

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: STREETS AND SIDEWALKS

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OBSTRUCTIONS

§ 90.001 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the City by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, *see* § 90.099

§ 90.002 CITY PROPERTY. OBSTRUCTION

(A) Prohibited Practices: It shall be unlawful for any person, firm, company, corporation, or other entity, other than the City of Greensburg, its departments and political subdivisions, to place anything (including awnings, banners and signs) on, and over or across any real property owned by the City of Greensburg, except as may be exempted herein.

(B) Exempted Practices. The following shall be exempt from prohibited practices herein:

(1) Any legal occupant or owner of a building adjacent to any sidewalk may place and display on the sidewalk adjacent to their property any items that are for sale within their respective businesses. Such display shall be placed upon, and remain upon, the sidewalk only at times when the respective merchant is open for business. Any such display or items of property shall not extend more than three (3) feet onto the sidewalk from the front wall of the building. All such displays shall be neat and done in a tasteful manner.

(2) Any person may apply to the Property Obstruction Committee for a permit of exemption allowing the placement of an item of property (including awnings, banners and signs) on, over or across real property of the City of Greensburg as follows:

(2a) the application for permit shall be on a form provided by the City of Greensburg and may be obtained from Greensburg City Hall, 105 West Hodgenville Avenue, Greensburg, Kentucky 42743;

(2b) the application shall contain the following information:

(1) the name, address and phone number of the person responsible for the placement and maintenance of the item or items proposed to be placed upon, over or across property of the City of Greensburg;

(2) a photo of the item of property, if available, and if not available, then a drawing or sketch of same;

(3) the purpose of placing the proposed item of property on, over or across City of Greensburg property;

(4) the duration of the placement requested by the applicant.

§ 90.003 PROPERTY OBSTRUCTION COMMITTEE.

There is hereby created and established the "Property Obstruction Committee" composed of members from the following groups, organizations or committees, appointed by the Mayor of the City of Greensburg, for the following terms:

(A) one member from the Greensburg Renaissance Committee to serve one term ending December 31, 2006, and thereafter consecutive terms of four (4) years each;

(B) one member from the Greensburg Planning and Zoning Commission to serve one term ending December 31, 2005, and thereafter consecutive terms of four (4) years each;

(C) one member from the Greensburg City Council to serve one term ending December 31, 2004, and thereafter consecutive terms of four (4) years each.

The Property Obstruction Committee shall elect one of its members as Chairman and one of its members as Secretary. The Committee shall meet only as is necessary from time to time to review and respond to applications for permits for exemption from the provisions of this ordinance. The Committee shall develop forms for use in the application and permit process herein, and the Chairman shall sign all permits authorizing exemption from the provisions of this ordinance, as well as the denial of same.

§ 90.004 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land bordering on any street or sidewalk shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, *see* § 90.099

Cross-reference:

Littering on streets or sidewalks, see Ch. 93.

§ 90.005 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, a reasonable time which will ordinarily not exceed twelve (12) hours after the abatement of any storm during which the snow and ice may have accumulated.

Penalty, *see* § 90.099

§ 90.099 PENALTY.

Any person or other entity violating any provision of this ordinance shall be guilty of a misdemeanor and shall be fined the sum of \$25 per day for each and every day an item of property remains on, over or across real property belonging to the City of Greensburg.

(Ord. passed 05-05-2003)

CHAPTER 91: PROPERTY MAINTENANCE CODE; NUISANCES

Section

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GENERAL PROVISIONS

§ 91.001 SHORT TITLE.

This chapter shall be known as “The Property Maintenance Code.”

(Ord. passed 5-18-92)

§ 91.002 PURPOSE.

The purpose of this chapter is to protect the public health, safety, morals, and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and distinct and separate responsibilities and duties upon occupants to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations this chapter; and to provide for the repair, demolition or vacating of premises unfit for human habitation or occupancy or use.

(Ord. passed 6-18-92)

§ 91.003 DEFINITIONS.

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

EXPOSED TO PUBLIC VIEW. Any premises, or any part thereof, or any building thereon, or any part thereof, which may be lawfully viewed by the public.

EXTERIOR OF THE PREMISES. Open space on the premises outside of any building thereon.

EXTERMINATION. The control and elimination of insects, rodents and vermin.

GARBAGE. (See, also, ***REFUSE, RUBBISH.***) Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

INFESTATION. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

MIXED OCCUPANCY. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses or used as a hotel.

NUISANCE. Unless a more specific use of this term applies, as used in sections 91.030 through 91.045, the term “nuisance” shall mean:

1. Any public nuisance as defined by statute or ordinance.
2. Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak or poison sumac which may prove hazardous for inquisitive minors.
3. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
4. Overcrowding of a room with occupants in violation of this chapter.
5. Insufficient ventilation or illumination in violation of this chapter.

6. Inadequate or unsanitary sewage or plumbing facilities in violation of this chapter.
7. Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this chapter.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.
9. Fire hazards.
10. Partially burned buildings or structures on any premises exposed to public view, or the refuse and debris remaining from a completely burned building or structure.
11. Motor vehicles which are incapable of being legally or safely operated at the time or motor vehicle accessories. This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner. Such business enterprises shall include auto junk yards, auto repair and auto body shops but shall not include gasoline only service stations or tire, battery and accessory sales stores.
12. Overgrown grass, brush, weeds, broken glass, stumps, roots, obnoxious growths and non-ornamental shrubs and trees. Grass, brush and weeds exceeding ten inches in height shall be deemed overgrown.
13. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons or other property in the vicinity thereof.
14. Loose and overhanging objects, and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons or other property in the vicinity thereof.
15. Holes; excavations; breaks; projections; obstructions; icy conditions; uncleared snow; and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other part of the premises which are accessible to the public. This division does not apply to the aforementioned conditions if they are wholly located upon the private premises of a single-family dwelling.
16. Inadequate run-off drains which contribute to any recurrent or excessive accumulation of storm water.
17. Sources of infestation.
18. Chimneys and all flue and vent attachments which are not structurally sound, free from defects, and so maintained as to capably perform at all times the functions for which they were designed. Chimneys, flues, gas vents or other draft-producing equipment which do not provide sufficient draft to develop the rated output of the connected equipment, and which are not structurally safe, durable, smoketight, and capable of withstanding the action of flue gases.

