

CHAPTER 92: NUISANCES

Section

- 92.01 Definition
- 92.02 Public nuisance prohibited
- 92.03 Enforcement
- 92.04 Abatement authorized; fee
- 92.05 Appeals

Open Burning of Materials

- 92.10 Open burning of materials prohibited
- 92.99 Penalty

§ 92.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates a different meaning:

"IMMINENT DANGER." A condition which could cause serious or life-threatening injury or death at any time. (KRS 381.770)

"MOTOR VEHICLE, EQUIPMENT, AND MACHINERY REPAIR BUSINESS." Those businesses whose primary purpose is the repair, service or maintenance of motor vehicles, equipment and machinery.

"NON-RETAIL SALES BUSINESS." Those businesses whose primary purpose is the sale of a service or a limited number of products to the general public or a select clientele.

"NUISANCE."

(A) Any structure upon property which is unfit and unsafe for human habitation, occupancy or use or which is dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or to the residents of the city and the community.

(B) Any condition or use of premises, building exteriors or the property of other persons which includes, but is not limited to, the keeping or the depositing on or the scattering over the premises of any of the following:

- (1) Lumber, junk, trash, debris;
- (2) Weeds, grass, ashes, unattached trees and limbs and brush;
- (3) Abandoned, discarded or unused objects or equipment, including, but not limited to automobiles, furniture, stoves, refrigerators, freezers, tractors, machinery, machinery parts, cans or containers;
- (4) Pools of stagnant water or other waters which produce a hazard to the public health;

(5) Maintenance of a privy, animal pen or animal enclosure which results in a hazard to the public health or endangers or renders the abutting property or residence untenable.

"RETAIL SALES BUSINESS." Those businesses whose primary purpose is the selling or rental of new equipment, machinery, hardware materials or other products to the general public.

(Ord. 13:95, passed 5-8-95; Am. Ord. 28:96, passed 11-18-96; Am. Ord. 16:2003, passed 5-12-03)

§ 92.02 PUBLIC NUISANCE PROHIBITED.

(A) General requirements for all residential and business premises. It shall be unlawful for the owner, occupant or person having control or management of any land within the city to permit a public nuisance, health hazard or source of filth to develop on the land through the accumulation of rubbish or the excessive growth of grass or weeds or to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy or use, or to permit conditions to exist which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures or other residents of the city and community. For the purposes of this section excessive growth of grass or weeds shall mean those exceeding 12 inches in height at any time.

(B) Non-retail sales businesses.

(1) Any business or enterprise which is not an established retail sales business requiring the routine accumulation, storage or stockpiling of new, used or recycled construction or other materials, objects, lumber, containers, baled paper or cardboard, furniture, tools, tires, inoperable equipment, machinery, motor vehicles or their parts or anything of similar nature for later use, reuse or for parts and repair, shall totally screen and obscure said construction or other materials, objects, lumber, containers, baled paper or cardboard, furniture, tools, tires, inoperable equipment, machinery and motor vehicles and their parts from public view. Screening shall consist of or be accomplished by storing said construction or other materials, objects, lumber, containers, baled paper or cardboard, furniture, tools, tires, inoperable equipment, machinery, motor vehicles their parts or anything of a similar nature within the interior of a legal, permitted, structurally sound, permanent building or within an exterior area which is completely enclosed by a fence or other solid barrier not less than eight (8) feet in height or a height sufficient to screen and obscure the premises from view from all elevations within one hundred (100) feet of said premises.

(2) All materials, objects, lumber, containers, baled paper or cardboard, furniture, tools, tires, inoperable equipment, machinery, and motor vehicles and their parts stored within said fenced area shall be kept as follows:

(a) All materials objects, lumber, containers, furniture, tools, tire, inoperable equipment, machinery, and motor vehicles and their parts shall be neatly stacked or parked and not randomly scattered upon the premises.

(b) All weeds and vegetative growth shall not exceed twelve (12) inches in height at any time.

(c) There shall be no accumulation of trash, rubbish, garbage, construction or demolition debris upon the premises at any time.

(d) Said screened lots shall not exceed two (2) acres in area.

(e) All screened storage areas, structures, vehicles, equipment or machinery waiting repair shall be kept a minimum of ten (10) feet from a public street or right-of-way.

(f) There shall be no accumulation of unpackaged mulch, fertilizer, or similar materials in excess of seven hundred (700) cubic yards upon any one (1) lot.

