

COMMONWEALTH OF KENTUCKY
SHELBY COUNTY FISCAL COURT
ORDINANCE NO. 07-02-04, SERIES 2002

AN ORDINANCE ESTABLISHING A NUISANCE ORDINANCE FOR
SHELBY COUNTY PURSUANT TO THE AUTHORITY IN KRS 381.770

BE IT ORDAINED by the Fiscal Court of Shelby County,

1. General.

That the Shelby County Fiscal Court does hereby establish the following reasonable standards, procedures and penalties for the enforcement of KRS 381.770 as it relates to unincorporated areas, or any municipality without a nuisance ordinance within the territorial jurisdiction of Shelby County.

2. Definitions.

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

A. "Abandoned Vehicles" means any vehicles or parts thereof left on public or private property within an area of high population density under circumstances indicating a desertion, relinquishment, nonuse, or divestment of the vehicle.

B. "Accessory Building" means any buildings other than a dwelling.

C. "Area Of High Population Density" means any one half (1/2) mile area which contains three (3) or more residences.

D. "Dwelling" means any part of any building or its premises used as a place of residence or habitation or for sleeping by any person located on 5 acres or less.

E. "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

F. "Litter" means refuse which is not contained or disposed of in accordance with the provisions of this Act.

G. "Nuisance" means Public Nuisance.

H. "Obnoxious Growth" means any plant growth exceeding 12 inches in height, other than crops, trees, bushes, flowers or other ornamental plants; it is not the intent of this provision to cause a change in the character of any geographical area(s), e.g. (vacant) farm or undeveloped land of 5 acres or more.

I. "Refuse" means all putrescible and non-putrescible solid waste (except body waste) including, but not limited to, garbage, rubbish, street cleanings, dead animals, abandoned automobiles and industrial wastes.

J. "Unfit for Human Habitation" means 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 or adjoining properties.

3 Common Law and Statutory Nuisances.

In addition to what is declared in this Ordinance to be a public nuisance, those 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 provided in this Ordinance or in accordance with any other provision of law.

4. Certain Conditions Declared a Nuisance.

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

(A) Dwellings unfit for human habitation that are visible from a county, state, federal or public roadway.

(B) Dilapidated buildings. Any accessory building, house or structure visible from a county, state, federal or public roadway 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 inadequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property. Accessory buildings currently being used for agricultural purposes are specifically excluded from this provision.

(C) Accumulation of rubbish. An accumulation or dumping 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 highway, road, street, sidewalk or property of another.

(D) The parking, storage, or abandonment of any kind of motor vehicle or parts thereof on any private or public property within an area of high population density for a period of time in excess of thirty (30) days which is rusted, wrecked, junked, partially dismantled, or inoperative, or in an abandoned condition, whether

they are attended or not; refrigerators, stoves, washers, dryers within the County limits except on premises authorized by the County for such purposes. This section shall not apply to abandoned vehicles in an enclosed building.

(E) For any owners, lessee, or occupant having control of any dwelling, vacant lots, and all public and private parking lots to maintain or permit the maintenance of obnoxious growth.

(F) Any condition which endangers public health.

(5) Abatement Procedure.

(A) It shall be the duty of the Sheriff, building inspector or other personnel designated by the Shelby Fiscal Court 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 Ordinance and to demand abatement of the nuisance within seven (7) 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 with 24 hours of notice. Notice shall be served upon persons by personal service or certified mail, but if the address of the persons is unknown and cannot be ascertained by the Sheriff or designated official in the exercise of reasonable diligence, the Sheriff or designated official shall make an affidavit to the effect, and the serving of notice may be made by publication in a newspaper of general circulation for two (2) 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 seven (7) days, the County may, but is not required to, proceed to abate the nuisance or the County may employ independent contractors to abate the nuisance. The person or persons employed to abate the nuisance shall have the full right of access to the property with such personnel, machinery and equipment as are necessary to abate the nuisance. The County shall keep a record of the costs incurred to abate the nuisance and said costs shall be charged to and paid by the owner and/or occupant.

(C) Charges for nuisance abatement shall be a lien on the premises. Nuisance abatement charges shall include labor, equipment usage, fuel and oil, attorney's fees, filing fees, publication cost, court costs, and all other fees and charges when incurred by the County for the abatement of the nuisance, enforcement of the lien and foreclosure on the property. Whenever a bill for charges remains unpaid for sixty (60) days after it has been rendered, the Fiscal Court or its designated representative may file with the County Clerk a statement of lien claim. 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 County 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 failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges as provided in division (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 nuisance abatement charges and attorney's fees after deducting costs. This foreclosure shall be in equity in the name of the County.

(E) The County Attorney shall 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 sixty (60) days after it has been rendered.

6. Nuisance Created by Others.

The provisions of subsections 5A through 5E of this Ordinance shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons on the property.

7. Penalty.

Any person(s) violating any provision of this Ordinance shall be guilty of a Class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or be imprisoned for a period not to exceed twelve (12) months, or both so fined and imprisoned. Each day's continued violation shall constitute a separate offense.

This ordinance shall take effect upon its passage and approval and publications as required by law.

On motion of Esq. Carriss and seconded by Esq. Henninger, the foregoing Ordinance was adopted on this the 2nd day of July, 2002.

APPROVED:

BOBBY STRATTON, County Judge/Executive

Attest:

Sue Carole Perry, Shelby County Clerk