

**CITY OF WEST LIBERTY**

**ORDINANCE NO. 12272010-2**

**PROPERTY MAINTENANCE CODE**

**WHEREAS**, allowing certain hazardous conditions to occur on private property creates a serious public health hazard and creates a risk of injury to others.

**WHEREAS**, unsafe or unsanitary conditions on private property and actions taken by landowners can harm city property or injure the rights of the public.

**WHEREAS**, the West Liberty City Council desires to promote the public health, safety and welfare of the citizens of West Liberty.

**WHEREAS**, it is necessary to regulate the appearance and conditions of property in order to promote and protect health, comfort, and living conditions of the citizens of West Liberty, Kentucky as follows;

**SECTION ONE:** The attached exhibit is hereby adopted in its entirety and shall become the Property Maintenance Code of West Liberty, Kentucky.

**SECTION TWO:** This ordinance shall become effective on the 26<sup>th</sup> day of October, 2022.

**INTRODUCED**, and given first reading at a meeting of the City Council of the West Liberty, Kentucky City Council held on October 25<sup>th</sup>, 2010 and finally adopted after the second reading at a meeting of said Council held on December 27<sup>th</sup>, 2010 and amended ordinance adopted October 26<sup>th</sup>, 2022.

Signed By:



Attest By:



The following acts and conditions shall constitute a nuisance in any subdivision and on any property that is within the city of West Liberty.

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**SECTION 1: EROSION CONTROL, ACTS AND CONDITIONS CONSTITUTING NUISANCES.**

Whatever is dangerous to human health, whatever renders the ground, water, air or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, declared nuisances and are prohibited and made unlawful:

- (A) Accumulating putrid or putrescent rubbish, garbage, vegetable, animal or fowl refuse which emits odors, or is unsightly or a fire hazard, or is otherwise obnoxious to the general public.
- (B) Permitting any private storm sewer or private sanitary sewer to become stopped up, or to be open to the air, or to overflow,
- (C) Permitting storm sewers or drains to flow into the sanitary sewer system.
- (D) Connecting roof or surface drainage with or permitting it to be fed into the sanitary sewer system;
- (E) Collecting and dispensing roof or surface drainage directly onto an adjoining property in a way that may cause damage to that property on which the discharge is directed.
- (F) Stopping, impeding or permitting any stoppage or impedance in the flow of water through storm sewers or private sanitary sewers, or diverting the flow of natural drainage water through natural drains, whether through open drainage ditches or enclosed drains. It shall be the duty of all property owners in the city to keep storm sewers, private sanitary sewers and private natural drains on or passing through their property open and in proper operation and to prevent stoppage or interference with proper drainage.
- (G) Maintaining or tolerating open cisterns, pools, ponds or similar water containers in which the accumulation of water and filth is allowed to stagnate and to become obnoxious or detrimental to the health and welfare of the community at large.
- (H) Outside open toilets where water and sewer facilities are available.
- (I) Drainage from outside toilets or cesspools onto the property of other persons, or exposure of such outside toilets to flies and mosquitoes, or permitting the emission of odors which are obnoxious to the contiguous community.

(J) The use of materials used to fill vacant or undeveloped land shall consist of dirt, sand, rock, stone, gravel or similar non organic matter only; materials prohibited for use as fill shall include but not be limited to: Furniture, solid waste, wood, metal, plastic, glass, rubber or rubber substitute, appliances, debris and any other organic matter whatsoever.

(1) All and any dirt, earth, rock or debris within the city shall be kept and/ or transported in such manner that it will not wash, drain, be tracked, spilled, or otherwise caused to enter and to be deposited in or upon the streets, sanitary sewers, storm sewers and/ or other drainage facilities in the city.

(2) Any person who displaces or relocates or causes to be displaced or relocated any dirt, earth, rock or debris, and such displacement or relocation places the dirt, earth or debris in such a manner that it washes, drains or is caused to enter and be deposited in or upon streets, sanitary sewers, storm sewers and/or other drainage facilities in the city, shall forthwith remove and relocated said dirt, earth, rock or debris to a safe location and shall clean up or cause to be cleaned up any dirt, rock, earth or debris that has washed, drained or entered any street, storm sewer, sanitary sewer or other drainage facility. The provisions of this section apply also to any person, including property owners, building contractors or developers, who directs or permits another person to drive a vehicle onto a building site so as to displace or relocated any dirt, earth, rock or debris in the manner described in this section. Said erosion control shall be carried out by the construction and implementation of a silt fence around such dirt, earth, rock or debris to prevent such matter from washing, draining or being deposited onto any street, storm sewer, sanitary sewer or drainage facility.

(3) When such person as described in division (J) (2) above fails to forthwith remove and relocate any dirt, earth, rock or debris and to clean up or cause to be cleaned up the dirt, earth, rock or debris as required by division (J)(2) above, the city may proceed to remove and relocate can clean up the dirt, earth rock and debris. In such case, the city may charge the responsible person with the

cost of the removal, relocation and cleanup of the dirt, earth, rock or debris.

