

CHAPTER 92: NUISANCES

Section

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Statutory reference:

Private nuisances, see KRS 411.500 - 411.570

Cross reference:

Property Maintenance Code, see Ch. 157

Cross reference:

Code Enforcement Board, see Ch. 41

§ 92.01 DEFINITION.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE. Any condition or use of premises or of building exteriors or property which is detrimental to the property of others or which causes or tends to cause a substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing of or scattering over the premises of any of the following:

- (1) Lumber, junk, trash or debris;
- (2) Abandoned, discarded or unused objects or equipment such as automobiles, trucks, stoves, refrigerators, freezers, cans, paper, cardboard or plastic containers;
- (3) Any compost pile which is of a nature so as to spread or harbor disease, emit unpleasant or offensive odors or harmful gases or attract rodents, vermin or other pests, animals or insects;

(4) Unsanitary matter of any kind unless same is contained in containers or vessels that would prevent access to humans, animals, rodents, flies, insects or other pests.
(Ord. passed 8-6-92)

§ 92.02 DUTY OF MAINTENANCE OF PRIVATE PROPERTY.

No person owing, leasing, occupying or having control of or responsibility of any premises in this city shall maintain or permit to be maintained thereon any nuisance nor shall any such person keep or maintain such premises in a manner that it shall cause a substantial diminution in the value of the other property in the neighborhood in which the premises are located.
(Ord. passed 8-6-92) Penalty, see § 92.99

§ 92.03 EXTERIOR STORAGE OF NONOPERATING VEHICLES PROHIBITED.

No person in charge of or in control of premises whether as owner, lessee, tenant, occupant or otherwise, shall allow any discarded or inoperative vehicle to remain on such property for a period in excess of ten days, and no person shall have any such vehicle on any property within this city for a period in excess of ten days, except this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or other surrounding property. This ordinance shall also not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, when the keeping and maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained on a lawful place and manner by the city or other public agency or entity.
(Ord. passed 8-6-92) Penalty, see § 92.99

§ 92.04 ABATEMENT OF NUISANCE BY CITY.

Whenever the owner, lessee, tenant, occupant or other person, firm or corporation, having control of the premises, fails to abate a nuisance, then the city may elect to remove the personalty or abate the nuisance by clearing the debris or other offending matter from the premises and removing same to a location of its selection. The expenses for removal or clearing shall be billed to the owners jointly or severally, and the cost shall be assessed as a lien upon the property, upon the City Clerk's filing of an affidavit of the cost incurred by the city in the office of the Marshall County Court Clerk. The cost shall be recoverable by the city in a suit at law.
(Ord. passed 8-6-92)

§ 92.05 SALE BY CITY OF PERSONALTY CONSTITUTING A NUISANCE.

When personalty has been removed and placed in storage by the city pursuant to the provisions of this chapter, the personalty shall be sold by the city after a period of 30 days. If the proceeds of the sale are insufficient to pay the cost of abatement, the owners of the property shall be jointly and severally liable for the remainder of the cost, and shall be subject to a lien upon the property as provided for under the provisions of § 92.04.

(Ord. passed 8-6-92)

§ 92.99 PENALTY AND ENFORCEMENT.

(A) Any violation of this chapter may be enforced by the Benton City Police Department or Marshall County Sheriff's Department as a misdemeanor through District Court unless a stronger penalty is allowed by the KRS.

(B) As an alternative to enforcement through District Court, any violation of this chapter shall constitute a civil offense pursuant to KRS 65.8808(1) unless otherwise prohibited by KRS 65.8808(3) and enforced by Benton's Code Enforcement Board under Chapter 41 of the Benton Code of Ordinances with the amount of the penalties being as follows:

<i>Violation</i>	<i>Amount</i>
92.02 - Failure to maintain property	\$50
92.03 - Nonoperating vehicles	\$50
Any offense of the chapter	\$100

(C) In the event a violation is enforced as a civil penalty then the same violation shall not be enforced as a criminal penalty.

(D) The city may abate the nuisance and bring the property in compliance with the provisions of this chapter. In addition to any penalties or fines for violating the provisions of this chapter, the city may charge the violator, or owner of the property where the violation occurred, with the reasonable cost of abatement. Abatement may include but is not limited to, the mowing and cleanup of the property; reasonable cost of abatement, including mowing cost, shall be the cost incurred for the abatement or in the case of mowing, as determined by the Benton City Council. All abatement cost can be taxed to the violator/owner and if not paid within 30 days after notice of the abatement cost incurred, a lien may be placed on the violator's/owner's property for the unpaid abatement cost.

(E) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.
(Ord. passed 8-6-92; Am. Ord. 23-03-04, passed 3-20-23)