

## Chapter 46

### **ENVIRONMENT AND PROPERTY MAINTENANCE<sup>1</sup>**

#### **Article I. In General**

Secs. 46-01. Title.  
Secs. 46-02. Intent and Purpose.  
Secs. 46-03. Definitions.  
Secs. 46-04--46-30. Reserved.

#### **Article II. Junked Vehicles or Other Junked or Discarded Property**

Sec. 46-31. Storage generally.  
Sec. 46-32. Storage in connection with automobile sales or repair business.  
Sec. 46-33. Enforcement; removal.  
Secs. 46-34--46-60. Reserved.

#### **Article III. Open Burning**

Sec. 46-61. Prohibited burning.  
Sec. 46-62. Restrictions on permitted burning.  
Secs. 46-63--46-90. Reserved.

#### **Article IV. Nuisances**

Sec. 46-91. Penalty.  
Sec. 46-92. Adoption of state law.  
Sec. 46-93. Noxious weeds and rank vegetation.  
Sec. 46-94. Public nuisances affecting peace and safety.  
Secs. 46-95--46-100. Reserved.

#### **Article V. Property Maintenance Standards**

Secs. 46-101. Safe and Sanitary Maintenance of Property.  
Secs. 46-102. Fixing the Responsibility of Owners, Operators, and Occupants.  
Secs. 46-103. Administration and Enforcement.  
Secs. 46-104. Severability

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<sup>1</sup> **Cross references:** Animals, ch. 14; buildings and building regulations, ch. 18; moving buildings, § 18-221 et seq.; design and layout standards for erosion control, § 110-161; environmental consideration in subdivisions, § 110-221 et seq.

Secs. 46-105 Abrogation and Greater Restrictions  
Secs. 46-106. Interpretation.

## ARTICLE I. IN GENERAL

### **Secs. 46-01. Title.**

This chapter shall be known as the “Environment and Property Maintenance Code” of the City of Evansville.

### **Secs. 46-02. Intent and Purpose.**

- (1) This chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City and its environs. This includes, among others, physical, aesthetic, and monetary values.
- (2) It is recognized that there may now be, or may in the future be, residential and nonresidential buildings, structures, yards or vacant areas and combinations thereof which are so dilapidated, unsafe, dangerous, inadequately maintained so as to constitute a menace to the health, safety, and/or general welfare of the people. The establishment and enforcement of property maintenance standards is necessary to preserve and promote the private and public interests of the community.

### **Secs. 46-03. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Approved means approved by the Administrative Officer under the regulations of this chapter or approved by an authority designated by law.

City Inspector means the Building Inspector or other designated inspector.

Inspection means an examination performed in conjunction with a lawful request of the Evansville Plan Commission, or City inspector for the purpose of certifying the fulfillment of an official requirement listed in the request.

(Ord. 2016-10)

### **Secs. 46-04-30. Reserved.**

## **ARTICLE II. JUNKED VEHICLES OR OTHER JUNKED OR DISCARDED PROPERTY<sup>2</sup>**

### **Sec. 46-31. Storage generally.**

- (1) *Junked Vehicles.* No person shall allow any disassembled, inoperative, unlicensed, junked or wrecked motor vehicle to be stored or to remain viewable from the public right of way on public or private property within the city for longer than thirty (30) days, unless in connection with an automotive sales or repair business enterprise located in a properly zoned area and in conformity with this article. To the extent that this article applies to abandoned vehicles the terms of Wis. Stats. § 342.40 shall be complied with. Removal of a vehicle or other junked or discarded property under this article shall be at the owner's expense.
- (2) *Junked or Discarded Property, Trash, Litter, or Debris.* No person shall allow to accumulate, or store, junk, litter, trash, or debris on any property in the City longer than thirty (30) days, including but not limited to the following:
  1. Any broken or otherwise inoperable or dilapidated furniture, dilapidated outdoor structures, or appliances or part thereof.
  2. Any electronic devices or part thereof including but not limited to televisions, stereo components, computers, printers, copiers and stereo components.
  3. Any accumulation of paper; cardboard; wood; trash; garbage; rubbish; used, reclaimed or rotting wood; glass; aluminum cans; plastic containers or other junk, waste, refuse, discarded material or similar items having little or no value.
  4. Any building material including used or reclaimed lumber, pallets or pallet lumber or other reclaimed or salvaged building materials, rocks, trees, stumps, or other debris from land development, materials for building construction, street grading, or installation of underground utilities, upon the surface of any land in the City of Evansville except on approved and active construction sites or at approved storage or disposal sites.

