

ORDINANCE NO. 2003-1841

AN ORDINANCE AMENDING CHAPTER 97 OF THE PLYMOUTH CODE OF ORDINANCES

WHEREAS, the Common Council of the City of Plymouth believes it to be necessary to amend Chapter 97: Refuse, of the Plymouth Code of Ordinances to cure certain inadequacies reported in said ordinance and re-title it as Chapter 97: Public Nuisances.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Chapter 97: Refuse of the Plymouth Code of Ordinances is hereby amended as follows:

Chapter 97: Public Nuisances

Section

GENERAL PROVISIONS

- 97.01 Permit to fill ground with refuse
97.02 Depositing refuse in public places prohibited

PUBLIC NUISANCES

- 97.10 Conditions constituting public nuisances
97.11 Notices to Code Enforcement Officer, owner, Superintendent of City Street Department
97.12 Removal by city, collection of cost
97.13 Information to be certified by Clerk-Treasurer to County Auditor and Treasurer
97.14 Accounting for costs and penalties by County Treasurer
97.15 Assessment for cost of collecting costs and penalties

BURNING BAN

- 97.25 Burnings generally prohibited
97.26 Exceptions
97.27 Enforcement, penalty

Cross-reference:

Garbage disposal, See Chapter 52

§97.01 PERMIT TO FILL GROUND WITH REFUSE.

Any person who shall desire to fill any low or unlevel ground within the city by hauling thereto any refuse matter whatsoever for the purpose of filling, shall first obtain a permit from the Board of Health. ('69 Code, §24-1) (Ord. 663 passed --)

§97.02 DEPOSITING REFUSE IN PUBLIC PLACES PROHIBITED.

It shall be unlawful for any person to throw or deposit in any street or alley in the city, or upon any crosswalk, sidewalk, gutter or other public place, any offal, manure, garbage, dirt, filth, vegetable matter, filthy liquids, carcasses, ashes, shavings, paper, straw or any kind of refuse matter whatever, or to suffer or permit any member of his family or employee or other person under his control so to do. ('69 code, §24-2) (Ord. 201, passed --) Penalty, see §10.99

PUBLIC NUISANCES

§97.10 CONDITIONS CONSTITUTING PUBLIC NUISANCES.

- (A) In addition to what is declared in this chapter and Code (including other chapters hereof) to be a public nuisance, those offenses which are known to the common law and the Statutes of Indiana as public nuisances may, when found to exist within the City limits, be treated as such and be proceeded against as provided in this chapter and Code, or in accordance with any other provisions of law. Wherever the work "nuisance" is used in this article it refers to a public nuisance.
- (B) No owner, occupant, tenant, or any other person having a substantial interest in any real or personal property within the City, or any agent thereof, shall permit or allow to remain on or within such property or upon public ways abutting such real property any materials, trash, garbage, debris or any other matter which is detrimental to public health, comfort, safety or to the aesthetic well-being of the community.
- (C) The following conditions shall be considered to constitute public nuisances for the purpose of this chapter:
- (1) Litter.
 - (2) Fallen tree stumps, dead trees, cut brush, fallen or cut limbs.
 - (3) Boxes, appliances, household items and tires.
 - (4) Demolition remains.
 - (5) Open excavations, uncovered or improperly covered holes, whether lined or unlined, and dirt piles on any open or unfenced real property within the City.
 - (6) Accumulated garbage and trash.
 - (7) Automobile parts, disassembled automobiles, automobiles without engines, plumbing and piping materials and parts, scrap metal, unseaworthy or dilapidated boats, dilapidated, deteriorated or nonoperable jet skis, snowmobile, motorcycles, bicycles, trailers or mopeds.
 - (8) Structures defaced with paint or wording.
 - (9) Any portion of real property or any personal property which emits an unwholesome odor.
 - (10) Any waste water, filth, offal, garbage, rubbish, animal waste, human excrement, which is deposited, allowed or caused to be upon public or private property.
 - (11) Any water or any other substance which is caused or permitted flow onto or be deposited upon any public property or public way except natural surface water drainage.
 - (12) Any dead animal or animal parts.
 - (13) The erection of a dam or any other obstruction by a private party which prevents the natural flow of water and causes it to collect in pool upon any public property.
 - (14) Any real or personal property which is infected with contagious disease or is likely to cause an immediate health hazard.
 - (15) The placing or accumulating on or within any real or personal property or the permitting of same, of any matter which attracts or any attract rodents, insects, domestic or wild animals in such a manner as to create a health hazard or unsanitary or dangerous condition.
 - (16) Any real or personal property, used as a place of residence or habitation or for sleeping, that is maintained in such a way as to be dangerous or detrimental to life or health due to lack of or defects in water, drainage, heat, electricity, plumbing, ventilation or garbage and trash removal.
 - (17) The storage of any explosive, combustible or other material which creates a public safety or health hazard.
 - (18) Trees, shrubbery, weeds, snow or other matter obstructing public ways, or causing visual barriers which create vehicular traffic or pedestrian safety hazards.