(g) All trailers, trucks or similar devices used for the storage of the aforementioned materials, objects, equipment, trash, rubbish or garbage for later disposal shall have sides or covers to obscure and secure said materials, objects, inoperable equipment, machinery, and motor vehicles and their parts from public view or be kept within the interior of a structure or enclosed area.

(h) This section shall not apply to materials, equipment, etc. stored on public property for public use or benefit.

(i) The number of used tires kept or stored on the premises shall not exceed forty (40). The number of used batteries or mufflers kept or stored on the premises shall not exceed twenty (20).

(j) All fences, barriers and storage structures shall be constructed of permanent, durable materials such as wood, metal, masonry or other materials as shall be approved by the City Building Inspector. Said fences, barriers and storage structures shall be kept and maintained in a safe and aesthetically pleasing condition.

(k) Wrecked motor vehicles, equipment or machinery shall be removed from the premises within sixty (60) days.

(l) The premises shall comply with all zoning regulations.

(C) Retail sales businesses. Any established business or enterprise which engages in the retail sale or rental of new

equipment, hardware, machinery or materials to the public shall be permitted to display said equipment, hardware, machinery or materials on the exterior of their premises so long as said business or enterprise is in compliance with the following:

(1) The business or enterprise meets the requirements of § 92.02(B) (a) through (l).

(2) The lot shall be paved or graveled.

(3) Said equipment, hardware, machinery or materials shall be kept a minimum of ten (10) feet from a public street or right-of-way.

(D) Motor vehicle, equipment and machinery repair and towing businesses.

(1) All repair and service activities other than the routine cleaning, washing, waxing, changing of tires and batteries or other incidental activities shall be conducted within a legally permitted, structurally sound, permanent building or on a premises completely enclosed by a fence or other solid barrier not less than eight (8) feet in height or to a height sufficient to totally screen and obscure the repair or service activity from public view.

(2) All motor vehicles, equipment, and machinery awaiting repair or service and which are visible to the public shall:

(a) Comply with the requirements set forth in § 92.02(B) (a) through (l).

(b) There shall be no more than seven (7) inoperable motor vehicles, equipment or machinery on the exterior of the premises and visible to the public at any time. Said inoperable motor vehicles, equipment or machinery shall not be in a wrecked condition or in a state of disassembly. Such motor vehicles, equipment or machinery located on the exterior of the premises shall be screened from public view. This shall not apply to motor vehicles awaiting routine maintenance or service.

(c) Motor vehicles shall not be kept on the premise for parts or salvage. Wrecked motor vehicles, equipment or machinery which cannot or will not be repaired shall be removed from the premises within sixty (60) days.

(d) The foregoing regulations shall not apply to motor vehicles, equipment, machinery, hardware, or other materials impounded or stored by a law enforcement agency.

(E) Dumpsters. All trash and garbage dumpsters shall be situated in a gated enclosure that will contain all wind-blown refuse and any liquid material which may drain from said dumpster.

(F) Baled paper, cardboard or other material. Any owner, occupant or person having control or management of any land within the city which maintains baled paper, cardboard or other materials shall store said baled materials within the interior of a permanent building or other enclosure until transported off the premises.

(Ord. 13:95, passed 5-8-95; Am. Ord. 28:96, passed 11-18-96; Am. Ord. 16:2003, passed 5-12-03)

§ 92.03 ENFORCEMENT.

(A) The Code Enforcement Officer is responsible for enforcing this chapter. He shall continuously inspect all property within the city for the existence of nuisances as defined in § 92.01. Upon discovery of a nuisance, he shall issue the owner and occupant, or person having control of the property, a Notice of Violation allowing the offender five (5) days to remedy the violation without a fine. The notice shall be sent first-class mail to the property owner and occupant, if different. Further, any notice for excessive growth of grass or weeds shall be posted on the main structure located on the property. The Notice of Violation shall state specifically the situation which needs to be remedied and the action the city will take for non-compliance.

(B) The Code Enforcement Officer shall inform the Code Enforcement Board at its regular meeting of any notice that has been sent and the status of the notice.

(Ord. 13:95,, passed 5-8-95; Am. Ord. 28:96, passed 11-18-96; Am. Ord. 24:97, passed 8-25-97; Am. Ord. 18:2006, passed 6-12-06)

§ 92.04 ABATEMENT AUTHORIZED; FEE.

