

MADISON COUNTY ORDINANCE # 84-13.

AN ORDINANCE to repeal Ordinance 84-10 and adopt a revised ordinance relating to the removal of trees and bushes which obstruct the Madison County roads and right of ways.

WHEREAS the County of Madison pursuant to KRS 67.083 has the duty to provide for the county streets, roads and bridges and the duty to maintain same through enforcement of traffic regulations:

WHEREAS the Madison County Fiscal Court has the duty to provide legislation for the health, welfare and safety of the residents of Madison County:

WHEREAS Madison County Fiscal Court has the duty to seek abatement of public nuisances:

WHEREAS throughout the county there are county roads which have abutting land owners that permit bushes, trees, and tree limbs to obstruct the safe use of Madison County roads and right of ways, and:

WHEREAS the Madison Fiscal Court which is to take measures to prevent such safety hazards and public nuisances.

NOW THEREFORE BE IT ORDAINED BY THE MADISON COUNTY FISCAL COURT OF THE COMMONWEALTH OF KENTUCKY:

Section #1 Duties of abutting land owner

Property owners and managers shall keep their trees, bushes, weeds and overhanging limbs trimmed in such a manner as to permit safe use of the county roads.

Section #2 Duties of the County Judge Executive and Madison County Road Supervisor

It shall be the duty of the County Judge Executive of Madison County and the Madison County Road Supervisor to inspect Madison County roads and determine whether or not trees, bushes, weeds, and overhanging limbs of abutting landowners obstruct safe passage of the Madison County roads and right of ways. It is also the duty of the County Judge Executive to seek enforcement and successful prosecution of violations of this ordinance.

Section #3 Duty to give notice

Upon the Madison County Judge Executive or Madison County Road Supervisor determining that any trees, bushes, weeds, and overhanging limbs in any way impedes or interferes with traffic or travel on the Madison County Roads or right of ways, then they shall give the abutting land owner ten (10) days notice to remove or correct such obstructions or submit a plan for removal or correction of such obstructions which is acceptable to the County Fiscal Court of Madison County.

Section #4 Penalties

While the two ordinances and KRS 179.220 and 179.240 present no general conflict, Ordinance 84-10 fixes a penalty of ten dollars (\$10) to fifty dollars (\$50), while KRS 179.990(2), dealing with the same subject matter as dealt with in KRS 179.220, fixes a penalty of twenty dollars (\$20) to fifty dollars (\$50). Section 168 of the Kentucky Constitution provides that no municipal ordinance shall fix a penalty for a violation thereof at less than that imposed by statute for the same offense. See Newport v. Nier, Ky., 239 S.W.2d 491 (1951). Thus Ordinance 84-10 is unconstitutional, to that extent, since the ordinance prescribes a lesser penalty than that prescribed by statute.

Approved by the Fiscal Court this _____ day of _____ 19__

Dated _____

MOTION TO ADOPT Darrell Wells DARRELL WELLS

SECONDED BY Larry Combs EDWARD CHENAULT

VOTE:

FIRST READING	SECOND READING
<u>Nov. 19, 1984</u>	_____
FARRIS PARKS <u>YES</u>	<u>YES</u>
LARRY COMBS <u>YES</u>	<u>ABSENT</u>
DARRELL WELLS <u>YES</u>	<u>YES</u>
EDWARD CHENAULT <u>YES</u>	<u>YES</u>
HAROLD BOTNER <u>YES</u>	<u>YES</u>

FISCAL COURT OF MADISON COUNTY

BY: _____
CLERK