(4) High walls greater than ten (10) feet in height must be sufficiently fenced with commercial grade fencing or fencing otherwise approved by the City of West Liberty Planning Commission.

(K) All construction and excavation projects within the City limits shall be required to meet all State requirements for storm water discharges, best management practices and permits. All new construction and existing areas surrounding industrial, commercial and residential properties utilized for lawns, entrances, buffers between roadways and parking areas and improvements and parking areas shall be improved with gravel, asphalt, concrete, adequate grass, landscaping or other suitable materials to impede erosion.

(L) It shall be unlawful and a nuisance for any person owning, occupying or having control or management of any improved industrial, commercial or residential property within the City to permit the excessive growth of weeds or grass in lawn areas, buffers between roadways and improvements, adjacent to parking areas, entrances and surrounding improvements capable of being mowed. For purposes of this section, **EXCESSIVE GROWTH** shall be defined to mean any growth of weeds or grass greater than eighteen (18) inches in height.

- a. However, this section shall not apply to land within City Limits which is specifically zoned for agricultural use or land which is otherwise regularly used strictly for agricultural purposes. Land which is zoned agricultural or regularly used for agricultural purposes shall be cut or otherwise harvested or "bushhogged" twice each year, and cut below eighteen (18) inches.
- b. For such land growing crops, the vegetation on the land must also be cut after the harvest of those crops, and the vegetation must be cut below eighteen (18) inches following the harvest of those crops.
- c. For land which livestock are kept in accordance with West Liberty Ordinance 05281956, those areas must be maintained in an aesthetically pleasing manner with proper fencing and other facilities.

- d. Section of this ordinance shall not apply to wooded or otherwise forested areas which are not used for agricultural purposes.
  - e. The enforcement of subsection (L) of this ordinance shall be initiated with a written warning to the violating property owner, and that property owner shall have five (5) days to remediate the violation. If the violation is remedied in five (5) days, no fine shall be issued. If the violation continues to exist after the five (5) day warning period, a fine shall be issued as follows: \$100.00 for First Violation, \$250.00 for Second Violation, and \$500.00 for Third Violation, in any given year.
  - f. If violations of subsection (L) are not remedied within fourteen (14) days, the City of West Liberty shall have the right to enter upon the property of the violator and remedy the violation, and shall further have the right to issue an additional administrative fee in the amount of \$100.00 and also the cost of the service in cutting the excessive vegetation upon the violator's land.
- (M) It shall be unlawful and a nuisance for any person to leave, place, dump or throw dead leaves, grass or weeds of any kind on the streets, roads or other public places of the city. Violation of this section shall result in an immediate fine.
- (N) It shall be unlawful and a nuisance for any person to leave, place, dump or throw trash, tin cans, garbage or refuse of any kind on the streets, roads or other public places of the city. A violation of this nuisance shall be result in an immediate fine.
- (O) Storage of any stripped, partially dismantled, wrecked, junked or shipping containers, abandoned motor vehicle(s), or any motor vehicle which cannot be safely and/or legally operated upon the public ways, and any other vehicles, machinery or implements, which hereinafter are collectively described as "said personalty", which are visible from a public road, visible from a neighboring residence, or outside of a solid walled or securely locked structure of a height sufficient to conceal said personalty from public view for period of thirty (30) days or more within the city, is hereby declared to be a public nuisance and dangerous to the public health, safety and welfare. Whenever any said personalty is actively being repaired, the person herein below will be required to abate the nuisance, or alternatively seek a thirty (30) day exemption by sending a written request delivered to

the codes enforcement board within the first thirty (30) days of the existence of the nuisance, receive and additional thirty (30) days within which to complete the repairs and abate the nuisance. In no event shall such nuisance continue for more than sixty (60) days.

- a. This subsection (O) of this ordinance shall not apply to land within city limits which is regularly and actively used for the operation of a business which regularly and customarily uses or requires those items of personalty discussed in subsection (O) for the purpose of said business. This exception shall not apply to properties which are zoned residential within city limits even if a relevant business is operated on the property.

(P) Storage of any equipment, such as but not limited to refrigerators, televisions sets, cooking ranges, other major appliances or major items of furniture, heating or air conditioning units, and other personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, which hereinafter are collectively described as "said personalty", which are visible from a public road, visible from a neighboring residence or outside of a solid walled and securely locked structure of a height sufficient to conceal said personalty from public view for a period of thirty (30) days or more (except where permitted in connection with a properly zoned and licensed business operating in compliance with all applicable rules and regulations) within the city, is hereby declared to be a public nuisance and dangerous to the public health, safety and welfare. Whenever any of said personalty is actively being repaired, the person herein below required to abate the nuisance may, upon written request delivered to the codes enforcement personnel within the first thirty (30) days of the existence of the nuisance, receive and additional thirty (30) days within which to complete repairs ad abate the nuisance. In no event shall such nuisance continue for more than sixty (60) days.

