

## CHAPTER 94: LITTER, UNLAWFUL ACCUMULATIONS, AND WEEDS

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### § 94.01 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise, the following terms have the respective meanings ascribed to them:

**DUMP OUT.** Any material emptied from a vehicle or building upon streets, roadsides, or public places other than that emptied in appropriate litter receptacles.

**EXCESS GRASS/YARD CLIPPINGS.** The cuttings and/or clippings of grass, shrubbery, vines, leaves or other natural materials that result from the care and/or maintenance of the real estate within the city, the accumulation of which is in excess of one gallon of volume.

**HANDBILL.** Any printed or written material excluding newspapers, which advertises for sale any commodity, or thing, or which directs attention to any business or other activity, or event of any kind.

**LITTER.** Rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value as defined by KRS 512.010.

**LITTER BAG.** A bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person.

**LITTER RECEPTACLE.** A container meeting the requirements of the Department for Natural Resources and Environmental Protection.

**NEWSPAPER.** Any newspaper of general circulation as defined by general law.

**PARK.** A reservation, playground, beach, recreation center, or any other areas in the city devoted to active or passive outdoor recreation.

**PRIVATE PROPERTY.** Any property not publicly owned or held for use by the public.

**PUBLIC PLACE.** Any area that is used or held for use by the public, whether owned or operated by the public or private interests.

**SOLID WASTE.** Any putrescible and nonputrescible solid and semi-solid waste, including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

**STREET.** Synonymous with and includes any highway, road, alley, collector, local, arterial, or freeway within the political subdivision.

**SWEEP OUTS.** Any collection of debris, resulting from clean-up operations, that is deposited in or around a public place.

**VEHICLE.** Includes every device capable of being moved upon a public street and in, upon, or by which any person or property is or may be transported or drawn upon a public street. (Ord. 00-10-01, passed 10-16-00; Am. Ord. 19-05-02, passed 5-20-19; Am. Ord. 23-03-06, passed 3-20-23)

#### **§ 94.02 PURPOSE.**

The purpose of this chapter is to accomplish litter control in the city. This chapter is intended to place upon all persons within the city the duty of contributing to the public cleanliness and appearance in the city in order to promote the public health, safety and welfare, and to protect the economic interests of the people of the city against unsanitary and unsightly conditions. It is further the intent of this chapter to protect the people against the health and safety menace and the expense incident to littering. (Ord. 00-10-01, passed 10-16-00)

#### **§ 94.03 LITTERING—GENERALLY.**

No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public place, or upon any private property not owned by such person or in any waters within the jurisdiction of the city, whether from a vehicle or otherwise, except:

(A) When such property is designated by the state or by any of its agencies or the city for disposal of garbage and refuse, and such person is authorized by the proper public authority to so use such property; or

(B) Into a litter receptacle or other container in such manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said public places or any private property; or

(C) When such person is the owner or does have control or custody of the property, or has prior consent of the owner or tenant in lawful possession of such property, or unless the act is done under the personal direction of said owner or tenant and provided said litter will not cause a public nuisance or be in violation of any other state or local law, rule or regulation.

(Ord. 00-10-01, passed 10-16-00; Am. Ord. 23-03-06, passed 3-20-23) Penalty, see § 94.99

**§ 94.04 LITTERING FROM VEHICLE.**

(A) No vehicle shall be driven or moved on any public street unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand or gravel may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway surface in the cleaning or maintaining of such roadway by public authority having jurisdiction for the same or by persons under contract or other authorization by such public authority.

(B) Any person owning or operating a vehicle from which any glass or other objects of its load have fallen or escaped, which would constitute an obstruction or damage a vehicle or otherwise endanger travel upon such public street shall immediately cause such public street to be cleaned of all such glass or other objects and shall pay any cost therefor.