19. Dogs barking to such an extent as to be a disturbance to the occupants of adjoining properties.

20. Dog kennels or dog pens which are not kept clean and free of odors which are offensive to the occupants of adjoining properties.

OPERATOR. Any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

OWNER. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, or personal property located thereon, with or without accompanying actual possession thereof, or shall have charge, care or control of any dwelling unit, as owner or as executor, executrix, administrator, administratrix, trustee, receiver, or guardian of the estate, or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

PREMISES. A lot, plot or parcel of land including any building or structures thereon.

REFUSE. (See also **GARBAGE, RUBBISH.**) All putrescible and nonputrescible solid waste (except body wastes), including, but not limited to: garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH. (See also **GARBAGE, REFUSE.**) Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

(Ord. passed 5-18-92)

§ 91.004 APPLICATION OF PROVISIONS; COMPLIANCE REQUIRED.

(A) Every residential, nonresidential or mixed occupancy lots and any buildings situated thereon, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this chapter, whether or not any such building shall have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which shall have been issued for the use of occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter shall also apply to mobile home parks.

(B) In any case where the provisions of this chapter impose a higher standard than set forth in any other local ordinances or under the laws of the state then the standards as set forth herein shall prevail, but if the provisions of this chapter impose a lower standard than any other local ordinances or of the laws of the state, then the higher standard contained in any such other ordinances or law shall prevail.

(C) No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the city from enforcing any such other provision.

(Ord. passed 5-18-92)

§ 91.005 COMPLIANCE.

The owner, operator or parties in interest shall have the duty and responsibility of assuring compliance with this chapter.

(Ord. passed 5-18-92)

RULES AND REGULATIONS

§ 91.015 DUTIES, RESPONSIBILITIES OF OWNERS AND OPERATORS.

The exterior of all premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of the occupant, pedestrians, the public and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator.

(Ord. passed 5-18-92) Penalty, *see* § 91.99

§ 91.016 STORAGE OF COMMERCIAL AND INDUSTRIAL MATERIAL.

There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under the zoning ordinance for the premises.

(Ord. passed 5-18-92) Penalty, *see* § 91.99

§ 91.017 DOMESTIC ANIMALS CREATING A NUISANCE.

(A) Definitions for this Section:

(1) **PUBLIC NUISANCE.** for purpose of this section a public nuisance shall include, but not be limited to the following:

- a. Excessive, continuous or untimely barking.
- b. Gets into or turns over garbage.
- c. Walks and or sleeps on automobiles.
- d. Habitually or continuously roams or is found on the property of another.
- e. Creates unsanitary conditions so as to offend sight or smell,
- f. Is considered to be a dangerous animal as determined by the Greensburg Code Enforcement Officer, their dually appointed representative or a dually sworn officer of the Greensburg City Police Department.
- g. Are housed or restrained less than 15 feet from public street, road, or sidewalk and, poses a threat to the general safety, health or welfare of the general public.

- h. Damages gardens, foliage or other real or personal property.
- i. Is not confined to a building or secure enclosure while in estrus.
- j. Chases, snaps at, attacks or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock or domestic animals.
- k. Eliminates on private property without the permission of the owner of said property.

(2). **DANGEROUS ANIMAL.** any warm-blooded mammal that is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the American Veterinary Medical Association and the Kentucky Department of Human Resources. This definition includes any hybrid animal or any pet wildlife that has attacked a human or which is apprehended or observed unrestrained.

(3). **DANGEROUS DOG.** any dog, which when unprovoked, in an aggressive manner, commits a severe attack on any person or domestic animal

(2) Nuisance Animal

This ordinance pertains to dogs, domestic cats and any other animal kept as a pet either lawfully or unlawfully within the boundaries of the City of Greensburg. Dogs and Cats are not restricted from running at large unless adjudged to be a nuisance animal by the City Code Enforcement Officer, their dually appointed representative or a dually sworn officer of the Greensburg City Police Department following the filing of a formal complaint.

(C) Prohibition of Nuisance Animals

If a dog or cat is determined to be a nuisance animal, it is prohibited from running at large and may be impounded by the County Dog Warden or the City of Greensburg by the Code Enforcement Officer, their dually appointed representative or a dually sworn member of the City Police Department and the owner shall be subject to citation under the City of Greensburg nuisance ordinance. A "nuisance animal" running at large shall not be impounded before the owner is cited for a violation of this section, unless the unrestrained animal is fierce, vicious or dangerous.

(D) Length of impoundment

Any animal not in compliance with this chapter may be taken into custody by the animal control officer and impounded in the animal shelter in a humane manner for a period of not more than ninety-six (96) hours. Dogs and cats not claimed after ninety-six (96) hours shall be eligible for adoption through the humane society or another agency or person designated by the City Council to exercise such authority. See Section 7 herein. Sick, diseased or injuries animals or animal(s) not suited for adoption or which are not adopted shall become the property of the city and shall be destroyed and disposed of in a humane manner. An animal may be reclaimed only after the provisions set forth below have been complied with.

(E) Notice to owner

The Code Enforcement Officer shall make every reasonable effort to identify and notify the owner of any impounded animal.

(F) Payment of fees prior to animals' release

Any impounded or quarantined animal may be redeemed by the owner only upon payment of an impoundment fee of eight (\$8.00) dollars per day along with any veterinary charges, if any, and such other costs actually incurred by the animal shelter in the care of the animal.

(G) Adoption

The animal shelter has the option of adopting out an unclaimed animal after the ninety-six (96) hours impoundment period. Any additional expenses incurred after the initial ninety-six hours shall not be billed to the owner unless the owner claims the animal. Any unclaimed animal shall not be returned to its original owner without payment of all fees provided in this article.

(Ord. passed 6-6-07)

ADMINISTRATION; ENFORCEMENT PROCEDURES

§91.030. SHORT TITLE FOR FOLLOWING SECTIONS.

Sections 91.030 through 91.046 may be cited as the “Property Maintenance Code Enforcement Ordinance”

§ 91.031. PROPERTY MAINTENANCE CODE ENFORCEMENT OFFICERS; JURISDICTION OF CODE ENFORCEMENT BOARD.

