

STAFF REPORT
Appeal of Excessive Growth NOV
Ticket # 49543

Appellant Information:

B&L Rentals, LLC (owner)
612 W. Kirkwood Avenue
Bloomington, IN 47404
Date Appealed: 9/27/2021

Citation Information:

Issued: 9/21/2021
By: Rob Council
Place: 1120 N. Lincoln
For: Weeds/Noxious Plants

Attachments:

1. Notice of Violation
2. Appellant's Appeal of Notice of Violation
3. Photographs of the Property

Facts & Discussion:

1. Bloomington Municipal Code 6.06.050 makes it unlawful for "the owner of any lot or tract of ground within the city to allow it to become overgrown with weeds, grass, or noxious plants beyond the height of eight inches or to such extent that the growth is detrimental to the public health and constitutes a nuisance."
2. On September 21, 2021, Neighborhood Compliance Officer Rob Council inspected the property located at 1120 N. Lincoln, Bloomington, IN (Hereinafter the "Property") and personally observed poison ivy, a prohibited weed and noxious plant, had grown in violation of BMC 6.06.050. Officer Council issued a Notice of Violation with a fine of \$50.00 under ticket number of 49543 on September 21, 2021, for excessive growth, weeds, and noxious plants in violation of BMC 6.06.050.
3. The NOV was delivered by first class mail to the owner of the property and a copy left in a conspicuous place on the property where the violation occurred in compliance with 6.06.070(b).
4. B&L Rentals, LLC (Hereinafter the "Owner") owns this Property and is a person who shall be considered a responsible party under 6.06.070(a).
5. Owner asks for relief from the ticket stating that Owner believed this should have been a warning without a fine given Owner's lack of any history of violations of BMC.
6. There is no requirement under the BMC to issue a warning prior to a fine. This is left to the discretion of the neighborhood compliance officer under the given circumstances of any particular violation. Given the particular hazards of poison ivy, and the location of the poison ivy immediately adjacent to a public sidewalk at a height where passersby could easily come into contact with it, a fine is appropriate under the circumstances.

Staff Recommendation:

The Appeal should be denied because the NOV and fine was properly issued, notice properly given, and photographic evidence by the inspection officer shows the poison ivy was allowed to grow at or greater than eight inches, which is a violation of BMC 6.06.050.



Notice of Violation

Housing & Neighborhood
Development Department (HAND)
P.O. Box 100
401 N. Morton Street
Bloomington, IN 47402
www.bloomington.in.gov/hand/

Date 9/21/21 Time 10:45 Address/location 1120 N. Lincoln 47408

Issued by: 207

☐ BMC 6.04.110 Carts, containers and other articles to be picked up shall not be placed upon the street or sidewalk *so as to be visible* from the street more than twenty-four hours prior to the time when such solid waste, recycling or yard waste is to be collected. Carts and containers shall be removed from the street or sidewalk on the same day as the collection is made.

☐ Fine Due: \$15.00

☐ Warning (No fine due at this time)

Ticket# _____

NOTE: Immediate compliance required in order to avoid additional violations/fines assessed at \$15.00/day per BMC 6.04.100(c).

☐ BMC 6.06.020 It is unlawful for any person to throw, place, or scatter any garbage, recyclable materials or yard waste over or upon any premises, street, alley, either public or private, or to suffer or permit any garbage, recyclable materials or yard waste to be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to remove, cover or burn it.

☐ Fine Due: ☐\$50 ☐\$100 ☐\$150 ☐ Warning (No fine due at this time) Ticket# _____

NOTE: Immediate compliance required in order to avoid additional violations/fines assessed at \$50.00, \$100, or \$150/day per BMC 6.06.070(c).

☒ BMC 6.06.050 It is unlawful for the owner of any lot or tract of ground within the city to allow it to become overgrown with weeds, grass, or noxious plants beyond the height of 8 inches or to such extent that the growth is detrimental to the public health and constitutes a nuisance.

☐ Fine Due: ☒\$50 ☐\$100 ☐\$150 ☐ Warning (No fine due at this time) Ticket# 49543

NOTE: Immediate compliance required in order to avoid additional violations/fines assessed at \$50.00, \$100, or \$150/day per BMC 6.06.070(c).

