

PUBLICATION SUMMARY
OF ORDINANCE #17-04
AN ORDINANCE REVISING AND AMENDING §92.01, 92.03 AND 92.04
OF CHAPTER 92 (NUISANCES) OF THE CITY CODE OF ORDINANCES

(1) Sections 92.01, 92.03 and 92.04 of the New Castle City Code of Ordinances has been amended and revised by the addition of the following language to its “nuisance” ordinance, which is set out fully below.

§92.03(B) Objectionable, unsanitary or unsightly conditions---a person, owner, tenant or agent responsible for or claiming or having supervision or control of any real property, occupied or unoccupied, within the city limits, commits an offense by permitting or allowing stagnant or unwholesome water, filth, weeds, rubbish, rubble, junk or garbage, or impure or unwholesome matter of any kind, including, but not limited to dead grass, tree limbs, tree stumps, improperly composting or improper storage of landscape materials, appliances, furniture, discarded or unused flooring material, dismantled or disassembled vehicle parts, discarded or abandoned construction materials and exposed or uncovered fill materials, or any objectionable, unsanitary or unsightly matter of whatever nature to accumulate or remain on such real property, including the improvements thereon, or within any easement area on such real property or upon any adjacent right-of-way for streets and alleys between the property line for such real property and where the paved surface of the street or alley begins. Such conditions are hereby defined as public nuisances.

(2) Definitions for the terms set out below have been added to Section 92.01:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automobile parts, brush, carrion, citation officer, dump, filth, garbage, impure or unwholesome matter, inoperative condition, matter, motor vehicle, objectionable, unsightly or unsanitary matter, owner, property, putrescible, refuse, rubbish, scrap metal, trash and debris, unfit for further use, vegetative growth, and weeds.

(3) Section 92.99 provides for a penalty of “not more than \$100 for each offense. Each day’s continued violation shall constitute a separate offense, which is unchanged from the existing “nuisance” ordinance.

(4) A copy of the entire regular ordinance (#17-04) is available for copying and inspection during regular business hours at New Castle City Hall, 31 East Cross Main Street, New Castle, Kentucky 40050.

(5) I hereby certify that this publication summary has been prepared in accordance with KRS 83A.010(12) by an attorney duly licensed to practice law within this Commonwealth.

Joseph S. Yates
Attorney for City of New Castle
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ORDINANCE #17-04

AN ORDINANCE REVISING AND AMENDING §92.01, 92.03 AND 92.04
OF CHAPTER 92 (NUISANCES) OF THE CITY CODE OF ORDINANCES

Be it hereby ordained by the City Commission of the City of New Castle, Kentucky that §§92.01, 92.03 and 92.04 of the City Code of Ordinances be and is hereby amended as follows:

~~§92.01 DEFINITIONS~~

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

“AUTOMOBILE PARTS.” Any portion or parts of any motor driven vehicle as detached from the vehicle as a whole. **Note: This subsection has been re-codified in the new definitional section §92.01.**

“INOPERATIVE CONDITION.” Unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days. **Note: this subsection has been re-codified in the new definitional section §92.01**

“MOTOR VEHICLE.” Any style or type of motor driven vehicle used for the conveyance of persons or property. **Note: this subsection has been recodified in the new definitional section §92.01**

“NUISANCE.” ~~Public nuisance.~~

“SCRAP METAL.” Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose. **Note: this subsection has been re-codified in the new definitional section §92.01.**

“UNFIT FOR FURTHER USE.” In a dangerous condition; having defective or missing parts; or in such a condition generally as to be unfit for further use as a conveyance. **Note: this subsection has been re-codified in the new definitional section §92.01.**

~~§92.03 CERTAIN CONDITIONS DECLARED A NUISANCE~~

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 to develop thereon. The following conditions are declared to be public nuisances: **Note: this subsection has been re-codified in the new definitional section 92.03.**

(A) Dangerous trees or stacks adjoining street. Any tree, stack, or other object standing in such condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof. **Note: this subsection has been re-codified as §92.03 (C)**

~~(B) Accumulation of rubbish. The accumulation of rubbish, junk, debris, or garbage so as to cause an unsightly or unsanitary condition. A condition will be construed to be unsightly or unsanitary if a reasonable person would upon examination of it believe that it is unsightly or unsanitary. (Ord. 84-06, passed 11/6/85)~~

(C) Storage of explosives. The storage of explosive material that creates a safety hazard to other property or persons in the vicinity. **Note: this subsection has been re-codified as §92.03 (D).**

~~(D) Uncut lawns. The failure to mow any real estate for a period in excess of 30 days. However, no person shall be found to be in violation of this subsection unless the vegetation on the lawn (excepting flowers, shrubs, trees and vines) has grown to a height in excess of six inches.~~