The Property Maintenance Code Enforcement Officer and Property Maintenance Code Enforcement Board shall have jurisdiction over and shall enforce this Property Maintenance Code and all other ordinances hereafter adopted which specifically provide for the enforcement by the Code Enforcement Officer(s) or Board, in the manner set forth herein.

[Ord passed 7-28-08]

§ 91.032. POWERS AND RESPONSIBILITIES OF THE PROPERTY MAINTENANCE CODE ENFORCEMENT OFFICER(S); NOTICE OF VIOLATION; ISSUANCE OF CITATION AND PROCEDURE; APPEAL PROCESS; ABATEMENT OF NUISANCE; RIGHT OF ENTRY; LIABILITY; MODIFICATIONS.

The following provisions shall govern all enforcement powers, responsibilities and procedures administered by the Property Maintenance Code Enforcement Officer(s) herein after referred to as CEO):

- (A) **Notice of Violation**: Except as provided in subsection (B) below, if a CEO believes, based on the CEO’s personal observation or investigation, that a person has violated the Property Maintenance Code, the CEO shall issue a Notice of Violation to the property owner, resident, tenant, occupant or other violator, allowing that person a specified and reasonable number of days to abate the violation. The violator may, upon request, be allowed a reasonable extension of time to abate the violation without imposition of any charges, costs, penalties, and fees, in the sole discretion of the CEO. If the violator fails to abate the violation within the time prescribed therein, a new and separate Notice of Violation may be issued for subsequent and separate violations of the Property Maintenance Code. In the event that the resident, tenant, occupant or other violator issued a Notice of Violation, the property owner of record will receive a copy of said notice.

(B) **Notice of Violation Procedure:** Notices of Violation issued by a CEO for violations of the Code shall contain the following information:

- 1) The address, location or description of the property found to be in violation of the Code;
- 2) The date and time of inspection;
- 3) The name and address of the person to whom the Notice is issued;
- 4) The date the Notice is issued;
- 5) The facts constituting the offense;
- 6) The section of the Code violated;
- 7) The name of the Property Maintenance Code Enforcement Officer;
- 8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if it is not abated in the manner required by the Property Maintenance Code Enforcement Officer;
- 9) The maximum fine that may be imposed under this ordinance for the violation in question;
- 10) The procedure for the violator to follow in order to appeal the Notice;
- 11) A statement that if the violator fails to appeal the citation within the time allowed, the violator shall be deemed to have waived his or her right to a hearing before the Code Enforcement Board to appeal the Notice and the CEO's determination that the violation occurred shall be final;
- 12) Notice that a lien may be filed against the property on which the violation occurred if it is not abated in the manner required by the CEO and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.

(C) **Type and Delivery Notice:** The Notice of Violation shall comply with Section 4(b). Notice shall be served in accordance with Section 107.3 of the *2006 International Property Maintenance Code* to the property owner, resident, tenant, occupant or other violator. Any notice sent by first class mail shall be addressed to the last known property owner of record as listed in the Green County Property Valuation office.

(D) **Issuance of Citation:** If the property owner, resident, tenant, occupant or other violator fails or refuses to abate the violation within the time and manner required by the CEO, the CEO is authorized to issue a citation. The citation shall represent a determination by the CEO that a violation has been committed and that determination shall be final unless it is appealed by the alleged violator to the Property Maintenance Code Enforcement Board in the manner prescribed herein.

(E) **Citation Procedure:** Citations issued by CEO for violations of the Code shall contain the following information:

- 1) The address, location or description of the property found to be in violation of the Code;
- 2) The date and time of inspection;
- 3) The name and address of the person to whom the citation is issued;
- 4) The date the citation is issued;
- 5) The facts constituting the offense;
- 6) The section of the Code violated;
- 7) The name of the Property Maintenance Code Enforcement Officer;
- 8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if the citation is not appealed in the manner prescribed within this ordinance;

- 9) The maximum fine that may be imposed under this ordinance for the violation in question;
 - 10) The procedure for the violator to follow in order to pay the fine or to appeal the citation;
 - 11) A statement that if the violator fails to pay the fine set forth in the citation or appeal the citation within the time allowed, the violator shall be deemed to have waived his/her right to a hearing before the Code Enforcement Board to appeal the citation and the CEO's determination that the violation occurred shall be final; and
 - 12) Notice that a lien may be filed against the property on which the violation occurred and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.
- (F) **Type and Delivery of Citation:** The Citation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation, shall be served in accordance with Section 107.3 of the *2006 International Property Maintenance Code* to the property owner, resident, tenant, occupant or other violator. Any notices sent by first class mail shall be addressed to the last known property owner of record as listed in the Green County Property Valuation office.
- (G) **Abatement of Nuisance:** If the violator does not appeal the citation within the time prescribed, the CEO issuing the citation shall enter a final order finding and determining that the violation was committed and no appeal was timely filed. The CEO may thereafter cause the nuisance to be abated by any and all means reasonably necessary. A copy of the final order shall be served on the property owner, resident, tenant, occupant or other violator found to be in violation of this Code.
- (H) **Emergency Abatement:** Nothing in Section 9(G) above shall prohibit the City from taking immediate action to abate any violation of this ordinance without prior notice to the property owner, resident, tenant, or other occupant when a CEO, upon inspection of the property has reason to believe that a violation presents a serious and imminent threat to any person, the public's health, safety, or welfare, or if in the absence of immediate remedial action, the effects or consequences of a violation will within reasonable probability, cause irreparable or irreversible harm and/or property damage.
- (I) **Right of Entry:** CEO(s), and their duly authorized agents, assistants, employees, or contractors, after first having obtained the consent of the property owner, resident, tenant, or other occupant may enter upon private or public property to conduct inspections. If the property owner, resident, tenant, or other occupant does not give the CEO(s) consent to enter upon and inspect the property, an on-site inspection of the property shall not occur until it is authorized by a court of competent jurisdiction.
- (J) **Discretionary Modifications:** The CEO shall have the discretion to modify a Notice of Violation, provided the Officer shall first find that special circumstances that makes strict compliance with this Ordinance impractical and the modification is in compliance with the intent and purpose of this Ordinance and that such modification does not vitiate health, life and fire safety requirements. The details of actions granting modifications shall be recorded and entered in the Building and Codes Department files.

