

STAFF REPORT
Appeal of NOV
(garbage, recyclable materials, yard waste)
Ticket # 62023-08-1314

Appellant Information:

Name: Joseph B. Davis
Address: 530 S. Washington Street
Bloomington, Indiana 47401
Date Appealed: 8/23/2023

NOV Information:

Date Issued: 8/17/2023
By: Rob Council
Place: 530 S. Washington Street
For: Garbage, recyclable materials and yard
waste in yard

Attachments:

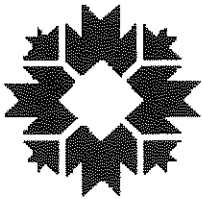
1. Notice of Violation
2. Written appeal by Mr. Davis
3. Property Report Card

Facts & Discussion:

1. Bloomington Municipal Code § 6.06.020 makes it 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 later remove, cover, or burn it.”
2. On August 17, 2023, City of Bloomington Neighborhood Compliance Office Rob Council did personally observe garbage, recyclable materials, and yard waste on real estate located at the common street address of 530 S. Washington Street (the “Property”) and issued a Notice of Violation (the “NOV”) and took photographs of the condition of the property which depict the existence of said garbage, recyclable materials and yard waste.
3. Mr. Joe Davis is the owner of the Property.
4. Mr. Davis timely appealed the NOV.
5. Substantial evidence supports a finding that the appeal should be denied.

Staff Recommendation:

1. Deny the appeal of the NOV.



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 8/17/23 Time 3 Address/location 530 S. Washington 47401

Issued by: 257

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# 62027-08-1314

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# _____

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: _____

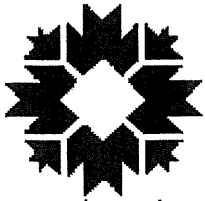
1. Fine must be paid within 2 weeks from date of issuance of the Notice of Violation (NOV) to avoid this matter being forwarded to the City's Legal Department for further enforcement action. This NOV must be returned with payment. **You may pay in person or mail payment to the address listed above. Please 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 Joseph B. Davis
 Address 530 S. Washington St
 City Bloomington State IN
 Zip Code 47401

Agent Name _____
 Address _____
 City _____ State _____
 Zip Code _____

BPW: ~~X~~ 8-29-23

Mail Copies To: Resident: _____ Owner: X Agent: _____



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 8/17/23 Time 3 Address/location 530 S. Washington 47401

Issued by: 257

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Fine Due: \$50 \$100 \$150 Warning (No fine due at this time) Ticket# 62027-08-1314

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.

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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: _____

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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 Joseph B. Davis
 Address 530 S. Washington St
 City Bloomington State IN
 Zip Code 47401

Agent Name _____
 Address _____
 City _____ State _____
 Zip Code _____

BPW: _____

Mail Copies To: Resident: _____ Owner: Agent: _____



Appeal of Trash 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 Trash 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 Trash 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 Court.

Name: JOSEPH B. DAVIS Phone Number: 812-525-9706
Citation Number: 62023-08-1314 Date on Trash Citation: 8-17-23
(Located in the top right hand corner of the citation)

Local Address:
530 S. WASHINGTON ST.
BLOOMINGTON, IN 47401

Permanent Address:
SAME AS LEFT

Today's Date: 8-26-23

Reason for Appeal: DENIAL OF DUE PROCESS; NO WARNING;
NO COMMUNICATION FROM COMPLIANCE OFFICERS; NO
SPECIFIC DETAIL PRESENTED; TITLE VI IS VAGUE &
NEBULOUS. I REQUEST A HEARING AND ALL PROSECUTORIAL
EVIDENCE, AT LEAST (7) DAYS IN ADVANCE OF ANY SCHEDULED
HEARING. THANK YOU.