~~—(E) Weeds. The existence of thistles, burdock, jimson weeds, ragweeds, milkweeds, poison ivy, poison oak, iron weeds, and all other noxious weeds and rank vegetation in excess of a height of 12 inches.~~

~~—(F) For property with an agricultural zoning classification, the provisions of subsections (D) and (E) above shall only apply to that portion of such property that is within fifty (50) feet of the property line of any adjoining tract of property that is within the city's boundaries.~~

(G) Open wells. The maintenance of any open, uncovered, or insecurely covered distant, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place. **Note: this subsection has been re-codified as §92.03 (E).**

(H) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 20 feet from the point where the curb line of any street intersects the curb line of any other street. No shrub shall be planted between the curb line of any street within a radius of 20 feet

from the curb line of any street that intersects with the curb line of another street. **Note: this subsection has been re-codified as §92.03 (F)**

(I) Keeping of animals. The failure to keep an animals pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors. **Note: this subsection has been re-codified as §92.03 (G)**

(J) Junk; scrap metal; motor vehicles. The storage of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts, or scrap metal within the city limits except on premises authorized by the city for such purposes. Penalty, see 92.99 **Note: this subsection has been re-codified as §92.03 (H)**

92.04 ABATEMENT PROCEDURE

~~(A) Any police officer is authorized to inspect property within the city, whenever he finds any of the conditions in §92.03 to exist, he may order them to be removed or remedied in accordance with the procedure described in divisions (B) and (C) of this section. The failure to implement the nuisance abatement procedure herein shall not preclude the police officer from seeking enforcement of any provision herein directly in Henry District Court.~~

~~(B) Whenever a nuisance situation is discovered, the police officer shall give five days written notice to remedy the nuisance situation. The notice shall be mailed to the last known address of the owner of the property, as it appears on the current tax assessment roll. Upon the failure of the owner of the property to comply, the police officer is authorized to send city employees upon the property to remedy the situation.~~

~~(C) The city shall have a lien against the property for the reasonable value of labor and materials used in remedying the nuisance situation. The affidavit of the police officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings, pursuant to KRS 381.770 and this section, and shall be recorded in the Office of the County Clerk. The lien shall be notice to all persons from the time of its Recording and shall be interest of 6% annum thereafter until paid. (KRS 381.770) (Ord. 84-6, passed 11/6/85)~~

§92.01 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automobile parts mean any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

Brush means scrub vegetation or dense undergrowth

Carrion means the dead putrefying flesh of any animal, fowl or fish.

Citation Officer means the person with whom the city has contracted pursuant to KRS 83A.087 to enforce non moving motor vehicle offenses and violations of city ordinances.

Dump means to dispose, discharge, place, deposit, throw, leave, sweep, scatter, unload or toss.

Filth means any matter in a putrescent state.

Garbage means any kitchen refuse, foodstuffs or related materials, including all decayable waste.

Impure or unwholesome matter means any putrescible or non putrescible condition, onset or matter that tends, may or could cause injury, death or disease to human beings.

Inoperative condition means a motor vehicle that is unable to mover under its own power due to defective or missing parts, and that has remained in such condition for a period of not less than ten consecutive days.

Matter means that of which any physical object is composed.

Motor vehicle means any style or type of motor driven vehicle used for the conveyance of persons or property.

Objectionable, unsightly or unsanitary matter means any matter, condition or object that is objectionable, unsightly or unsanitary to a person of ordinary sensitivities.

Owner means any person or entity shown as the property owner on the latest property tax assessment rolls or any person having or claiming to have any legal or equitable interest in the property, including any agent who is responsible for managing, leasing or operating the property and including any tenant.

Property means all privately owned occupied or unoccupied property, including vacant land, and/or a building designed or used for residential, commercial, business, industrial or religious purposes. The term "Property" also includes a yard, ground, wall, driveway, fence, porch, steps or other structure appurtenant to the property.

Putrescible means the decomposition of organic matter with the formation of foul-smelling, incompletely oxidized products.

Refuse means a heterogeneous accumulation of worn-out, used broken rejected or worthless materials including, but not limited to, garbage, rubbish, paper or litter, and other decayable or

non decayable matter. Rubbish means junk, trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.

Scrap metal means pieces or parts of steel, iron, tin zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

Trash and Debris means all manner of refuse including, but not limited to, mounds of dirt, piles of leaves, grass and weed clippings, paper trash, useless fragments of building materials, rubble, furniture other than furniture designed for outside use, useless household items and appliances, items of salvage, such as scrap metal and wood, old barrels, old tires, objects that hold water for an extended time, tree and brush trimmings, and other miscellaneous wastes or rejected matter.

Unfit for further use means in a dangerous condition; having defective or missing parts, or in such a condition generally as to be unfit for further use as a conveyance.