[Ord passed 7-28-08]

§ 91.033. APPEAL PROCESS; APPEAL OF NOTICE OF VIOLATION; APPEAL OF CITATION.

The following details the appeal process:

- (A) **Appeal of Notice of Violation:** Any property owner, resident, tenant, occupant or other violator served with a Notice of Violation or on whose property a Notice of Violation is posted, shall no later than ten (10) days after the issuance of the Notice of Violation or posting thereof on the property, may file an appeal in writing with the Building and Codes Department of the City of Greensburg, Kentucky requesting a hearing before the property Maintenance Code Enforcement Board to appeal said Notice of Violation. If the violator fails to appeal the citation within ten (10) days as provided herein, the person shall be deemed to have waived his/her right to a hearing before the Property Maintenance Code Enforcement Board and the CEO's determination that a violation was committed, shall be considered final and enforceable.
- (B) **Appeal of Citation:** Upon receipt of a citation, the property owner, resident, tenant, occupant or other violator shall respond to it not later than ten (10) days following the issuance or posting on the property the Notice of Violation by either paying the fines, charges, costs, penalties and/or fees, including administrative fees assessed therein, or by filing an appeal in writing with the Building and Codes Department of the City of Greensburg, Kentucky, in writing, requesting a hearing before the Property Maintenance Code Enforcement Board. Payment of assessed fines, charges, administrative fees and penalties shall not relieve the property owner, resident, tenant, occupant, or other violator from his or her obligation to bring the property on which the violation occurred into compliance with this Code within a reasonable time thereafter, as solely determined by the CEO.

[Ord passed 7-28-08]

§ 91.034. APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL OF BOARD MEMBERS FROM OFFICE; LIABILITY.

There is hereby created pursuant to KRS 82.700 to KRS 82.725, a City of Greensburg Property Maintenance Code Enforcement Board (hereafter the "Board"), as provided by the City of Greensburg Ordinance No. 040405.

[Ord passed 7-28-08]

§91.035. GENERAL POWERS OF THE BOARD.

- (A) The Board is authorized and directed to conduct evidentiary hearings, issue decisions and abatement orders and impose fines, charges, costs, penalties, and/or fees, including administrative fees in the final adjudication of appeals brought before it.
- (B) To adopt any and all policies, rules and regulations, reasonably required to implement, administer and conduct its business and hearings brought before it.
- (C) Authorize Enforcement Officer(s) to file liens against properties found to be in violation of the Code to secure the collection of fines, penalties, fees, charges and or costs, including administrative fees.

[Ord passed 7-28-08]

§ 91.036. ORGANIZATION OF THE BOARD; CONDUCT OF MEETINGS AND BOARD MEMBERS; QUORUM.

All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 82.700 et seq., KRS 381.770 et seq., Roberts Rules of Order, the Kentucky Open Meetings Act, and the Kentucky Open Records Act and the City of Greensburg Code of Ethics.

[Ord passed 7-28-08]

§ 91.037. BOARD HEARING; NOTICE; AND FINAL ORDER.

(A) When an appeal has been properly filed and a hearing has been requested, the Board shall convene for the purposes of conducting a hearing not later than sixty (60) days after the appeal has been filed with the Building and Codes Department.

(B) Not less than ten (10) days before any requested hearing, the Board shall notify the appellant of the date, time, and place of the hearing. Notice shall be given in accordance with Section 4(c).

(C) Any person requesting a hearing before the Board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing on an appeal. A notice of violation or citation and a determination that a violation was committed shall be entered and become final. The Board shall enter a final order confirming the violation and shall direct the nuisance to be abated and/or impose the fines, charges, costs, penalties, and/or fees, including administrative fees assess in the citation. A copy of the final order shall be served upon the violator/appellant.

(D) When a hearing is held under this section, the Board shall elicit testimony from witnesses and allow relative demonstrative evidence. All testimony shall be recorded by audio or video. Any Board member shall have authority to administer the following oath. "Do you solemnly swear and affirm to tell the truth, the whole truth and nothing but the truth". Testimony shall be taken from the CEO, the alleged violator and any witnesses offering relevant testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(E) In making its determination, the Board shall, based solely on the evidence adduced during the hearing determine by a preponderance of the evidence whether or not a violation has been committed. The final order of the Board shall provide the violator with reasonable time, not to exceed thirty (30) days, to abate the violation. If the violator does not abate in the manner required and within the time provided in the final order, another Notice of Violation may be issued.

(F) The Board shall issue a Findings of Fact and Conclusions of Law. The decisions of the Board shall be furnished to the appellant named in the citation at his or her last known address.

(G) The CEO, may abate the violation in order to bring the property into compliance with the Property Maintenance Code if a final order upholding the citation is entered by the Board or any court of competent jurisdiction.

[Ord passed 7-28-08]

§ 91.038. APPEAL TO DISTRICT COURT; FINAL JUDGMENT.

(A) An appeal from any judgment, decision, or determination of the Board shall be made to the Green County District Court within seven (7) days of the date of the Board's judgment, decision or determination. The appeal shall be initiated by the filing of a complaint and a copy of the Board's final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) The action before the District Court shall be tried de novo and the burden shall be upon the City to establish that a violation occurred. If the court finds that a violation occurred, the property owner, resident, tenant, occupant or other violator shall be ordered to abate the violation and pay to the City all applicable fines, costs and penalties occurring as of the date of the judgment. If the District Court finds a violation did not occur, the City shall be ordered to dismiss the Notice of Violation or Citation and the Plaintiff/Appellant shall be authorized to recover his cost. If the property owner, resident, tenant, occupant or other violator does not abate the violation in the time provided, another Notice of Violation may be issued in accordance with section 4(a), for each subsequent and separate violation of the Property Maintenance Code.

(C) If no appeal from a final judgment, decision or order of the Board is filed within the time period set in subsection (a) above, the Board's order shall be deemed final and enforceable for all purposes provided herein.

[Ord passed 7-28-08]

§91.039. LIEN; CHARGES, COSTS, PENALTIES AND FEES, INCLUDING ADMINISTRATIVE FEES.