SEE ATTACHED EMAIL APPEAL NOTICE DATED 8-23-23
(You may continue on another page if necessary)

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

Signature: [Signature] Date: 8-26-23

For use by Public Works:
Date Appeal Received: _____ Received By: _____
Date Appeal Forwarded to Legal Department: _____



joe davis <balebuilder@gmail.com>

Appeal of HAND NOV with BPW

joe davis <balebuilder@gmail.com>
To: public.works@bloomington.in.gov, Dave Askins <dave@bsquarebulletin.com>

Wed, Aug 23, 2023 at 11:02 AM

Please, see the Appeal Notice in the below forwarded email.

Thank you,
-Joe

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>
Date: Wed, Aug 23, 2023 at 10:57 AM
Subject: Appeal of HAND NOV with BPW
To: April Rosenberger <april.rosenberger@bloomington.in.gov>

Dear April,

This email is to serve as a written request to appeal a Notice of Violation that I received on 8-17-23, from HAND. The ticket # of the NOV is 62023-08-1314, and it was issued by compliance officer #207.

Please, let me know when the appeal date before the Board of Public Works will take place? Thank you.

I also request any packet information that will be provided to the BPW prior to the scheduled appeal hearing.

Please let me know if you have any questions?

Appreciatively,
-Joe

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

Monroe County, IN

530 S Washington ST, Bloomington, IN 47401-4638

53-08-04-214-018.000-009



Parcel Information

Parcel Number: 53-08-04-214-018.000-009
Alt Parcel Number: 015-13650-00
Property Address: 530 S Washington ST
Bloomington, IN 47401-4638
Neighborhood: 151 Trending 2006 - A
Property Class: 2 Family Dwell - Platted Lot
Owner Name: Davis, Joseph Bradley
Owner Address: 530 S Washington St
Bloomington, IN 47401
Legal Description: 015-13650-00 Bowles Lot 10

Taxing District

Township: PERRY TOWNSHIP
Corporation: MONROE COUNTY COMMUNITY

Land Description

<u>Land Type</u>	<u>Acreage</u>	<u>Dimensions</u>
9	0.148	

**City of Bloomington’s Board of Public Works
Order on Appeal of Notice of Violation
Ticket #62023-08-1314**

This matter is before the Board of Public Works for Appeal of a Notice of Violation under ticket number #62023-08-1314 (the “NOV”) at 530 S. Washington Street, Bloomington, Indiana (the “Property”). The Board of Public Works received information regarding the NOV at its regular meeting on Tuesday, November 21, 2023.

The Board of Public Works now finds as follows:

1. Mr. Joseph Davis (“Appellant”) did timely appeal the NOV.
2. Appellant is the owner of the Property and resides at the Property. Appellant is therefore a “responsible party” pursuant to BMC § 6.06.070 which provides: “the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation.”
3. Neighborhood Enforcement Officer Rob Council inspected the property on August 17, 2023, and observed the presence of garbage, recyclable materials and yard waste deposited upon the Property. Mr. Council’s testimony is corroborated by the photographs he took of the Property and presented to this Board.
4. It is a violation of BMC § 6.06.020 to either place garbage, recyclable materials and/or yard waste on your own property or suffer or permit garbage, recyclable materials and/or yard waste to be deposited on your property.
5. There is substantial evidence to support a finding that Appellant did violate BMC § 6.06.020 regarding garbage, recyclable materials and/or yard waste.

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

1. The appeal of NOV #62023-08-1314 is denied.

So Ordered this 21st Day of November, 2023.

Kyla Cox Deckard, President
Board of Public Works
City of Bloomington

Staff Report

To: Board of Public Works

From: Rob Council, Colleen Newbill, and Chris Wheeler

Date: November 21, 2023

Re: Request to abate property at 530 S. Washington Street, Bloomington, Indiana

Attachments:

1. Notice of Violation Issued on August 17, 2023
2. Photograph(s) of the property taken August 23, 2023 (Pages13-25)
3. Photograph(s) of the property taken September 05, 2023 (Pages 26-40)
4. GIS Property Report Card
5. Order for Abatement (proposed)

Facts:

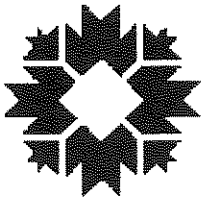
1. BMC § 6.06.020 makes it unlawful “for any person to throw, place, or scatter any garbage, recyclable materials or yard waste over or upon any premises, street, alley, either public or private, or to suffer or permit any garbage, recyclable materials or yard waste to be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to later remove, cover, or burn it.”
2. The Board of Public Works previously issued an Order of Abatement for the real estate with the common street address of 530 S. Washington Street, Bloomington, Indiana (“Property”), which expired on August 11, 2023.
3. The City was able to partially abate the Property prior to the expiration of the Order of Abatement, and on August 17, 2023, HAND Neighborhood Compliance Officer Rob Council inspected the Property and observed the presence of garbage, recyclable materials and yard waste on the Property all of which is a violation of BMC § 6.06.020 (“NOV”).
4. The owner of this Property is Joseph B. Davis (“Owner”).
5. Mr. Council issued an NOV to the Owner.
6. The NOV was appealed. Said appeal of the NOV is also being heard at the September 12, 2023 Board of Public Works meeting.
7. The NOV was delivered in person to the Owner in accordance with BMC § 6.06.070(b).
8. The Notice of Request to Abate was served on the Owner(s) of the Property by certified mail in accordance with BMC § 6.06.080(b).
9. The violations cited in the NOV have not been corrected and remain as of the date of this hearing.
10. Substantial evidence supports a finding for abatement of the Property.
11. The abatement order should be continuous.

Status of the Property and Reason for Abatement:

The Property remains out of compliance. Garbage, recyclable material and yard waste remains on the Property. The Property needs to be abated to eliminate violation and public nuisance.

Staff Recommendation:

Staff recommends that the Property be abated as soon as reasonably possible and that the abatement order be continuous in nature.



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 8/17/23 Time 3 Address/location 530 S. Washington 47401

Issued by: 257

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).

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Fine Due: \$50 \$100 \$150 **Warning (No fine due at this time)** Ticket# 62027-08-1314

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).

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Comments: _____

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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 Joseph B. Davis
 Address 530 S. Washington St
 City Bloomington State IN
 Zip Code 47401

Agent Name _____
 Address _____
 City _____ State _____
 Zip Code _____

BPW: 8-29-23

Mail Copies To: Resident: _____ Owner: Agent: _____



**City of Bloomington
Housing and Neighborhood Development**

NOTICE OF REQUEST FOR ABATEMENT

To: Davis, Joseph Bradley (“Property Owner”)

The City of Bloomington Housing and Neighborhood Development (“HAND”) Department has requested that the Board of Public Works issue an order to abate the ordinance violation(s) noted on the attached ticket(s) at the property located at **530 S Washington ST, Bloomington 47401**, under parcel number **53-08-04-214-018.000-009** and whose legal description is **015-13650-00 Bowles Lot 10** (Hereinafter the “Property”).

If the Board of Public Works grants HAND’s request, then HAND or its third party contractor will enter into and onto the Property and abate the violation(s). The Property Owner shall be responsible for reimbursing the City for the abatement and all associated costs. If the Property Owner fails to reimburse the city for any and all costs associated with an abatement of his property, said costs shall be filed with the county auditor and placed on the tax duplicate for the property at issue; said costs being collected as taxes are collected.

If you do not immediately remedy the ongoing ordinance violations on your property, HAND will seek authorization for abatement of said violation(s) at the Board of Public Works meeting to be held at **5:30 P.M. Tuesday August 29, 2023 LIVE in the Council Chambers and virtually via ZOOM meetings. You must contact the Office of Public Works at 812-349-3410 or email at public.works@bloomington.in.gov for further information.**

The Property Owner is entitled to present arguments and evidence in defense of this request for abatement.