Comments: Poison ivy weeds removed

1. Fine must be paid within 2 weeks from date of issuance of the Notice of Violation (NOV) to avoid this matter being forwarded to the City's Legal Department for further enforcement action. This NOV must be returned with payment. **You may pay in person or mail payment to the address listed above. Please make check/money order payable to "The City of Bloomington."** All fines listed above may be contested in the Monroe County Circuit Courts.
2. Fines shall not attach to non-possessory residential rental property owner(s) for a period of seven (7) days provided HAND is presented with a true and exact copy of any and all leases in effect during the time period covered by the NOV (per occurrence), at which time said tenant(s) shall be held responsible for fines due. A non-possessory residential rental property owner is the owner of record, but one that is not a resident of said property. Property owner(s) shall otherwise be held responsible for fines if a lease is not presented in the time period indicated.
3. The City may seek action by its Board of Public Works or the Monroe County Circuit Courts in assessing fines, ordering remediation of the property (the City has the authority to bring the property into compliance itself or the City may hire a private third-party contractor to bring the property into compliance) and/or assessing costs associated with clean-up of the property, and pursuing any other remedies available by law, including but not limited to injunctive relief. If the City or their designee, with permission from the City of Bloomington Board of Public Works, enters the property and abates the violation the owner shall be responsible for reimbursing the City for the abatement and all associated cost.
4. This NOV may be appealed to the City's Board of Public Works, provided a written appeal is filed with the Board, via the City's Public Works Department, within seven days of the date of issuance of this NOV.

Owner Name B&L Rentals LLC
Address 612 W. Kirkwood Ave
City Bloomington State IN
Zip Code 47404

Agent Name None
Address _____
City _____ State _____
Zip Code _____

BPW:

Mail Copies To: Resident: ☐ Owner: ☒ Agent: ☐



Appeal of Excessive Growth Citation to the Board of Public Works

City of Bloomington
Department of Public Works
401 North Morton Street, Suite 120
Phone (812)349-3410
Email: Public.Works@Bloomington.IN.gov

Please complete this form in its entirety. Use black or blue ink only and Print legibly. A copy of the Excessive Growth citation you were issued **MUST** be attached to this form. You are encouraged to attach all documents that you believe support your appeal. **All of these documents must be submitted within seven (7) days** after the citation was issued. The Board of Public Works will primarily consider the written materials submitted, including: this appeal form, documents you provide, a statement from the police officer including any complaints made, and staff recommendations. In addition, on the date given below, you will have the opportunity to speak to the Board for two minutes. You will be notified of the Board's decision by first class mail. If your appeal is denied, you may file an appeal with the Monroe County Circuit within seven (7) days from the date of the Board's decision.

Name: B+L RENTALS Phone Number (812) 219 7113

Citation Number: 49543 Date on Excessive Growth Citation: 9/21/21

(Located in the top right hand corner of the citation)

Local Address: PROPERTY
1120 N LINCOLN ST
BLOOMINGTON 47408

OFFICE
Permanent Address:
612 W KIRKWOOD AVE
BLOOMINGTON 47404

Today's Date: 9/27/21

Reason for Appeal: THIS IS NOT PICTURES ATTACHED. NOT everything in this is
poisonous, only 1 strand. This seems like a warning, an email or
or a phone call since I've worked with HANDS for 20 years
with no violations. Then a fine first handled. HANDS and landlards
I thought are more of a partnership. This is not that. This ivy
is not near anyone, not hanging from a tree, or in tree plot. Since
the very dry conditions the last 3 weeks grass has not been done
every week.

On this day, I submitted my completed appeal of Excessive Growth citation and received the date of 27
When the Board of Public Works will consider my appeal.

Signature

Date

For use by Public Works:

Date Appeal Received: _____ Received By: _____

Date Appeal Forwarded to Legal Department: _____





City of Bloomington's Board of Public Works
Decision on Appeal of Excessive Growth
NOV #49543

On September 21, 2021, the City of Bloomington Department of Housing and Neighborhood Development (HAND) issued Notice of Violation #49543 to B&L Rentals, LLC. B&L Rentals, LLC timely appealed the Ticket to the Board of Public Works. The Board of Public Works heard testimony and received evidence regarding Notice of Violation #49543 on Tuesday, October 12, 2021. The Board of Public Works finds as follows:

1. B&L Rentals, LLC is the owner of the real estate located at 1120 N. Lincoln Street, Bloomington, Indiana (the "Property").
2. On September 21, 2021, City of Bloomington Neighborhood Compliance Officer Rob Council did personally observe poison ivy, a weed and noxious plant, growing on the Property at a height greater than eight inches.

After reviewing all of the evidence and testimony presented, the Board of Public Works hereby:

Upholds the Following Notice of Violation: _____.

Voids the Following Notice of Violation: _____.

So ordered this 12th day of October, 2021.

Dana Henke, President
Board of Public Works
City of Bloomington