(A) The City shall have a lien against any property or properties finally determined by the CEO, the Board or court of competent jurisdiction to be in violation of the Property Maintenance Code to secure the payment and recovery of the reasonable value of labor and materials used to abate the nuisance violation, including fines, charges, costs, penalties, and/or fees, including administrative fees authorized in KRS 82.720. The lien shall be superior to and have priority over, all other liens on the property except state, county, school board and city taxes.

(B) The lien 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 bear interest, at the rate of twelve (12) percent per annum thereafter, until paid.

(C) In addition to the remedy prescribed in subsection (A), the person found to have committed the violation shall be personally responsible for the amount of all fines, charges, costs, penalties, and/or fees (as set out in §91.099 (B) including administrative fees assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of the Property Maintenance Code. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

[Ord passed 7-28-08]

§ 91.040. TRANSFER OF OWNERSHIP.

All Owners receiving a Notice of Violation shall conform with Section 107.5 of the *2006 International Property Maintenance Code*.

[Ord passed 7-28-08]

PROPERTY MAINTENANCE CODE

§ 91.041 APPLICATION OF PROVISIONS; COMPLIANCE REQUIRED.

(A) Every residential, nonresidential or mixed occupancy lots and any buildings situated thereon, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this chapter, whether or not any such building shall have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which shall have been issued for the use of occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter shall also apply to mobile home parks.

(B) In any case where the provisions of this chapter impose a higher standard than set forth in any other local ordinances or under the laws of the state then the standards as set forth herein shall prevail, but if the provisions of this chapter impose a lower standard than any other local ordinances or of the laws of the state, then the higher standard contained in any such other ordinances or law shall prevail.

(C) No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the city from enforcing any such other provision.

(Ord. passed 5-18-92)

§ 91.042 COMPLIANCE.

The owner, operator or parties in interest shall have the duty and responsibility of assuring compliance with this chapter.

(Ord. passed 5-18-92)

§ 91.043. PROPERTY MAINTENANCE CODE.

(A) **Provisions of 2003 International Property Maintenance Code Adopted by Reference Herein.** The City of Greensburg, Kentucky, hereby adopts, enacts and incorporates by reference, as if fully set forth herein, in their entirety, sections:

108	302.7	307.2	308.3	505	605
109	302.8	307.2.1	308.4	506	606
110 (except 110.2)	302.9	307.2.2	308.5	507	607
201	303.1	307.3	501	601	701
301	304.1	307.3.2	502	602	702
302.1	304.3	308.1	503	603	703
302.5	307.1	308.2	504	604	704

(B) **Junked Motor Vehicles and Appliances.**

(1) **Definitions for Junked Motor Vehicles and Appliances.** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) **Junked Appliances** shall mean any unit, or part thereof, of machinery, furniture, or equipment, whether functional or ornamental, and whether mechanical or powered by some source of energy or not, including, but not limited to, stoves, refrigerators, television sets, beds, lamps, tools, objects of art, and the like, the condition of which upon inspection, are found to be in one or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded;

(b) **Junked Motor Vehicles** shall mean any vehicle, device or other contrivance, or parts thereof, propelled by human or mechanical power that if operational, would be used for transportation of persons or property on public streets and highways, which upon inspection, are found to be in one or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded;

(2) **Declaration Junked Motor Vehicles and Appliances; Exceptions.**

(a) The presence of any junked motor vehicle or appliance on public property or on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the City shall be deemed a public nuisance, and shall further be considered rubbish or refuse, and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle or appliance on the real property of another or to suffer, permit or allow a junked motor vehicle or appliance to be parked, left or maintained on his own real property, provided that this provision shall not apply with regard to:

- (1) Any motor vehicle or appliance in an enclosed building;
- (2) Any motor vehicle or appliance on the property of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or
- (3) Any motor vehicle or appliance on property occupied and used for repair, reconditioning and remodeling of motor vehicles or appliances in conformance with the Zoning Code of the City.

- (3) **Liability for damages to removed vehicle.** Neither the owner or occupant of the property from which any aforesaid junked motor vehicles shall be removed, their servants or agents, or any department of the City, or its agents, shall be liable for any loss or damage to the junked motor vehicle while being removed or as a result of any subsequent sale or other disposition.
- (4) **Compliance by removal of vehicle.** The removal of a junked motor vehicle from the property within the number of days required in the Notice of Violation issued by the CEO, shall be deemed to be in compliance with the provisions of this article and no further action shall be taken against the owner of the junked motor vehicle or appliance or the owner or occupant of the property.
- (5) **Right of entry.** Shall be in accordance with Section 91.005(I).
- (6) **Article supplemental to other regulations.**
 - (a) The provisions of this article are supplemental and in addition to all other regulatory Codes, statutes and ordinances heretofore enacted by the City, state or any other legal entity or agency having jurisdiction.
 - (b) The provisions of this article shall be deemed cumulative of the provisions and regulations contained in the Code of Ordinances, City of Greensburg, Kentucky, save and except that, where the provisions of this article and the sections hereunder are in conflict with the provisions elsewhere in this Code, then the provisions contained herein shall prevail. Any and all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- (C) **Other Miscellaneous Nuisances.** It shall be unlawful for the owner, occupant or person having control or management of any real property within the City to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:
 - (1) **Storage of explosives.** The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.
 - (2) **Weeds and grass.** The excessive growth of weeds, grass, or other vegetation, except flowers or other ornamental vegetation, which are properly maintained. Unless otherwise provided, “excessive” shall mean growth to a height of ten (10) inches or more.
 - (3) **Open wells.** The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private property in any open or unfenced lot or place.

[Ord passed 7-28-08]

§ 91.044 STORAGE OF COMMERCIAL AND INDUSTRIAL MATERIAL.

There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under the zoning ordinance for the premises.

(Ord. passed 5-18-92)

§ 91.045. VALIDITY OF EXISTING LIENS PREVIOUSLY FILED.

The adoption of this Ordinance by the Greensburg City Council shall not constitute a release, satisfaction or discharge of any lien filed of record in the office of the Green County Clerk which affects the rights, title and interest of any parcel of real property cited for violation of the Property Maintenance Code in effect prior to the effective date of this Ordinance; it being hereby declared and established that such liens created hereunder shall remain in full force and effect until adjudicated or released.