- a. This subsection (P) of this ordinance shall not apply to land within city limits which is regularly and actively used for the operation of a business which regularly and customarily uses or requires those items of personalty discussed in subsection (P) for the purpose of said business. This exception shall not apply to properties which are

zoned residential within city limits even if a relevant business is operated on the property.

(Q) It shall be unlawful and declared to be a public nuisance and dangerous to the public health, safety and welfare for any person in the city to leave, place, dump or throw any objects or items or personalty, or allow the growth of vegetation which is adjacent to any roadway within city limits which would cause the line of sight of an approaching vehicle to be blocked when that approaching vehicle is ten (10) feet or less from the intersecting of any two roadways, or the intersecting of any roadway and parking lot or private drive. Such items or personalty is including, but not limited to, motor vehicles, recreational vehicles, machinery (motorized or not), implements, equipment, refrigerators, television sets, cooking ranges other major appliances or major items of furniture, heating or air conditioning units, any other personal property of any kind, or to plant trees, shrubs, bushes or any other vegetation.

(R) It shall be unlawful and declared to be a public nuisance and dangerous to the public health, safety and welfare for any person in the city to leave, place, dump, throw, accumulate, or store more than six (6) tires in an open, outdoor area. This division (R) does not apply to tires that are stored in any building that is enclosed with a roof and four walls.

a. This subsection (R) of this ordinance shall not apply to land within city limits which is regularly and actively used for the operation of a business which regularly and customarily uses or requires those items of personalty discussed in subsection (R) for the purpose of said business. This exception shall not apply to properties which are zoned residential within city limits even if a relevant business is operated on the property.

(S) It shall be unlawful and declared to be a public nuisance and dangerous to the public health, safety and welfare for any person in the city to allow any building, manufactured house or structure to become in a state of disrepair, structurally unsound, insanitary, dangerous, in danger of collapse or dilapidated so as to be unsafe and/or unfit for human occupancy or habitation.

(1) An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of



the structure by not providing minimum safeguards to protect or warn, occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

- (2) A structure is unfit for human occupancy or habitation is one that is found to be unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks sanitary or heating facilities or other essential equipment, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

## **SECTION TWO: ABATEMENT OF NUISANCES**

- 1) The owner, owners, tenants, lessees and/or occupants of any lot or tract of ground within the corporate limits of the city, upon which a violation of this ordinance has occurred shall jointly and severally abate the nuisance within thirty (30) days, unless otherwise specified herein or unless otherwise specified in the notice of violation.
- 2) When said owners fail to abate said nuisance or whenever the city is unable to ascertain the identity of the owners of said personalty or of the real estate upon which it is located, then the city shall remove said personalty and dispose of same in the same manner, provided in KRS 189.751 for automobiles abandoned upon city roads, and KRS 376.275. Furthermore, the city may abate aforesaid nuisances as provided in KRS 381.770.

## **SECTION 3: JURISDICTION OF SCOPE OF ARTICLE; ENFORCEMENT.**

- 1) The existence of any nuisance prescribed in this article shall be a violation of this article if the nuisance exists or continues within the city limits of West Liberty.
- 2) The violator shall be noticed of the existence of a nuisance by a notice of violation. If the violator cannot be personally served, then placement of the notice of violation upon the property in a

conspicuous location shall serve as notice of the violation to the property owner.

- 3) Any law enforcement officer may, upon probable cause as required by law, procure a search warrant for the purpose of going upon private property to determine if such nuisance as hereinabove described exists; and any law enforcement officer or employee of the City or City and any aggrieved citizen or property owner of West Liberty may, upon proper affidavit as required by law, cause to be issued a warrant of arrest for any said owner who may be in violation hereof.
- 4) The violator may dispute the nature of the violation, and request a hearing before the code enforcement board. However, if the code enforcement board finds that the violator has created or permitted the existence of a nuisance upon his/her property, the violator shall be fined for each day the nuisance continued to exist between the time in which the nuisance was found to have occurred until the time the nuisance has abated. If the nuisance continues to exist after the code enforcement board has found that a nuisance exists and ordered remediation of that nuisance, then the violator shall be fined \$100.00 for each day in which the nuisance continues unabated. This section shall not apply to section (1)(L), as the City of West Liberty shall have authority to abate the nuisance of excessive growth of vegetation and cause the owner of that property to be responsible for the cost of that abatement.

#### **SECTION 4: PENALTIES**

Should the owners allow said nuisance to exist or fail to abate said nuisance or abandon and deposit said personalty on the property of another, then watch of them, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed to have been committed on each day such nuisance is permitted to exist, after the initial thirty (30) day period.