- (19) Trash or garbage containers left upon the sidewalk, the area between a street and sidewalk or the front or side yard, except as permitted by this Code for trash and garbage collection purposes.
- (20) Weeds or other rank vegetation growing upon real estate within the City, including without limitation those varieties listed at §98.01 of this Code, that have been left to grow in an uncut and unsightly condition.
- (21) Any furniture, not originally designed or manufactured solely for outdoor use; or any furniture which was originally designed or manufactured for outdoor use, which is now dilapidated or deteriorated.

§97.11 NOTICES TO CODE ENFORCEMENT OFFICER, OWNER, SUPERINTENDENT OF STREET DEPARTMENT

Upon discovering of any, or receiving complaint regarding any public nuisance upon any real estate in the city by any city official, it shall be the duty of such city official to notify the Code Enforcement Officer of the violation of this subchapter. It shall be the duty of the Code Enforcement Officer to notify the owner of such real estate in writing of his violation of this subchapter and demand, on behalf of the city, the immediate removal thereof. In the event that the property owner fails to remove the nuisance within ten days from the date of mailing the notice, the Code Enforcement Officer shall notify the Superintendent of the City Street Department of the violation of this subchapter and said Superintendent shall proceed as provided in this subchapter. ('69 Code, §24-6) (Ord. 939, passed --)

§97.12 REMOVAL BY CITY, COLLECTION OF COST.

Any owner of real estate within the city who shall fail, neglect or refuse to remove any nuisance found upon his real estate, shall be subject to having such nuisance removed by the Superintendent of the City Street Department at a cost of not less than \$35 per hour, for each and every man hour expended by said Superintendent or his departmental employees in removing such nuisance, with a minimum charge of \$70 per job. Further, such owner shall pay the cost of disposing of any tires, petroleum products and/or item or substance the disposal of which is more costly than that of ordinary garbage or refuse. Such charge for so removing the nuisance shall be a lien against the real estate of the owner and shall be placed on the tax records of the county. Such lien shall be collected by the County Treasurer as other taxes are collected. However, after making the assessment of the costs, the Clerk-Treasurer shall send a written statement to the owner of the real estate setting forth the amount due the city by reason of removing the nuisance from his real estate and if the property owner does not pay such assessment within 15 days of the date of mailing of the notice, then certification shall be made by the Clerk-Treasurer to the treasurer and auditor of the county for collection as herein provided. (Ord 1286, passed 6/8/81)

§97.13 INFORMATION TO BE CERTIFIED BY CLERK-TREASURER TO COUNTY AUDITOR AND TREASURER

Within seven days after any nuisance is removed from any real estate within the city by the Superintendent of the City Street Department, said Superintendent shall prepare and file with the Clerk-Treasurer the name of the owner of the real estate from which nuisance was removed by the city, giving the legal description of the real estate and the name of the owner as it appears on the county tax duplicate and the cost or penalty against the property for removal of the nuisance, all of which shall be certified by the Clerk-Treasurer to the Auditor and Treasurer of the County, and by them placed on the tax duplicate of the county and collected as other taxes are collected. Such costs and penalties shall remain a lien against the real estate of such owner until they are paid. ('69 Code, §24-8) (Ord. 939, passed--)

§97.14 ACCOUNTING FOR COSTS AND PENALTIES BY COUNTY TREASURER.