[Ord passed 7-28-08]

§ 91.99 PENALTY.

(A) Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor and, in addition to any other civil penalties or remedies herein provided, be fined not less than \$5 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. passed 5-18-92)

(B) Citations issued by the CEO that are not appealed or which are upheld by the Board or any court of proper jurisdiction, shall be subject to the following schedule of civil penalties for each violation:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd+ Offense</u>
Property Maintenance	Min. \$10-\$100	\$250	\$500
Junked Motor Vehicles	Min. \$10-\$100	\$250	\$500
Junked Appliances	Min. \$10-\$100	\$250	\$500
Other Nuisances	Min. \$10-\$100	\$250	\$500

[Ord passed 7-28-08]

[Ord. No. 2008078 & 20090728]

Statutory Reference: KRS 83A.060

CHAPTER 92: FIREWORKS: FIRE PREVENTION

Section

Fireworks

92.001 Adoption of state law by reference

Fire Prevention

92.020 Blasting permit

92.021 Storage of flammables and other matter

92.022 Burning and Fires

92.099 Penalty

FIREWORKS

§ 92.001 ADOPTION OF STATE LAW BY REFERENCE.

The provisions concerning fireworks control by municipalities, as set forth in KRS 227.700 through 227.750 are hereby incorporated by reference as if fully set forth herein.

FIRE PREVENTION

§ 92.020 BLASTING PERMIT.

No person shall cause a blast to occur within the City without making application in writing beforehand setting forth the exact nature and location of the intended operation and receiving all appropriate permits from the state to blast. The authorized City official, before granting such permit, may require bond to indemnify the City and all other persons against injury or damages which might result from the proposed blasting.

Penalty, *see* § 92.099

§ 92.021 STORAGE OF FLAMMABLES AND OTHER MATTER.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

Penalty, *see* § 92.099

§ 92.022 BURNING AND FIRES.

(A) No person, firm or corporation shall without having a permit thereof burn leaves, trash, papers, rubbish or garbage out of doors anywhere in the city. This section shall not prohibit the use of an outdoor fire for cooking or for recreation.

(B) No person shall burn any trash, rubbish or garbage anywhere indoors in the city except in an incinerator complying with all applicable laws and ordinances.

(C) Nothing in this ordinance shall be deemed to prohibit the use of wood in stoves used for cooking, the use of wood in fireplaces or decorative fires or the use of wood in fireplaces or stoves designed for heating.

(D) The chief of the City fire department may grant a permit for any controlled fire when he deems the same appropriate and subject to such restrictions as he may impose. If a controlled burn is deemed appropriate, the person requesting same must pay to the City a fee of \$10 for a water truck or fire truck and a fee not to exceed \$15 for personnel needed to control said fire.

§ 92.099 PENALTY.

(A) Other than as provided in (B) below, any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

(B) Any person, firm or corporation violating any provision of section 92.022 shall be fined not less than \$5 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

CHAPTER 93: LITTERING

Section

- 93.001 Throwing Litter from vehicle
- 93.002 Tracking foreign matter on streets
- 93.003 Hauling loose material
- 93.004 Sweeping litter into gutters
- 93.005 Litter on private property

93.099 Penalty

§ 93.001 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the City or upon private property.

Penalty, *see* § 93.099

§ 93.002 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, *see* § 93.099

§ 93.003 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled, in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from, any vehicle upon any street, alley, sidewalk, or other public place shall be removed immediately by the person in charge of the vehicle.

Penalty, *see* § 93.099

§ 93.004 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Penalty, *see* § 93.099.

§ 93.005 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the City, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being

carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the City whether owned by that person or not.

Penalty, *see* § 93.099

§ 93.099 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500). Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 94: CEMETERIES

Section

94.001 Removing flowers; ornaments from lots prohibited

94.002 Climbing fences around cemetery prohibited

94.003 Using cemetery as passway; playground prohibited

94.099 Penalty

§ 94.001 REMOVING FLOWERS, ORNAMENTS FROM LOTS PROHIBITED.

It shall be unlawful for any unauthorized person to remove from any lot in any cemetery any flowers or other kind of ornaments that have been placed upon any grave, or in any container or receptacle of any kind for flowers or water.

(Ord. 620.2, passed - -) Penalty, *see* § 94.099

§ 94.002 CLIMBING FENCES AROUND CEMETERY PROHIBITED.

It shall be unlawful for any unauthorized person to climb any fences around any cemetery.

(Ord. 620.2, passed - -) Penalty, *see* § 94.099

§ 94.003 USING CEMETERY AS PASSWAY, PLAYGROUND PROHIBITED.

It shall be unlawful for any unauthorized person to use any cemetery or any part thereof as a passway in going to and from places outside of a cemetery, or to use any part of a cemetery as a playground or to play any kind of game in said cemetery.

(Ord. 620.2, passed - -) Penalty, *see* § 94.099

§ 94.099 PENALTY.

Any person who violates this chapter or any part thereof shall be deemed guilty of a violation and upon conviction shall be fined an amount not to exceed \$100 for each offense.

(Ord. 620.2, passed - -)

CHAPTER 95: HAZARDOUS MATERIALS

Section

- 95.001 Purpose
- 95.002 Applicability
- 95.003 Definitions
- 95.004 Prohibited Acts
- 95.005 Administering Agency
- 95.006 Response Authority
- 95.007 Liability for Costs
- 95.008 Authorized Release
- 95.009 Contractual Indemnification: Subrogation
- 95.010 Disclaimer of Liability

§ 95.001 PURPOSE.

The purpose of this Ordinance is to protect public health and safety and the environment in the City through timely response and remediation efforts by properly trained individuals for incidents requiring action by existing and future local, state and/or federal requirements.

§ 95.002 APPLICABILITY.

This chapter shall apply to all persons who manufacture, use, store or transport hazardous materials within the city when in the event of an authorized release of a hazardous material.

§ 95.003 DEFINITIONS.

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

AUTHORIZED RELEASE. The release of hazardous materials in accordance with an appropriate permit granted by a local, state or federal agency having primary jurisdiction over such release.