(A) Abatement of excessive growth of grass or weeds. If the owner, occupant or person having control of the property upon which there is an excessive growth of grass or weeds fails to remedy the situation within five days of the date of the Notice, the Code Enforcement Officer shall have the authority to send city employees or a private contractor upon the property to bring the property into compliance. A fine of one hundred dollars (\$100.00), plus the actual cost of labor, materials and machinery used in bringing the property in compliance, shall be assessed to the property owner in the form of a lien against the property. The lien shall be recorded in the office of the Rowan County Clerk and shall be notice to all persons from the recording time and shall bear interest at six percent (6%) per annum thereafter until paid. A copy of the lien shall be sent to the property owner of records. Invoices evidencing the cost of labor, materials and machinery used in bringing the property in compliance shall be maintained by the Code Enforcement Officer.

(B) Abatement of all other nuisances. If the owner, occupant or person having control of the property upon which a nuisance exists fails to comply with the Notice of Violation as set out in § 92.03, the Code Enforcement Officer shall issue a citation. If the citation is not contested by the owner, occupant, or person having control charged

with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive any and all portion of the monetary penalty, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 92:

- (1) Structure and Building Violations
 - (a) First Offense: Compliance and \$100.00 fine
 - (b) Second Offense: Compliance and \$125.00 fine
 - (c) All others: Compliance and \$150.00 fine
- (2) Junk, and Garbage Violations
 - (a) First Offense: Compliance and \$10.00 fine
 - (b) Second Offense: Compliance and \$25.00 fine
 - (c) All others: Compliance and \$50.00 fine

If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:

- (1) Structure and Building Violations
 - (a) First Offense: Compliance and \$500.00 fine
 - (b) Second Offense: Compliance and \$750.00 fine
 - (c) All Others: Compliance and \$1,000.00 fine
- (2) Junk and Garbage Violations
 - (a) First Offense: Compliance and \$75.00 fine
 - (b) Second Offense: Compliance and \$125.00 fine
 - (c) All Others: Compliance and \$200.00 fine

(C) If the owner, occupant, or person in control does not remedy the violation after being issued a citation and appearing before the Code Enforcement Board, the Code Enforcement Officer is authorized to send city employees or a private contractor upon the property to bring the property into compliance with this chapter. The city has the power to demolish any unfit or unsafe structure which is a public nuisance under § 92.01.

(D) If this action in § 92.04(C) becomes necessary, a fee for correction, as well as the fine, shall be assessed to the property owner in the form of a lien against the property. The fee shall be a minimum of one hundred dollars (\$100.00) plus the actual cost of labor, materials and machinery used in bringing the property into compliance.

(E) The Code Enforcement Officer shall prepare an affidavit asserting compliance with the notice requirements of this chapter, the amount expended by the city to bring the property into compliance and shall set forth all other relevant information concerning the abatement of the specific nuisance. The Code Enforcement Officer shall attach to this affidavit copies of relevant invoices.

(F) The affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings under this chapter and shall be recorded in the office of the Rowan County Clerk as a lien against the subject real estate. The lien shall be notice to all persons from the recording time and shall bear interest at six percent (6%) per annum thereafter until paid.

(G) The Code Enforcement Officer shall inform the Code Enforcement Board at their regularly scheduled meeting, of any and all action which has been taken to abate any nuisance.

(Ord. 13:95, passed 5-8-95; Am. Ord. 28:96, passed 11-18-96; Am. Ord. 24:97, passed 8-25-97; Am. Ord. 18:2006, passed 6-12-06)

§ 92.05 APPEALS.

An appeal from any final order of the Code Enforcement Board may be made to the Rowan County District Court within thirty (30) days of the date of the final order. The appeal shall be initiated by the filing of a complaint and a copy of the Code Enforcement Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(Ord. 13:95, passed 5-8-95; Am. Ord. 24:97, passed 8-25-97)

OPEN BURNING OF MATERIALS

§ 92.10 OPEN BURNING OF MATERIALS PROHIBITED.

Open burning of any material shall be prohibited in the city, notwithstanding a properly executed fire permit issued by the Fire Department. This section shall not pertain to properly constructed incinerators used for commercial purposes which have obtained the appropriate local, state, and federal permits required by law.

(Ord. passed 11-14-77; Am. Ord. 23-92, passed 11-9-92)

§ 92.99 PENALTY.

(A) Any person in violation of §§ 92.10 and 92.11 shall be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer. If the citation is not contested by the offender, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 92.

- (1) First Offense: \$75.00
- (2) Second Offense: 100.00
- (3) All Others: 150.00

(B) If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:

- (1) First Offense: \$100.00
 - (2) Second Offense: 150.00
 - (3) Third Offense: 250.00
- (Ord. passed 10-13-80; Am. Ord. 24:97, passed 8-25-97)