

ORDINANCE NO. #00-40

AN ORDINANCE RELATING TO THE ABATEMENT OF NUISANCES IN THE UNINCORPORATED AREAS OF MADISON COUNTY, KENTUCKY

WHEREAS, the Madison County Fiscal Court has the authority pursuant to KRS 67.083(3)(a), to enact ordinances to cause the abatement of nuisances; and,

WHEREAS, there exists in areas of the unincorporated areas of Madison County, Kentucky, properties whose condition or use causes or tends to cause substantial diminishing of the value of residential or commercial properties or tends to render such properties as dangerous or detrimental or adverse to the health and welfare of the residents of Madison County, Kentucky;

WHEREAS, only property zoned commercial or residential is covered by this ordinance;

NOW, THEREFORE, be it ordained by the Fiscal Court of the County of Madison, Commonwealth of Kentucky, as follows:

I PROHIBITIONS:

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such persons are located.

II DEFINITIONS:

For the purpose of this Ordinance "nuisance" is defined as follows:

- 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 as required by KRS 224. And Ordinance 91-01.
- 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) 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 county 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.

- d) Maintaining or tolerating open cisterns, pools, 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 or county at large.
- e) Outside open toilets or direct discharge where sewer facilities are available; or where 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.
- f) Materials used to fill vacant or undeveloped land shall consist of dirt, sand, rock, stone, gravel only; materials that qualify as beneficial reuse.
- g)
 - 1) All and any dirt, earth or debris within the county shall be kept and/or transported in such manner that it will not wash, drain, be tracked, spilled, or otherwise caused to enter and be deposited in or upon the streets, sanitary sewers, storm sewers and/or other drainage facilities in the county.
 - 2) Any person who displaces or relocates or causes to be displaced or relocated any dirt, earth 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 the streets, sanitary sewers, storm sewers and/or other drainage facilities in the county, shall forthwith remove and relocate said dirt, earth or debris, to a safe location and shall clean up or cause to be cleaned up any dirt, 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 relocate any dirt, earth or debris in the manner described in this section.
- h) It shall be unlawful and a nuisance for any person owning, occupying or having control or management of any residential and commercial land, excluding farms, within the county thereof to

permit the over growth thereon of weeds or grass or the growth of weeds such as jimson, burdock, ragweed, thistle, cocklebur, poison ivy, or poison oak.

- i) It shall be unlawful and a nuisance for any person or business to leave, place, dump or throw dead leaves or grass, trash, cans, weeds, glass, concrete pour-outs, garbage or refuse of any kind on the streets or other public places of the county.
- j) Except as falls under **National Resources and Environmental Cabinet Jurisdiction** (see definition on page 5): Storage of any stripped, partially dismantled, wrecked, junked or abandoned motor vehicle, or any motor vehicle, or any motor vehicle which cannot be safely operated upon the public ways, and of any other vehicles, tires, machinery, implements and/or equipment, such as but not limited to, refrigerators, television sets, cooking ranges, other major appliances or major items of furniture, and other personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, which could include, mobile/manufactured homes, buses, and/or motor homes, which hereinafter are collectively described as "said personalty," 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) within the corporate limits of the county 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 an 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.
- k) Emission of continual noise, which is noxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.

III NOTIFICATION OF NUISANCE:

- a) Only those persons whose property is adversely affected by an alleged nuisance will be permitted to file a nuisance complaint.
- b) All complaints regarding potential nuisance situations shall be in writing and must be signed and dated by the complainant. The complaint shall list the address of the property, property owner's name (if known),

nature of the complaint and how this condition affects the complainant's property in an adverse manner.

