

ORDINANCE NO. 283, SERIES 2014

AN ORDINANCE OF HARRISON COUNTY, KENTUCKY AMENDING ORDINANCE NO. 212, SERIES 2005 AND ORDINANCE NO. 254, SERIES 2011, RELATING TO THE DECLARATION, ABATEMENT AND PREVENTION OF NUISANCE AND NOISE WITHIN THE JURISDICTION OF HARRISON COUNTY, KENTUCKY.

WHEREAS, KRS 381.77(4) declares certain acts relating to public nuisance unlawful and authorizes local governments to enact ordinances to enforce said statute; and

WHEREAS, the Harrison County Fiscal Court is desirous of implementing said enforcement mechanisms relating to noise nuisance;

WHEREAS, the Harrison County Fiscal Court further wishes to amend the enforcement mechanism to allow the Cynthiana-Harrison County-Berry Joint Planning & Zoning Commission staff to have enforcement powers over nuisances.

NOW, THEREFORE, BE IT ORDAINED by the Harrison County Fiscal Court as follows:

SECTION 1: 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 ten (10) consecutive days.

“Motor Vehicle”. Any style or type of motor-driven vehicle used for the conveyance of persons or property.

“Nuisance”. Public nuisance-that activity which arises from unreasonable, unwarranted or unlawful use by a person of his own property or property under his control, working obstruction or injury to the public, and producing such material annoyance and discomfort that the law will presume resulting damage.

"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 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 any unsanitary condition likely to cause sickness among occupants of the dwelling.

"Unfit for Further Use". In a dangerous condition; having defective or missing parts; or in such a condition generally as to be unfit for further use as a conveyance.

SECTION 2. COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter 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 is provided in this chapter or in accordance with any other provision of law.

SECTION 3. 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 or continue thereon. The following conditions are declared to be public nuisances:

A) Dangerous trees or stacks adjoining roadways. 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.

B) Accumulation of rubbish. 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 that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

C) Storage of explosives. The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

D) Weeds and grass. The excessive growth of weeds, grass, or other vegetation. Unless otherwise provided, "EXCESSIVE" shall mean growth to a height of 12 inches or more.

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

F) Trees and shrubbery obstructing roadways, roadway shoulders and drainage. The growing and maintenance of trees or shrubbery which in any way interferes with the use, construction, or maintenance of roadways or shoulders, or causes injury to roadways or shoulders, or constitutes an obstruction to drainage.

G) Keeping of animals. The failure to keep a domestic animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable, offensive odors.

H) Junk: scrap metal; motor vehicles. The storage of motor vehicles in any inoperative condition, motor vehicles unfit for further use, automobile parts or scrap metal, except on premises authorized for such purposes. Where a motor vehicle is visible from a public road or highway, and is not properly tagged (and thus subject to tax), it shall be a rebuttable presumption that said vehicle(s) are unfit for further use.

I) Dwellings unfit for human habitation. As defined above.

J) Noise. There emits from premises or from any motor vehicle noise noxious enough to cause annoyance or disturbance or to destroy the enjoyment of dwelling houses or business premises or other use of property in the vicinity by interfering with ordinary comforts of human existence, including but not limited to loud, frequent or habitual barking, howling or yelping of dogs.

SECTION 4. ABATEMENT PROCEDURE.

A) 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, health hazard, or source of filth to develop thereon.

B) Whenever a nuisance is discovered, the County Attorney, Sheriff, Planning Administrator or Building Inspector of the Cynthiana-Harrison County-Berry Joint Planning and Zoning Commission or Harrison County Solid Waste Coordinator, or their designee, may issue a notice to the owner of the property to abate, resolve or remedy the nuisance. Said notice shall be mailed to the owner at his last known address as determined from the current tax assessment roll, and shall advise the owner(s) that the nuisance must be abated within ten (10) days.

If the party fails to abate the nuisance within the time specified, he shall be served in writing and in the manner set forth by the Rules of Criminal Procedure, with notice to appear before the Harrison County District Court to show cause why such nuisance should not be abated. The hearing before the District Court shall be open to the public and the owner may be represented by counsel.

The owner of the property may appeal any adverse determination to the Harrison County Circuit Court.

C) If the party fails to abate/remove the nuisance within a reasonable time of which he is notified, the County may enter on the premises to remove or abate the nuisance. The

County shall have a lien against the property for the reasonable value of labor and materials used in removing/abating the nuisance. The affidavit of the County Attorney shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to KRS 381.770 and this section, and shall be recorded in the Office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the rate established by the County thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, city and school board taxes, and may be enforced by judicial proceeding. In addition to this remedy or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this Section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges; and the County may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

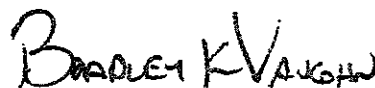
SECTION 5. NUISANCE CREATED BY OTHERS.

For the purpose of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

SECTION 6. PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined no less than \$25.00 and not more than \$500.00 for each offense. Each day's continued violation shall constitute a separate offense.

Submitted:



Bradley K. Vaughn
Harrison County Attorney

GIVEN FIRST READING AND APPROVAL BY THE FISCAL COURT OF HARRISON COUNTY, KENTUCKY AT A REGULAR MEETING ON THE 26th DAY OF Aug, 2014.

GIVEN SECOND READING AND ADOPTED BY THE FISCAL COURT OF HARRISON COUNTY, KENTUCKY AT A REGULAR MEETING ON THE 9th DAY OF Sept, 2014, AND ON THE SAME OCCASION, SIGNED IN OPEN SESSION BY THE COUNTY JUDGE-EXECUTIVE AS EVIDENCE OF ITS APPROVAL.