Vegative growth means any grass, weeds, shrubs, trees, brush, bushes or vines.

Weeds mean any vegetation that, because of its height, is objectionable, unsightly, or unsanitary, excluding shrubs, bushes and trees, cultivated flowers and cultivated crops.

§92.03 CERTAIN CONDITIONS DECLARED A NUISANCE.

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 to develop thereon. The following conditions are declared to be public nuisances:

(a) Height of vegetation or grass----a person, owner, tenant or agent responsible for or claiming or have supervision or control of any real property, occupied or unoccupied, within the city limits, commits an offense by permitting or allowing weeds, grass, brush or any vegetation to grow to a height greater than 12 inches upon any such real property. Such real property shall include, but not be limited to:

1. Areas between a sidewalk and the edge of any improved roadway or street;
2. The right-of-way between any fence, wall or barrier and the curb or pavement if such exists or the centerline of such right-of-way;
3. The area between a fence, wall or barrier and within any abutting drainage channel easement to the top of such channel closest to the property.
4. The area outside the property to a distance of ten feet from the property line If such area is part of or adjacent to a drainage easement or creek; or
5. Any area directly across an alley or traveled way that borders the property

which is between the edge of the alley or traveled way and a screening wall or other barrier.

Vegetation not regularly cultivated that exceeds 12 inches in height shall be presumed to be a nuisance, objectionable, unsanitary and unsightly, except that it shall not be an offense under this section to permit or allow vegetation to grow to a height greater than 12 inches specific purposes of cultivation and cut or baled for the consumption of livestock; cultivated trees; cultivated shrubs; vegetable gardens, flowers or other decorative ornamental plants under cultivation or wildflowers, but only until such time as seeds have matured following the final blooming of the majority of the plants.

(B) Objectionable, unsanitary or unsightly conditions----A person, owner, tenant or agent responsible for or claiming or having supervision or control of any real property, occupied or unoccupied, within the city limits, commits an offense by permitting or allowing stagnant or unwholesome water, filth, weeds, rubbish, rubble, junk or garbage, or impure or unwholesome matter of any kind, including, but not limited to, dead grass, tree limbs, tree stumps, improper composting or improper storage of landscape materials, wastepaper, scrap wood or barrels or cans, combustible materials, appliances, furniture, discarded or unused flooring material, dismantled or disassembled vehicle parts, discarded or abandoned construction materials and exposed or uncovered fill materials, or any objectionable, unsanitary or unsightly matter of whatever nature to accumulate or remain on such real property, including the improvements thereon, or within any easement area on such real property or upon any adjacent right-of-way for streets and alleys between the property line for such real property and where the paved surface of the street or alley begins. Such conditions are hereby defined as public nuisance.

(C) Dangerous trees or stacks adjoining street. Any tree, stack or other object standing in such condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof is a public nuisance.

(D) Storage of explosives. The storage of explosive material that creates a safety hazard to other property or persons in the vicinity is a public nuisance.

(E) Open wells. The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place is a public nuisance.

(F) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 2 feet from the point where the curb line of any street intersects the curb line of any other street. No shrub shall be planted between the curb line of any street within a radius of 20 feet from the curb line of any street intersects with the curb line of another street is a public nuisance.

(G) Keeping of animals. The failure to keep an animals pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors is a public nuisance.

92.04 ENFORCEMENT PROCEDURE

(A) Unless imminent danger exists on the subject property that necessitates immediate action, upon determining that a violation of section §92.03 exists, the citation officer shall cause written notice to be served on the owner of the property where the nuisance exists.

(B) The written notice required by this section shall set forth the following:

1. The nature of the nuisance;
2. A statement that the owner of the property shall abate or remove the nuisance Within 72 hours of service or posting of the notice;
3. A statement that if the nuisance is not timely abated or removed, the city may Cause the nuisance to be abated or removed, charge the owner of the property The reasonable value of materials and labor spent abating or removing the Nuisance, and the city shall have a lien on the property for the reasonable Value of materials and labor spent abating or removing the nuisance; and

____ (C) If the nuisance is not timely abated or removed, the citation officer may Cause the nuisance to be abated or removed, charge the owner of the property The reasonable value of materials and labor spent abating or removing the Nuisance, and record a lien in favor of the city on the property for the reasonable Value of materials and labor spent abating or removing the nuisance.

____ (D) Performance of the procedures set forth in this section shall not be a prerequisite to the issuance of a citation by the citation officer as provided in KRS 431.015. The issuance of a citation shall not constitute a waiver of the cities authority To abate or remove the nuisance pursuant to this section.

Penalty, see 92.99.

DONE THIS THE 7TH DAY OF AUGUST, 2017

Dennis Benham, Mayor signed 08/07/17

Attest:

Lynn B. Adams, City Clerk signed 08/07/17

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