

ORDINANCE
AN ORDINANCE REGULATING NUISANCES IN THE COUNTY OF NELSON

Be it Ordained by the Fiscal Court of Nelson County.

DEFINITIONS.

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

"AUTOMOBILE PARTS" Any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

"DWELLING" Any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.

"INOPERATIVE CONDITION" Unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than thirty consecutive days.

"MOTOR VEHICLE". Any style or type of motor driven vehicle used for the conveyance of persons or property.

"NUISANCE" Public nuisance.

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

"UNFIT FOR FURTHER USE" In a dangerous condition; having defective or missing parts; or in such a condition generally as to be unfit for its originally intended purpose.

"UNFIT FOR HUMAN HABITATION" Dangerous or detrimental to life or health because of: want of repair; defects in the drainage, plumbing, lighting, ventilation, or construction; infection with contagious disease; or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, the offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.

CERTAIN CONDITIONS DECLARED A NUISANCE.

It shall be unlawful for the owner, occupant, or person having control or management of any land within the county to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

(A) Dwellings unfit for human habitation. The erection, use, or maintenance of a dwelling which is unfit for human habitation.

(B) Dangerous buildings adjoining streets. Any building, house, or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public way of the county adjoining the premises, by reason of the collapse of the building, house, or structure or by the falling of parts thereof or of objects therefrom.

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

(D) Dilapidated buildings. Any building, house, or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to lack of adequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(E) Accumulation of rubbish.

(1) An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents, or insects, or its blowing of rubbish into any street, sidewalk, or property of another. Garbage or refuse may be kept in covered containers approved by the sanitation officer of the Nelson County Health Department (a part of The Division of Human Resources of the State of Kentucky). Such containers shall be constructed of metal or plastic material in such manner as to be strong, not easily corrodible, rodent proof, and shall have tight fitting covers which shall be kept in place thereon at all times except when refuse is being deposited therein or removed therefrom. Boxes, papers, tree cuttings, and odd articles shall be bundled and kept together at the pick-up site.

(2) For the purpose of this division (E) the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) "GARBAGE" All putrescible wastes, except sewage and body waste, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, and shall include all substances from all public and private establishments and from all residences.

(b) "REFUSE" Includes all non-putrescible waste.

(F) Noxious odors or smoke. Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(G) Noise.

(1) Emission of noise which between the hours of 11:00 PM and 7:00 AM which is audible 50 feet from the property line of the property on which the source of the noise is located.

(2) The following noises shall be exempt:

(a) Noises originating from any safety signals, warning devices and emergency relief valves.

(b) Noises resulting from any authorized emergency or law enforcement vehicle or training facilities.

(c) Noises emanating from festivals or other periodic activities and celebrations where said activity has been authorized by the Nelson County Judge Executive or other appropriate city official for the city the activity is located in.

(H) Storage of explosives or combustible material. The storage of combustible or explosive material which creates a safety hazard to other property or persons in the vicinity. Excluded are storage of combustible materials for construction purposes provided that all applicable state and federal regulations are complied with.

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

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

(K) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than 8 feet over sidewalks, or the growing and maintenance of shrubbery in excess of 3 feet in height within the radius of 20 feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line and the property line of any street within a radius of 20 feet from the point where the curb line of any street intersects with the curb line of another street.

(L) Junk; scrap metal; motor vehicles. The storage of unlicensed motor vehicles in an condition, motor vehicles unfit for further use, automobile parts, or scrap metal except on premises whose zoning allows such use or upon property owned by a governmental agency.

(M) Open burning. The open burning of leaves, brush, construction materials, or other debris without specific notice to the Chief of the Fire District in which the burning is to take place.

EXEMPTIONS.

All agricultural and silvicultural operations as provided in KRS 413.072 are exempt from the provisions of this ordinance.

ABATEMENT PROCEDURES.

(A) It shall be the duty of the Nelson County Judge Executive or other responsible person designated by the Nelson County Judge Executive to serve or cause to be served a notice upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance within five days unless the nuisance constitutes an immediate danger to the health and well being of the community. If such danger is present, the nuisance shall be abated within 24 hours of notice. Notice shall be served upon persons by certified mail, but if the whereabouts of the persons is unknown and cannot be ascertained by the Nelson County Judge Executive or his designee in the exercise of reasonable diligence, the Nelson County Judge Executive or his designee shall make an affidavit to that effect, and the serving of notice may be made by publication in a newspaper of general circulation for two consecutive publications. A copy of the notice shall be posted in a conspicuous place on the premises affected by the notice and it shall be recorded in the office of the County Clerk.

(B) If the person so served does not abate the nuisance within prescribed amount of time, the county may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged and paid by the owner or occupant.

(C) Charges for nuisance abatement shall be a lien upon the premises. Whenever a bill for charges remains unpaid for 60 days after it has been rendered, the Nelson County Judge Executive or his designee may file with the County Clerk a statement of lien claims. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the city claims a lien for this amount. Notice of the lien claim shall be mailed to the owner of the premises if his address is known. However, failure to record the lien claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges as provided in subsection (D) below.

(D) Property subject to a lien for unpaid nuisance abatement charges shall be sold for nonpayment and the proceeds of the sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens.

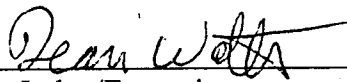
(E) The County Attorney is authorized and directed to institute such proceedings, in the name of the county, in any court having jurisdiction over the matter, against any property for which the bill has remained unpaid 60 days after it has been rendered.

PENALTY.

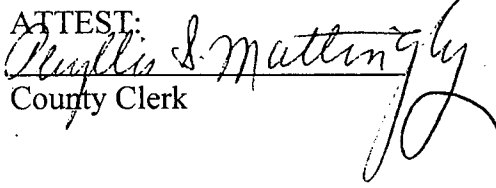
Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, on conviction thereof, be fined not less than \$100.00 nor more than \$500.00 or imprisoned for not more than 30 days or both, and in addition shall pay all costs and expenses involved in the case. Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County from taking any other lawful action as is necessary to prevent or remedy any violation.

This ordinance shall become effective upon publication.

PASSED AND APPROVED THIS 3RD DAY OF DECEMBER, 2002.



County Judge/Executive

ATTEST:

County Clerk

ADOPTED: Dec. 3, 2002

EFFECTIVE: Dec. 6, 2002

Book 29, Pp. 608-11