(Code 1986, § 7.09(1), Ord. 2016-10, Ord. 2019-04)

### **Sec. 46-32. Storage in connection with automobile sales or repair business.**

Any vehicles, disassembled vehicles, inoperative vehicles, or other junked or discarded property stored or allowed to remain more than three days in connection with an automobile sales or repair business enterprise shall be kept in an area at least 50 feet distant and screened from the nearest city street right of way.

(Code 1986, § 7.09(2), Ord. 2016-10, Ord. 2019-04)

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<sup>2</sup> **Cross references:** Traffic and vehicles, ch. 122.

**Sec. 46-33. Enforcement; removal.**

- (1) Whenever any police officer finds any property or vehicles as described in Article II; including any disassembled inoperative, unlicensed, junked or wrecked motor vehicle or other junked or discarded property, trash, litter or debris placed or stored in the open upon any public property within the city, he may issue a citation to the owner of such vehicle or other junked or discarded property and such owner shall be subject to a penalty as provided in section 1-11. In addition, after trying to notify the owner verbally or otherwise, he may cause such vehicle or other junked or discarded property to be removed to a junk or salvage yard and stored in such junk or salvage yard for 30 days, at the end of which time such junk or salvage yard shall dispose of such vehicle or other junked or discarded property unless previously claimed by the owner.
- (2) Whenever any police officer, other city officer, or employee finds any property or vehicles as described in Article II; including such vehicles or other junked or discarded property, trash, litter or debris placed or stored in the open upon private property within the City, they shall notify the owner of the property upon which such vehicle or other junked or discarded property is placed or stored that the vehicle or other junked or discarded property constitutes a violation of this article. Such notice may be given to the owner personally or by mail to the owner at any place such owner may be found or to his last known address. The owner may be notified that it is the intention of the city to remove such vehicle or other junked or discarded property, trash, litter or debris immediately. If such vehicle or other junked or discarded property, trash, litter or debris is not removed within three days, any police officer or other city officer may cause the vehicle or other junked or discarded property, trash, litter or debris to be removed, and the cost of such removal shall be charged to the property where the vehicle or other junked or discarded property is stored, which unpaid charges shall be entered as a special charge on the tax roll. The officer may also issue citations for each day of violation with the penalties as stated in section 1-11.
- (3) If such vehicle or other junked or discarded property trash, litter or debris is claimed by the owner, the junk or salvage yard shall charge to the owner a reasonable fee for handling or storage.

(Code 1986, § 7.09(3)--(5), Ord. 2016-10, Ord. 2019-04)

**Secs. 46-34--46-60. Reserved.**

## **ARTICLE III. OPEN BURNING<sup>3</sup>**

### **Sec. 46-61. Prohibited burning.**

The following non-exclusive list of open burnings are prohibited on any land, public or private, in the city:

- (1) The burning of garbage, rubbish, yard refuse materials, recyclable materials, building materials, putrescible material, leather, rubber, plastic, petroleum-based materials or any material coated with plastic, rubber or petroleum-based substances.
- (2) The burning of anything in a street, gutter, or ditch or within 15 feet of any surface water.