CONSUMER PRODUCT. Shall have a meaning stated in 15 U.S.C. 2052.

COSTS. All expenses incurred by local government and/or local emergency response organizations regardless of whether or not such agencies are publicly or privately owned in responding to any hazardous materials spill, leak or other release into the environment and for any remedial or removal actions taken to protect and safeguard the public, not limited to costs incurred for personnel, equipment and the use thereof, materials, supplies, services, damage or loss of equipment, both organization and personal, and related expenses resulting directly from response to a release or threatened release of a hazardous material.

EMPLOYEE. Any person who works, with or without compensation, in a workplace.

EMPLOYER. Any person, firm, corporation, partnership, association, government agency, or other entity engaged in a business or providing services which has employees.

ENVIRONMENT. The navigable waters of the United States and any other surface water, ground water, drinking water supply, soil surface, subsurface strata, storm sewer or publicly owned sanitary sewer or

treatment works (other than those handling only wastewater generated at a facility) within the City of Greensburg, Kentucky. The terms shall include air only for purposes of reporting releases pursuant to the further provisions of this Ordinance.

FACILITY. Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment container), tank, motor vehicle, truck trailer, rolling stock, or aircraft; or any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed or otherwise come to be located. Consumer products in consumer use and vessels are not included.

HAZARDOUS MATERIALS. Any element, compound, substance, or material or any combination thereof which are toxic, flammable, explosive, corrosive, radioactive, oxidizers, etiological agents, carcinogenic, or are highly reactive when mixed with other substances, including, but not limited to, any substance or material which is designated a hazardous material pursuant to the “Hazardous Materials Transportation Act” (49 U.S.C.A., Sec. 1801, *et seq.*) or is listed by Appendix A, 40 CFR Part 302, “List of Hazardous Materials and Reportable Quantities,” as amended, published by the U.S. Environmental Protection Agency (EPA), and herein incorporated by reference, the same as if set out at length here in words and figures, in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

NORMAL APPLICATION OF PESTICIDES. Application pursuant to the label directions for application of a pesticide product registered under section 30 or section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135, *et seq.*) (FIFRA), or pursuant to the terms and conditions of an experimental use permit issued under section 5 of FIFRA, or pursuant to an exemption granted under section 18 of FIFRA.

OIL. Oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous materials or any constituent thereof may enter the environment. The term shall not apply:

(1) with respect to a claim which such persons may assert against the employer or such persons as provided by CERCLA regulations, any release which results in exposure to persons solely within a workplace;

(2) to emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or a pipeline station pumping engine; and

(3) to the normal application of fertilizers and pesticides.

PERSON. Any individual, business, firm, partnership, corporation, consortium, association, trust, joint stock company, cooperative, joint venture, city, county, city or county special district, the state or any department, agency or political subdivision thereof, the United States Government, or any other commercial or legal entity.

REMEDIAL ACTION. Any action consistent with permanent remedy taken instead of or in addition to any removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to

cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay (or other earth) cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, on site treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect public health and welfare and the environment.

REMOVAL. The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threatened release of hazardous materials, the disposal of removed material, or the taking of such actions as may be necessary to prevent, minimize, or mitigate damage to public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation, reception and care of threatened persons.

REPORTABLE QUANTITY. That quantity:

(A) *Listed hazardous materials:* The quantity appearing in column “RQ” for each hazardous material listed in:

- (1) “List of Hazardous Materials and Reportable Quantities,” 40 C.F.R. Part 302, as amended, or
- (2) “Extremely Hazardous Substances,” designated in 40 C.F.R. Part 355 under SARA Title III.

(B) *Petroleum or petroleum products:* The reportable quantities are 25 gallons or more of a petroleum product within a 24-hour period and 75 gallons or more of diesel fuel in a 24-hour period or any amount that creates a visible sheen on surface waters.

(C) *Releases to sanitary sewer system:* Notwithstanding any other provision of this Section, any release of a hazardous material to a sanitary sewer system which is prohibited under applicable pretreatment or other regulations of the Greensburg Sewer Use Ordinance.

RESPONSE. Any remedial or removable actions including, but not limited to, response by local public safety and emergency agencies and subsequent actions taken to insure the preservation and protection of the public health, safety, welfare and the environment.

VESSEL. Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 95.004 PROHIBITED ACTS.

(A) *Notice Upon Discovery:* When a release or a threatened release, other than an authorized release, of a hazardous material in a quantity equal to or exceeding the reportable quantity hereinbefore established for such material occurs or is imminent on any facilities of any kind within the City of Greensburg, the person in charge of such facilities, upon discovery of such release or threatened release, or evidence that a release has occurred even though it has apparently been controlled, shall immediately cause notice of the existence of such release or threatened release, the circumstances of same, and the location thereof to the Greensburg/Green County E911 Center.

(B) *Emergency Telephone Number:* The notice required to be given by this Section in Greensburg may be given by telephoning “911” (or such other emergency telephone number as may be subsequently

designated). This one call will meet the requirements for notification of local agencies (LEPC, Fire Department with jurisdiction, Local EM, Ambulance Service, etc., as required).

(C) *Duty to Control Releases:* The notice required to be given by this Section shall not be construed as forbidding or otherwise exempting any person on or about the facilities from exercising all diligence necessary to control such release prior to or subsequent to such notice to the Emergency Communication Center, especially if such efforts may result in the containment of the release and/or the abatement of any hazard to life and/or property.

(D) *Duty to Report to Other Agencies:* No statement contained in this Section shall be construed to exempt or release any person from any other notification or reporting procedures in accordance with applicable state or federal laws or regulations.

§ 95.005 ADMINISTERING AGENCY.

The purpose of this Ordinance is to establish a uniform City-wide program for protection of the environment from uncontrolled releases of hazardous materials to be administered by existing agencies of local government through protocols and standard operating procedures.

§ 95.006 RESPONSE AUTHORITY.

(A) The Greensburg Emergency Management shall have authority to coordinate response to any release or threatened release of hazardous materials in the City of Greensburg.

(B) The Fire Chief of the jurisdiction in which such release or threatened release is located shall have primary authority for taking remedial or removal actions necessary to control or contain such release or threatened release and to assure the protection of human health, property and the environment. The role of the Greensburg EM is to give technical advice and assistance to the Fire Chief.

