grass and high weeds continues to grow and cause unsightliness in our city and its neighborhoods; and

WHEREAS, the Chief of Inspections and Code Enforcement Commissioner, along with the Law Department have investigated ways to decrease the amount of time between citizen complaint and time of cutting and cleaning the violating property; and

WHEREAS, the Chief of Inspections and Code Enforcement Commissioner have examined other cities throughout the state including South Bend, West Lafayette, and Carmel to determine what other communities around the state are doing to combat the unsightliness and nuisance of tall grass and weeds; and

WHEREAS, I.C. 36-1-6-2 also provides guidance for the ability of a municipality to enter onto private property to abate a declared nuisance after ten (10) days, to bill the property owner for the work performed, and if unpaid after thirty (30) days to notify the county auditor and recorder so that the cost of the work along with a reasonable administrative fee can be placed on the tax duplicate to be paid by the owner with their next tax bill; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond that the following sections of the Hammond Municipal Code are hereby amended to read as follows:

§ 94.090 VEGETATION, GRASS, WEEDS, GROWTH IN EXCESS OF 6 INCHES, UNMAINTAINED TREES DECLARED A NUISANCE.

(A) *Growth in excess of six (6) inches declared a nuisance.* It shall be unlawful for any person, legal entity, business, railroad properties or organization to permit, suffer or allow any vegetation of any kind whatsoever to be, remain, or grow to a height above six (6) inches from the ground on any improved or unimproved real property within the city. The term “vegetation” as used in this chapter, shall include, but not be limited to, grass and weeds. It shall be the duty of any person owning, leasing, occupying, or controlling this land to remove any growth that exceeds the height of 6 inches. Any growth in excess of 6 inches shall be declared a nuisance. This provision does include and prohibits agricultural crops grown and growing within the first 30 feet of any lot, as measured from any curb line. This provision does not apply to flowers or cultivated plants provided that those flowers or cultivated plants are maintained, and not obstructing vehicular or pedestrian traffic, including by negatively impacting the visibility of any vehicular or pedestrian traffic. The enforcement and abatement of any nuisance under this section shall be pursuant to section §94.091 of the Hammond Municipal Code.

(B) *Unmaintained trees declared a nuisance.* It shall be unlawful for any person, legal entity,

business, homeowners or organization to allow dead or dying trees, tree limbs, branches, stumps or parts of trees to remain on any improved or unimproved real property within the city if those trees, by virtue of their proximity to a public road, sidewalk, or dwelling or structure of another landowner, would cause damage or injury to any person, personal property, or another landowner's real property if any portion of the tree should fall . Such trees, tree limbs, branches, stumps or parts of trees shall be declared a nuisance. The enforcement and abatement of any nuisance under this section shall be pursuant to section §94.091 of the Hammond Municipal Code.

(C) *Penalty.* Any property owner violating this section may also, in addition to any enforcement action under Section §94.091, be fined pursuant to §94.999 and each violation day shall constitute a separate offense.

(Prior Code, § 94.65) (Ord. 4633, passed 8-25-1980; Am. Ord. 7657, passed 2-29-1993; Am. Ord. 8612, passed 10-26-2004; Am. Ord. 8718, passed 12-12-2005; Am. Ord. 9081, passed 9-27-2010) Penalty, see § 94.999

§ 94.091 VEGETATION, GRASS, WEEDS, UNMAINTAINED TREES, EXCESSIVE DEBRIS—INSPECTION AND ENFORCEMENT.

(A) Any employee of the Inspections Department, Community Affairs officer with the Police Department, or any other individual designated by the City, is vested with the duty of enforcing this section by inspecting any real property located in the city for violations of Hammond Municipal Code Chapter 94, as well as the general maintenance requirements of Chapter 160, and determining that on that property there exists a nuisance due to vegetation in excess of six (6) inches in height, nuisance trees, tree limbs, branches, stumps or parts of trees or other conditions prohibited by §94.090 and other parts of the Hammond Municipal Code.

(B) Any person or department responsible for enforcing this section is charged, authorized and empowered to identify from the Lake County Auditor's records, or other records available to the city, the owner of the real property, or the person leasing, occupying, controlling or managing the real property for the titled owner, and to provide written notice by first class mail, to the address of the real property as well as to the last known address in the city or county records of the owner of the real property, identifying in the notice: the address of the real property, the violation, the date of the notice, the phone number of the Inspections Department, and a warning that if the nuisance is not abated within ten (10) days the city will abate the nuisance and seek recovery of costs associated with same.

The department may also provide additional notice by posting conspicuously on the real property that a violation of this chapter exists on the real property and must be abated within ten (10) days. The notice shall list the address of the real property, the date of the notice, the phone number of the Inspections Department, and a warning that if the nuisance is not abated within ten (10) days the city will abate the nuisance and seek recovery of costs associated with same. Any notice of violation issued under this section may be appealed to the Board of Public Works and Safety ("Board of Works") if written notice of appeal is served upon the city's Law Department

within seven (7) calendar days of the notice. The timely appeal of a notice of violation shall toll the abatement period pending the issuance of a decision by the Board of Works and Safety.