(Ord. 00-10-01, passed 10-16-00; Am. Ord. 23-03-06, passed 3-20-23) Penalty, see § 94.99

**§ 94.05 HOURS OF TRANSPORTATION OF GARBAGE AND RUBBISH.**

All transportation of garbage and rubbish, including limbs, leaves, paper cartons, bricks, and other trash by vehicles in the city shall be limited to the hours of 6:00 a.m. through 8:00 p.m. of each day.

(Ord. 00-10-01, passed 10-16-00; Am. Ord. 23-03-06, passed 3-20-23) Penalty, see § 94.99

**§ 94.06 UNLAWFUL ACCUMULATIONS AND GROWTHS.**

(A) It shall be unlawful for any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee, or occupant having control of any lot or land or any part thereof in the city to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley

adjacent to the same between the property line and the curb or the middle of the alley or for ten feet outside the property line if there be no curb, the collection of rubbish, trash, stagnate water, or any other growth of weeds, grass or other rank vegetation to a greater height than ten inches, on the average, or any accumulation of dead weeds, grass, or brush. It shall also be unlawful for any such person to cause, suffer, or allow poison ivy, rag weed, or other poisonous plants, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, rag weed, or other poisonous or harmful weed shall extend upon, or overhang or order any public place, or allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into or onto any public place.

(B) It shall be the duty of the owner, lessee, or occupant of any lot or land in the city to remove rubbish, trash, and stagnate water, and to cut and remove or cause to be cut and removed all such weeds, grass or other rank, poisonous or harmful vegetation as often as be necessary to comply with the provisions of this section.

(C) The owners, lessee or occupant or any agent, representative or employee of any such owner of every parcel of real estate or related premises located within the city shall keep same free of all weeds, trash or debris that might be favorable to the harboring of vermin, snakes and mosquitoes or any animals, reptiles, or insects of every kind. All such growth of weeds, grass or accumulation of trash or debris shall be a nuisance. Those persons in charge of any property upon which weeds and grass are allowed to grow or upon which trash or debris has accumulated shall be punished for a violation of this section.

(D) The growth of weeds or grass to height greater than ten inches on the average or the accumulation of trash or debris shall be deemed a condition favorable to the harboring of mosquitoes or insects of like kind and rats, mice, snakes or animal and reptiles of like kind and rats, mice, snakes or animal and reptiles of like kind and shall be prohibited as a nuisance.

(E) Owners of property shall maintain their property under this chapter up to the side of the street or road fronting their property; to the extent applicable, said maintenance includes both sides of the sidewalk.

(Ord. 00-10-01, passed 10-16-00; Am. Ord. 03-10-02, passed 10-20-03; Am. Ord. 15-06-05, passed 6-30-15; Am. Ord. 23-03-06, passed 3-20-23) Penalty, see § 94.99

#### **§ 94.07 DISPOSAL OF EXCESS GRASS/YARD CLIPPINGS.**

(A) No person shall deposit or discard an excessive amount of grass, shrubbery, vines, branches, limbs, leaves, cuttings and other excess grass/yard clippings or naturally created materials, resulting from the care or maintenance of real property, onto the street, sidewalk or other public right-of-way.

(B) Leaves and grass shall be placed in substantial containers, or otherwise contained on the property from whence they came, on which they are, or to which they are closest.

(C) The owner and/or occupant of the property closest to the sidewalk and/or street where any grass, shrubbery, vines, branches, limbs, leaves, cuttings and other excess grass/yard clippings or naturally created materials may be is responsible for their cleanup and removal.

(Ord. 19-05-02, passed 5-20-19; Am. Ord. 23-03-06, passed 3-20-23) Penalty, see § 94.99

**§ 94.99 PENALTY.**

(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 654.8808(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>
Littering - Generally	\$100
Littering - Vehicle	\$150
Unlawful accumulations and growth	
First offense within 1 year	\$100
Second offense within 1 year	\$150
Subsequent offenses within 1 year	\$175
Any offense of the chapter not otherwise specifically addressed	\$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.

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(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. 00-10-01, passed 10-16-00; Am. Ord. 19-05-02, passed 5-20-19; Am. Ord. 23-03-06, passed 3-20-23)