(C) The Greensburg EM or the Fire Chief shall immediately report any release or threatened release to the Mayor if Section II (2) of this ordinance applies. If in the opinion of the executive authority the seriousness of the situation warrants, the Mayor shall declare the existence of a state of emergency and thereafter the response authority provided by this Section shall then be vested in such chief executive officer. In such event, the chief executive officer may authorize the City EM director, the Fire Chief, or other appropriate person to exercise all or part of the response authority provided by this Section until further notice.

(D) All local emergency response personnel shall cooperate with and operate under the direction of the Mayor, City EM Director, the Fire Chief, or other person then exercising response authority under this Section until such time as the person then exercising response authority has determined that the response is complete or responsibility for response has been assumed by the state or federal agency having primary jurisdiction over such release or threatened release.

(E) The person exercising response authority under this Section shall coordinate and/or cooperate with other federal, state or local public health, safety and emergency agencies involved in the response to a release or threatened release of hazardous materials.

(F) The person exercising response authority under this Section may, with the approval of the executive authority, obtain vital supplies, equipment, services and other properties found lacking and needed for the protection of human health, property and the environment and obligate the jurisdiction for the fair value thereof.

§ 95.007 LIABILITY FOR COSTS.

Notwithstanding any other provision or rule of law, the following persons shall be jointly and severally liable for all costs of removal or other remedial actions incurred by local public safety and emergency agencies as a result of a release or threatened release of hazardous material into the environment:

(A) The owner and operator of a facility or vessel from which there is a release or substantial threat of release of hazardous materials;

(B) Any person who, at the time of disposal, transport, storage, or treatment of hazardous materials, owned or operated the facility or vessel used for such disposal, transport, treatment, or storage from which there was a release or substantial threat of a release of hazardous materials;

(C) Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by another party or entity from which facility there is a release or substantial threat of a release of hazardous materials; or

(D) Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or substantial threat of a release of hazardous materials.

§ 95.008 AUTHORIZED RELEASE.

There shall be no liability under this Ordinance for any release permitted by local, state or federal law, but only to the extent that such release is made in accordance with an appropriate permit granted by the state or federal agency having primary jurisdiction over such release and that such release is in full compliance with such permit with respect to time, location and manner of the release so that such release will not create a hazard or potential hazard to human health, property or the environment; or, if such release is in substantially lesser quantities than those reportable quantities established by state or federal law, regulations, permit requirements, or ordinances of the jurisdiction in which such release occurs.

§ 95.009 CONTRACTUAL INDEMNIFICATION; SUBROGATION.

(A) No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator if any facility or vessel or any person who may be liable for a release of hazardous materials or threat thereof under this Ordinance. Nothing in this Section shall bar any arrangements to insure, hold harmless or indemnify a party to such agreement for any liability under this Ordinance.

(B) Nothing in this Section, including the provisions of subsection A above, shall bar a cause of action that an owner or operator or any other person subject to liability under this Ordinance, or a guarantor, has or would have by reason of subrogation or otherwise against any person.

§ 95.010 DISCLAIMER OF LIABILITY.

This Ordinance shall not create liability on the part of the administering agency or on the part of the response authority for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder. All persons are advised to determine to their own satisfaction the level of protection, in addition to that required by this Ordinance, necessary or desirable to ensure that there is no unauthorized release of hazardous materials.

(Ord. passed 6-6-05)

CHAPTER 96: REGISTRATION OF VACANT RESIDENTIAL PROPERTIES

Section

- 96.001 Definitions
- 96.002 Registration
- 96.003 Maintenance
- 96.004 Enforcement

It is the purpose and intent of this ordinance to establish a vacant residential property registration and maintenance program as a mechanism to protect neighborhoods and minimize hazards to persons and property as a result of the vacancy.

§ 96.001 DEFINITIONS.

CREDITOR. A federal or state chartered bank, savings bank, savings and loan association, or credit union, and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

RESIDENTIAL PROPERTY. Real property with one (1) to four (4) dwelling units.

VACANT. Residential property with no legal resident or tenant. Evidence of vacancy includes any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of flyers, mail, or trash, disconnected utilities, the absence of window coverings or furniture, and statements by neighbors, delivery persons, or government employees.

§ 96.002 REGISTRATION.

(A) Prior to filing a complaint of foreclosure or executing a deed in lieu of foreclosure on a residential property located in the City of Greensburg, a creditor shall inspect the property to determine whether the property is vacant. If the property is vacant, the creditor shall, on the same day the complaint of foreclosure is filed or the deed in lieu of foreclosure is executed, register the property as a vacant property with the Code Enforcement Office of the City of Greensburg in which the property is located for the purpose of minimizing hazards to persons and property as a result of the vacancy.

(B) If a residential property becomes vacant at any time after a creditor files a complaint of foreclosure or executes a deed in lieu of foreclosure, but prior to vesting of title in the creditor or a third party, the creditor shall, within ten (10) business days after obtaining knowledge of the vacancy, register the property as a vacant property with the City of Greensburg.

§ 96.003 MAINTENANCE.

(A) Registration of a residential property as a vacant property shall include the address of the property and the name and contact information of a person located within the Commonwealth who is authorized to accept service on behalf of the creditor.

(B) If a residential property becomes or remains vacant as provided in Section 96.002, but prior to vesting of title in the creditor or any third party, and the City determines the property is in violation of any ordinance regulating a nuisance, the City may notify the creditor of the violation by providing notice of the violation by certified mail, return receipt requested, to the person identified in subsection (a) of this

section, and may require the creditor to correct the violation to the extent consistent with the terms of the mortgage.

(C) A notice of violation shall include a description of the conditions that give rise to the violation with the notice of violation and shall provide a period of not less than 20 days from the creditor's receipt of the notice for the creditor to remedy the violation.

§ 96.004 ENFORCEMENT.

(A) If the creditor fails to remedy the violation within the stated period, the City may issue a citation and impose penalties against the creditor for violation of any ordinance regulating a nuisance.

(B) Any creditor that fails to register vacant residential property with the City shall be subject to a civil fine of \$100 payable to the City for each day of delinquency.

(Ord. passed 12-10)