Fines are not appealed at this meeting













SMILE



































CITY OF BLOOMINGTON

12170186











Monroe County, IN

530 S Washington ST, Bloomington, IN 47401-4638
53-08-04-214-018.000-009



Parcel Information

Parcel Number: 53-08-04-214-018.000-009
Alt Parcel Number: 015-13650-00
Property Address: 530 S Washington ST
Bloomington, IN 47401-4638
Neighborhood: 151 Trending 2006 - A
Property Class: 2 Family Dwell - Platted Lot
Owner Name: Davis, Joseph Bradley
Owner Address: 530 S Washington St
Bloomington, IN 47401
Legal Description: 015-13650-00 Bowles Lot 10

Taxing District

Township: PERRY TOWNSHIP
Corporation: MONROE COUNTY COMMUNITY

Land Description

<u>Land Type</u>	<u>Acreage</u>	<u>Dimensions</u>
9	0.148	

City of Bloomington’s Board of Public Works
Order of Abatement for NOV

This matter is before the Board of Public Works for Abatement of a Notice of Violation issued August 17, 2023, (Hereinafter the “NOV”). The Board of Public Works received information regarding the NOV at its regular meeting on Tuesday, November 21, 2023.

The Board of Public Works now finds as follows:

1. The owner of the real estate located at the common street address of 530 S. Washington Street, Bloomington, Indiana, parcel number 53-08-04-214-018.000-009, and whose legal description is 015-13650-00 Bowles Lot 10 (the “Property”) is Joseph B. Davis (the “Owner”).
2. On August 17, 2023, Rob Council, City of Bloomington Neighborhood Compliance Officer, issued a Notice of Violation (“NOV”) numbered 62023-08-1314 to the Owner after personally observing garbage, recyclable material and yard waste deposited on the Property in violation of BMC § 6.06.020.
3. The NOV was properly issued to the Owner in accordance with BMC § 6.06.070(b).
4. The NOV was appealed by the Owner and that was denied.
5. Notice of the City’s request to abate the Property was properly issued and the Owner properly notified in accordance with BMC § 6.06.080(b).
6. The violation(s) cited in the NOV have not been remedied.
7. Substantial evidence in the form of photographs of the Property and eye witness testimony from Rob Council establish the need to abate the Property.

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

1. The City, via either its employees or a third-party private contractor hired by the City, is authorized to enter into and onto the Property in order to bring said Property into full compliance with Chapter 6.06 of the City of Bloomington Municipal Code. Specifically, the City, via either its employees or a third-party contractor hired by the City, is authorized to enter into and onto the Property to remove any and all garbage, recyclable material and yard waste as those terms are defined in Chapter 6.06 of the City of Bloomington Municipal Code.
2. The City shall bill the Owner for all associated costs of abatement. The Owner shall remit payment in full no later than ten days from receipt of the bill.
3. If the Owner fails to comply with paragraph 2 above, a certified copy of the statement of costs incurred by the City shall be filed in the office of the Monroe County Auditor. The Monroe County Auditor shall thereupon place the amount due on the tax duplicate for the Property.
4. **CONTINUOUS ABATEMENT:** In accordance with Section 6.06.080(e) of the City of Bloomington Municipal Code, this Order of Abatement is a **CONTINUOUS ORDER OF ABATEMENT**. The City is hereby authorized to abate any further ordinance violations of Chapter 6.06 of the City of Bloomington Municipal Code at this Property concerning

deposit of garbage, recyclable material, and/or yard waste without notice or a hearing in front of this Board while this Order remains in effect.

5. **THIS ABATEMENT ORDER SHALL CONTINUE FOR TWELVE MONTHS AND EXPIRES ON THE 17th DAY OF AUGUST, 2024.**
6. Public Works shall notify the Owner of this Order and HAND shall post this Order on the Property at the time of abatement.
7. All appeals from the Board's decision on an abatement request shall be made to courts of competent jurisdiction within ten days.

So Ordered this 21st Day of November, 2023.

Kyla Cox Deckard, President
Board of Public Works
City of Bloomington