(Code 1986, § 9.13(1), Ord. 2016-10)

### **Sec. 46-62. Restrictions on permitted burning.**

The following restrictions shall apply to all permitted open burning in the city:

- (1) All bonfires set to mark a public event, victory celebration, ceremony or similar event must be more than 25 feet from any building, utility pole, overhead wire or other combustible material and must be attended at all times.
- (2) All other types of open fires must be more than 25 feet from any building, utility pole, overhead wire or other combustible material and must be attended at all times.
- (3) Any burning within 25 feet of a building, utility pole, overhead wire or other combustible material, except for appliances intended solely for outdoor cooking, is prohibited.
- (4) The fire chief, fire inspector or city inspector may, in their discretion, require greater distances or otherwise further restrict instances of open burning that may pose a fire hazard to the people or property of the city.
- (5) The city fire chief, fire inspector or city inspector may, at their discretion, grant exemptions with or without conditions from these restrictions upon written advance request as long as people and property of the city are appropriately protected at the expense of the requesting party.

(Code 1986, § 9.13(2), Ord. 2016-10)

### **Sec. 46-63. Penalty**

Any person who violates any provision of this article shall be subject to a citation and a penalty as provided in section 1-11 of the code of ordinances.

### **Secs. 46-64--46-90. Reserved.**

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<sup>3</sup> **Cross reference:** Fire prevention and protection, ch. 50.

## ARTICLE IV. NUISANCES

### **Sec. 46-91. Adoption of state law.**

The provisions of Wis. Stats. ch. 823, Nuisances, are hereby adopted by reference as a city ordinance as if set out at length in this article. This includes but is not limited to bawdyhouses, disorderly houses, drug or criminal gang houses, places of prostitution, places of illegal gambling, and dilapidated buildings.

(Code 1986, § 10.12, Ord. 2016-10)

### **Sec. 46-93. Noxious weeds and rank vegetation.**

- (1) The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other nuisances coming within the other provisions of this article or pursuant to state law: all noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed eight (8) inches.
- (2) The city may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property unpaid charges shall be placed as a special charge on the tax roll.

(Code 1986, § 10.03, Ord. 2008-15, Ord. 2016-10)

### **Sec. 46-94. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the other provisions of this article:

- (1) *Signs, billboards, etc.* All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city.
- (3) *Animal Waste.* All exterior property areas shall be properly maintained to be free from animal feces. All animal feces shall be removed within twenty-four (24) hours of deposit.

### **Sec. 46-95. Notice.**

- (1) If the City police officer, other City officer, or City inspector shall determine with reasonable certainty that any public nuisance exists, he or she shall immediately cause written notice to be served on the owner, occupant or person in charge of

the property that said public nuisance must be removed within five (5) days and that if not removed the City may take such actions as prescribed in 46-103(4).

- (2) Said notice may be served by any of the following means:
- (a) Personal service,
  - (b) Certified mail, or
  - (c) First class mail if the notice is also posted no later than the same day as mailing on the front door of the main building or dwelling on the premises or, if no building or dwelling exists, by posting on the premises in a conspicuous manner.

**Sec. 46-96. Penalty.**

Any person who shall violate any provision of this article or cause a public nuisance shall be subject to citation and a penalty as provided in section 1-11 for each day there is a violation. Injunctive relief, if available, may also serve as an enforcement remedy.

**Secs. 46-97-100. Reserved.**

(Code 1986, § 10.05(1), (8), Ord. 2016-10, Ord. 2019-04)

## ARTICLE V. PROPERTY MAINTENANCE STANDARDS

### Secs. 46-101. Safe and Sanitary Maintenance of Property.

- (1) The purpose of this subsection is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and nonresidential buildings, structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values.
- (2) Every owner or operator shall improve and maintain all property under his/her ownership or control to comply with the following minimum requirements:
  - (a) All exterior property areas and all buildings shall be properly maintained and kept in a clean, safe and sanitary condition.
  - (b) Fences, other minor construction, landscaping, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide safe and convenient all weather access to buildings and shall not cause tripping or fall hazards. Landscaping shall be maintained with dead or dying trees, shrubs, etc. replaced as needed.
  - (c) Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint, other suitable preservative, or a protective covering which will provide adequate resistance to weathering. Any exterior surface treated with paint, other preservative, or protective covering shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface, surface treatment, or protective covering. All paint, preservative, or protective covering shall be applied in a workmanlike fashion. Protective coverings shall not include insulation or moisture barriers and shall be applied to achieve a consistent exterior appearance. All exterior cabling, cords and piping shall be installed in a workmanlike fashion and maintained to prevent detachment or deterioration.
  - (d) Every exterior window, door, and basement hatchway shall be reasonably weather tight, watertight and kept in proper repair. All exterior door and window hardware shall be installed and maintained in proper working condition. Interior window coverings shall be in good repair and consist of materials and installation in keeping with industry standards. Tarps, drop cloths, stickers, stored materials, furniture, tape, etc shall not be used as window coverings.
  - (e) Every outside stair, porch, deck, ramp, roof, soffit, fascia, and appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair. All exterior stairs, steps, porches, decks, ramps,