(C) Upon the failure, neglect or refusal of the owner, his agents or tenants, to timely remedy the violation that exists at the real property, the landowner or person shown to have the right of exclusive possession of the property shall be deemed to have granted permission to the city or its contractors to enter the real property for the limited purpose of abating the nuisance located on that real property and which was identified in the violation notice by cutting, trimming and/or otherwise removing any offending vegetation, growth, or trees. Alternatively, the City may, in its discretion, file an action in the court having jurisdiction, or request an injunction in any superior or circuit court to abate the violation.

(D) Any person or department responsible for enforcing this section may issue one or more than one notice to any property owner, or in its discretion, may issue a continuous abatement notice, which serves as notice to the real property owner that each subsequent violation during the same calendar year for which the initial notice of the violation was provided may be abated by the city or its contractors without further notice to the property owner, tenant, occupant, manager or any other person having an interest in the real property.

(E) The city may bill the property owner or person shown to have the right of exclusive possession of the property for all costs incurred by the city in abating the violation, including administrative costs for mailing notice, inspection and re-inspection fees, title search costs, and all other costs of removal of the violation at the property location. Administrative costs shall be set in the amount of two hundred dollars (\$200) and shall be collected in addition to the actual costs of removal/abatement of the violation, including the costs of manpower/equipment used by the city and/or the costs incurred by the city in retaining any contractor to abate the violation. The city's Controller, Law Department, or appropriate department head or his/her designee shall prepare an invoice reflecting the administrative and other costs incurred by the city in abating the nuisance. That invoice shall be served by regular mail on the property owner or person shown to have the right of exclusive possession of the real property. An invoice may be appealed to the Board of Public Works and Safety if written notice of appeal is served on the city's Law Department within seven (7) calendar days from the date of the invoice. The timely appeal of an invoice shall toll the obligation for payment pending the issuance of a decision by the Board of Public Works and Safety.

(F) If the property owner or person shown to have the right of exclusive possession of the property fails to pay the invoice within thirty (30) days, the city's Controller, Law Department, appropriate department head, or other designee shall certify to the Lake County Auditor the amount of the invoice, plus any additional administrative costs incurred in the certification, to be placed by the Auditor on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes.

(G) This section additionally authorizes the city, at its sole option and discretion, to bring a collection action for the amount of the abatement or removal, plus costs incurred for collection, including reasonable attorney's fees and court costs, against the property owner and to obtain a lien in the amount of any judgment on any real or personal property of the owner.

(H) Funds collected pursuant to this section shall be disbursed to the general fund of the Inspections Department.

(I) The provisions of this section shall also apply to and be strictly enforced as to any real property subject to an order of demolition under the Indiana Unsafe Building Act. In addition to vegetation this section shall be enforced as to excessive debris, litter, garbage, trash, and other unsightly matter on the real property and shall be removed from such property as soon as practical in the same manner as vegetation is under this section.

(Prior Code, § 94.66) (Ord. 4673, passed 4-27-1981; Am. Ord. 4994, passed 1-13-1986; Am. Ord. 6035, passed 3-23-1987; Am. Ord. 7657, passed 2-28-1993; Am. Ord. 8435, passed 7-22-2002; Am. Ord. 9249, passed 4-28-2014; Am. Ord. 9258, passed 7-14-2014) Penalty, see § 94.999.

§ 160.03 GENERAL REQUIREMENTS.

The following shall be considered the minimum standards which every property owner shall comply with to avoid the unsightly appearance of residential property due to neglect.

(A) Lawns, alleylines and parkways shall be manicured to a height no taller than six (6) inches and shall be free from excessive litter or excreta;

(B) Bushes, trees, shrubs and the like shall be maintained and cut so as to not grow into or obstruct any public way, including, but not limited to sidewalks, alleylines and parkways;

(C) Chimneys shall be maintained and tuckpointed to prevent crumbling and dilapidation;

(D) Gutters shall be maintained so that they are attached to the structure and remain free from weeds and debris;

(E) Buildings shall be maintained to prevent the unsightly appearance of chipping or peeling paint or brick or siding which is in disrepair;

(F) Swimming pools shall be maintained and be free from stagnant water so as to avoid insect or rodent manifestation;

(G) Vehicles shall not be parked in front yards except for that area which has been designated by the city's building and zoning codes as an approved driveway;

(H) All garbage, trash and refuse shall be properly stored and contained as required; and

(I) All properties shall display legible address numbers as required by § 150.100.

(Prior Code, § 161.03) (Ord. 7661, passed 3-14-1994)

BE IT FURTHER ORDAINED that the City of Hammond intends to create an enforceable Ordinance which is compliant with all Federal, State and Local laws, in the event, that this Ordinance, or any part of it, or any provision, or any classification

contained therein, is found to be unconstitutional, the remaining portion will remain in effect and will be found to be valid.

ADOPTED AND APPROVED by the Common Council of the City of Hammond, Indiana, this 18TH day of November, 2019.

Robert A. Markovich
Robert Markovich, President
Hammond Common Council

ATTEST: Robert J. Golec
ROBERT J. GOLEC, City Clerk

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor said City for approval on the 20TH day of November, 2019.

Robert J. Golec
ROBERT J. GOLEC, City Clerk

The foregoing Ordinance No. 9453 consisting of six (6) typewritten pages, including this page, approved by the Mayor on the 20th day of November, 2019.

Thomas M. Mc Dermott, Jr.
THOMAS M. MCDERMOTT, JR., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 18TH day of November, 2019.

Robert J. Golec
ROBERT J. GOLEC, City Clerk