IV ABATEMENT & ENFORCEMENT OF NUISANCES:

- a) The owner shall abate said nuisance by the prompt removal or storage in a suitable enclosure of said personalty.
- b) The Madison County Solid Waste Coordinator is primarily responsible for enforcing this Ordinance, along with the Madison County Planning and Development Office. They shall inspect property within the county for the existence of nuisances defined herein. Upon discovery of a nuisance he shall give to the owner of the property as it appears on the tax assessment roll, thirty (30) days written notice to remedy the situation*. (*A situation may be looked at on a case-by-case review and may require additional time to remedy as determined by the compliance officer). After the expiration of such thirty (30) day period, the compliance officer shall have delivered to the property owner by the Madison County Attorney, a final two (2) days notice that if the nuisance is not abated, the county will commence abatement of the nuisance pursuant to item C as stated below.
- c) Upon the failure of the owner of the property upon which a nuisance exists to comply with the above Order, the Solid Waste Coordinator is authorized to send County Employees or a Private Contractor upon said property to remedy the situation. If such action becomes necessary, a fee shall be assessed to the property owner in the form of a lien against said property. A statement of said lien shall contain a legal description of the premises, the expenses, fees, and costs incurred, the date the nuisance was abated, and a notice that the county claims a lien for the stated amount. Notice of the lien shall be mailed to the record owner of the premises. Failure to record the statement of lien, or the failure of the owner to receive notice of the lien shall not affect the right to foreclose on the lien as provided herein. Property subject to a lien may be sold for nonpayment. The proceeds of the sale shall be applied to pay the charges after deducting costs, as in the case of foreclosing upon statutory liens. A foreclosure action shall be an equitable action commenced in the name of the county.

V PENALTIES

- a) In addition to the civil abatement procedures described herein, anyone who fails to abate a nuisance on his/her premises shall be

criminal prosecution in the Madison District Court and shall be fined no less than \$10.00 nor more than \$100.00 for each offense of failing to abate the nuisance. Each day's continued violation of this ordinance shall constitute a separate offense.

VI DISPUTE RESOLUTION; GRIEVANCE COMMITTEE

- a) Any dispute arising may be submitted to a grievance committee, whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity first giving rise to the controversy, or of the date a party became aware of the occurrence.
- b) The grievance committee shall be composed of three (3) members. Those members shall be:
 - 1) The Magistrate where the alleged offense took place
 - 2) A county Health Department representative appointed by the County Judge Executive
 - 3) A citizen appointed by the County Judge Executive

Each Section of this Ordinance shall be considered severally, and the invalidity of any portion of it shall not affect the validity or enforcement of any other portion.

That the County Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statutes.

This Ordinance No. shall become effective on the date of the second reading and adoption.

National Resources and Environmental Cabinet Jurisdiction Definition:

Salvage Yard: Relates to the Transportation Cabinet's definition of "recycler" and is defined by KRS 177.905 as any place where 5 or more junked, wrecked, or non-operative automobiles, vehicles, machines, and other similar scrap or salvage materials, excluding inoperative farm equipment, are deposited, parked, placed, or otherwise located, or any business as defined in subsection (3) where 10 or more junked, wrecked, or non-operative automobiles, vehicles, machines, and other similar scrap or salvage materials, are deposited, parked, placed, or otherwise located.

DATE OF FIRST READING: December 12, 2000

MOTION BY: William Tudor

SECONDED BY: Forniss Park

VOTE:	YES	NO
JUDGE, KENT CLARK	✓	
MAGISTRATE LARRY COMBS	✓	
MAGISTRATE FORNISS PARKS	✓	
MAGISTRATE WILLIAM TUDOR	✓	
MAGISTRATE BILLY RAY HUGHES		✓

DATE OF SECOND READING: December 27, 2000

MOTION BY: William Tudor

SECONDED BY: Forniss Park

VOTE:	YES	NO
JUDGE, KENT CLARK	✓	
MAGISTRATE LARRY COMBS	absent	
MAGISTRATE FORNISS PARKS	✓	
MAGISTRATE WILLIAM TUDOR	✓	
MAGISTRATE BILLY RAY HUGHES		✓

Kent Clark

 MADISON COUNTY JUDGE EXECUTIVE

Attest: Mary Jane Winter

 MADISON COUNTY CLERK

12/5/2000