roofs, soffits, fascia, and every appurtenance thereto shall comply with the requirements specified in Wisconsin Administrative Code Wisconsin Department of Safety and Professional Services (SPS) including Uniform Dwelling Code Chapters SPS 320, 321, 322, 323, 324, and 325; and Commercial Building Code Chapters SPS 361, 362, 363, 364, 365, and 366, as may be amended and as dictated by the type of occupancy in the building.

**Secs. 46-102. Establishing the Responsibility of Owners, and Occupants.**

- (1) The purpose of this subsection is to establish the responsibility of owners and occupants of buildings and structures.
- (2) In addition to all of the other requirements set forth in this chapter, the responsibility of owners and occupants of buildings is as follows:
  - (a) Every owner and occupant of a building shall keep in a clean, proper and sanitary condition that part of the building and premises thereof which he/she owns and/or occupies and controls. Every owner and/or occupant of a building shall dispose of all his/her refuse, recycling and garbage in an appropriate and sanitary manor.
  - (b) Every owner of a building containing two (2) or more units shall be responsible for maintaining in a clean, proper and sanitary condition the shared or public areas of the residential building and premises thereof.

**Secs. 46-103. Administration and Enforcement.**

- (1) The purpose of this section is to provide for the administration and enforcement of this Article.
- (2) The Zoning Administrator, Police Chief, Building Inspector, and Municipal Services Superintendent or their designee are hereby given power to enforce this chapter. Therefore, for purposes of enforcement of this article, he/she shall be designated as and have the same powers as the officer referred to in the Wisconsin State Statutes as the City inspector.
- (3) The non-exclusive duties of the City inspector, shall be as follows:
  - (a) Maintain permanent and current records of all matters arising out of this chapter.
  - (b) Determine compliance with the terms of this article, all state laws, City Ordinances and take such action as necessary to secure such compliance, including: imposition of forfeitures and injunctive action. They shall have full power to pass upon any question arising under the provisions of the housing, building, plumbing, electrical and heating codes and zoning procedures, subject to conditions contained herein.

- (c) Initiate, direct, and review from time to time a study of the provisions of this chapter and make recommendations to the Common Council.
  - (d) Coordinate such inspection and code compliance programs with inspections or improvement programs of other neighborhood groups whose purpose is neighborhood improvement.
- (4) The process for enforcement shall be as follows:
- (a) Any person or entity who shall violate any of the provisions of this article shall be notified by the City inspector of the violations and a reasonable timeframe for repair or remedy. Such notice may be given in person or by mail.
  - (b) If such violation(s) have not been repaired or remediated in the specified timeframe, the city may choose to take any or all of the following actions:
    - 1. Take appropriate action to remedy the violation and assess the cost of such repair to the property in question. Unpaid charges shall be placed as a special charge on the tax roll.
    - 2. Issue citations to the person(s) or entity responsible for the violations thereby subjecting them to penalty as provided in section 1-11. Each day a violation continues or occurs shall constitute a separate offense.
    - 3. Pursuit of injunctive relief.
  - (c) Citations permitted under this section may be issued by any City inspector.
  - (d) The issuance of a citation under this section shall not preclude the City or any individual from commencing any action against a violator under any other authority of law.

**Secs. 46-104. Severability.**

If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect with the invalid or unconstitutional provisions or applications.

**Secs. 46-105. Abrogation and Greater Restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, chapter or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

**Secs. 46-106. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

(Ord. 2016-10, Ord. 2019-04)