After the payment of the second installment of taxes has been made and after the treasurer of the county has completed his audit and accounting of such taxes, and not later than November 30 of any year, the treasurer of the county shall account and pay to the Clerk-Treasurer all such taxes, including the costs or penalties provided for in this subchapter, so received and paid to him for the city, which costs or penalties shall be credited to the assessment against such owner as they appear on the records in the Clerk-Treasurer's office of this city. ('69 Code, §24-9) (Ord. 939, passed --)

§97.15 ASSESSMENT FOR COST OF COLLECTING COSTS AND PENALTIES

In addition to the costs or penalties provided for this subchapter, the Clerk-Treasurer shall add an assessment of \$30.00 for the preparation and collection of such tax, which funds shall be used to pay the recorder of the county a recording fee and a release fee, as set by IC 36-2-7-10. The balance of such fund, if any shall go into the general fund of the city to be used and expended as the Common Council shall direct and appropriate. ('69 Code, §24-10) (Ord. 939, passed--)

PLYMOUTH – GENERAL REGULATIONS

BURNING BAN

§97.25 BURNINGS GENERALLY PROHIBITED.

No person shall start, kindle, cause, allow or maintain any form of leaf burning, wood burning, or rubbish or trash burning of any kind on private or public property, except as specifically authorized by this subchapter. (Ord. 1484, passed 11-27-89) Penalty, see §97.27

Cross-reference:

For prepayment of fine to Ordinance Violations Bureau, see §33.068

§97.26 EXCEPTIONS.

The following types of fires are permitted:

- (A) The customary burning of logs and other wood products in a residential fireplace.
- (B) The burning of charcoal and other food cooking fuels customarily used in an outdoor grill and traditional food cooking devices.
- (C) Fires celebrating Twelfth Night Ceremonies.
- (D) Fires celebrating school pep rallies.
- (E) Fires celebrating scouting activities.
- (F) Fires used for recreational and cooking purposes, i.e., campfires.
- (G) Industrial and commercial burnings through methods specifically and previously approved by the Indiana Department of Environmental Management, or other appropriate state, local, and/or federal regulatory agency.
- (H) Any other type fire whereby a citizen of the city has obtained a variance from the provisions of this subchapter by petitioning the Common Council, provided, however, that the Common Council cannot grant a variance for burning that would otherwise violate the provisions of 326 Indiana Administrative Code 4-1 et seq. and as amended.

(Ord. 1484, passed 11-27-89)

§97.27 ENFORCEMENT, PENALTY.

Any person found in violation of this subchapter shall be subject to the following procedures:

- (A) Issue a warning notice to a first-time violator stating that he or she is in violation. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish the fire shall result in a citation then being issued.
- (B) Issuance of a citation to the violator shall result in the imposition of a \$50 fine as administered by the Ordinance Violation Bureau pursuant to §33.068.
- (C) Failure or refusal by the violator to immediately extinguish the fire in violation of this subchapter shall also result in the Fire Department having the authority to go upon private property to extinguish said fire. Furthermore, in such instance where a leaf or rubbish burning fire results in

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damage to property other than the violator's property (including damage to public property, e.g., asphalt), or results in injury to another person, or the imminent threat of damage to another's property, and said fire is determined to be caused by negligence or the willful disregard or violation of this subchapter, a fine equal to the cost expended by the city to send fire suppression personnel and equipment to the location shall be assessed with said fine not to exceed \$2,500.

(D) Each subsequent starting, kindling, causing, or allowing of a new fire after a warning notice or violation has been issued, shall be considered a separate offense.

(Ord. 1484, passed 11-27-89)

This Ordinance shall be in full force and effect after its passage, due attestation and due publication as required.

Passed this 13th day of October, 2003.

COMMON COUNCIL OF THE CITY OF PLYMOUTH

Donnie Seal
Mayor, City of Plymouth, Presiding Officer

Attested by:

Toni L. Hutchings
Toni L. Hutchings, Clerk-Treasurer

Presented to the Mayor on this 13th day of October, 2003.

Toni L. Hutchings
Toni L. Hutchings, Clerk-Treasurer

Approved and signed by me this 13th day of October, 2003.

Donnie Seal
Mayor, City of Plymouth