

## CHAPTER 91: NUISANCES

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### § 91.01 GENERAL.

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 chapter within the territorial jurisdiction of Shelby County. (Ord. 03-17-09, passed 3-17-2009)

### § 91.02 DEFINITIONS.

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

**ABANDONED MOTOR VEHICLES.** Any motor vehicles, or parts from motor vehicles, which are left on public or private property within an area of high population density under circumstances indicating a desertion, relinquishment, non-use, or divestment of the vehicle.

**ACCESSORY BUILDING.** Any building other than a dwelling.

**AREA OF HIGH POPULATION DENSITY.** Any 1/2-mile area which contains 3 or more residences.

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**DWELLING.** Any building or part of a building or its premises used as a place of residence or habitation and/or sleeping by any person that is situated on 6 acres or less.

**GARBAGE.** Putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**LITTER.** Rubbish, refuse, waste material, offal, paper, glass cans, bottles, trash, debris or any foreign substance of whatever kind or description whether or not it is of value which is not contained or disposed of in accordance with this chapter or Shelby County Code of Ordinances Chapter 50: Solid Waste.

**NUISANCE.** Public nuisance or health hazard.

**OBNOXIOUS GROWTH.** Any plant growth exceeding 12 inches in height. This definition does not include crops, trees, bushes, flowers or other ornamental plants. Further, it is not the intent of this section to cause any change in the character of any geographical area or areas such as vacant farmland or undeveloped land of 6 acres or more.

**REFUSE.** All putrescible and non-putrescible solid waste (except body waste) including, but not limited to, garbage, rubbish, street cleanings, dead animals, abandoned motor vehicles, machines, or other similar scrap or salvage materials or industrial wastes.

**UNFIT FOR HUMAN HABITATION.** Dangerous or detrimental to life or health due to want or lack of repair, defects in drainage systems, sewage systems, plumbing systems, or due to lighting, ventilation or construction deficiencies, or due to infection with contagious disease, infestation with vermin, rodents or insects, or due to the existence of unsanitary conditions likely to cause sickness among occupants of the dwelling or adjoining properties.  
(Ord. 03-17-09, passed 3-17-2009)

**§ 91.03 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 provided in this chapter or in accordance with any other provision of law.  
(Ord. 03-17-09, passed 3-17-2009)

**§ 91.04 CERTAIN CONDITIONS DECLARED NUISANCES.**

(A) The following conditions are declared to be public nuisances:

(1) *Unfit dwellings*. Dwellings that are unfit for human habitation which are visible from any public roadway.

(2) *Dilapidated buildings*. Any dwelling, accessory building, house or other structure visible from any public roadway that is so out of repair and dilapidated such that it constitutes a fire hazard or such that it is liable to 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. This section does not apply to accessory buildings that are used for agricultural purposes.

(3) *Accumulation of rubbish*. An accumulation or dumping on any premises of garbage, litter, refuse 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 said material catching or communicating fire, or of said material attracting or propagating vermin, rodents, or insects or of said material blowing into any highway, road, street, sidewalk or adjoining property.

(4) *Abandoned vehicles*. The parking or storage of abandoned motor vehicles, as defined herein, or any other junked, inoperative, partially dismantled or wrecked automobiles, vehicles, machines, or similar scrap or salvage materials, excluding inoperative farm equipment, on any private or public property within an area of high population density for a period of time which exceeds 30 days except as otherwise permitted or authorized by law. This provision includes refrigerators, stoves, washers, dryers or any other machine or appliance or scrap or salvage materials except as may be otherwise permitted or authorized by law.

(5) *Obnoxious growth*. Any parcel of land consisting of 6 acres or less containing obnoxious growth.

(6) *Endangerment*. Any condition that endangers public health or that creates or causes a health hazard.

(B) It shall be unlawful for any owner, occupant, or person having control or management of any land covered under this chapter to permit a public nuisance or health hazard to develop thereon or to fail or refuse to correct and remedy a public nuisance or health hazard that may exist on any land that they may own, occupy, control or manage.

(C) It shall be unlawful for any person, business or organization to place, leave, dump or accumulate any garbage, refuse or liter on any property or in any building subject to this chapter so to cause, allow or afford harborage for vermin, rodents, or insects, or which creates a health hazard or public nuisance.

(D) No person, business or organization shall operate or cause to be operated any automobile, vehicle, machinery or material recycling establishment, scrap or salvage operation, or any other place of business that fails to comply with all Shelby County Zoning Regulations and all Kentucky Revised Statutes including KRS 177.910.

(Ord. 03-17-09, passed 3-17-2009) Penalty, see § 91.99

#### **§ 91.05 MAINTAINING PREMISES FREE OF NUISANCE.**

(A) The maintenance of a litter-free environment at all construction and demolition sites shall be the responsibility of the owner(s), contractor(s) and subcontractor(s) thereof.

(B) All owners and lessees of loading and unloading docks shall maintain those docks so as to prevent the accumulation and circulation into the environment of refuse, garbage and litter.

(C) All owners and tenants of private dwellings shall maintain those premises so as to prevent the accumulation and circulation into the environment of refuse, garbage and litter as well as the accumulation of obnoxious growth.

(D) All owners and tenants of vacant lots shall maintain the premises so as to prevent the accumulation and circulation into the environment of refuse, garbage and litter as well as the accumulation of obnoxious growth.

(E) All owners and tenants of public and private parking lots shall maintain the premises so as to prevent the accumulation and circulation into the environment of refuse, garbage and litter as well as the accumulation of obnoxious growth.

(Ord. 03-17-09, passed 3-17-2009)

#### **§ 91.06 ABATEMENT PROCEDURE.**

In addition to any other remedies or penalties available under the law, the following procedures may be utilized for the abatement of nuisances.

(A) The Director of the Shelby County Clean Community Program, or any other personnel so designated by Shelby Fiscal Court, shall be responsible for serving notice upon the owner, occupant and/or person having control or management of any land subject to the provisions of this chapter of any violation or violations of the provisions of this chapter and to demand that the violation or violations be abated within 7 days of said service unless the violation constitutes an immediate danger to the health or well being of the community.

(1) In the event that the violation or violations constitutes an immediate danger to the health or well being of the community, the demand for abatement shall require that the violation or violations be abated within 24 hours of said service.

(2) Notice shall be served by personal service or certified mail. However, if the address of the owner, occupant and/or person having control or management of the subject property cannot be ascertained in the exercise of reasonable diligence, director of the Shelby County Clean Community Program or other designated personnel shall make an affidavit to that effect and service may be made by publication in a newspaper of general circulation for 2 consecutive publications. In addition to newspaper publication, a copy of the notice shall be posted in a conspicuous place on the subject premises.

(B) In the event that the owner, occupant and/or person having control or management of the subject property fails to abate any violation or violations within the time periods contained herein, the county may, but is not so required, proceed to abate the violation.

(1) The county may utilize independent contractors to assist in abating any violations of this chapter.

(2) Any person or persons utilized by the county to abate any violation of this chapter shall have full access to the subject property with all necessary personnel, machinery and equipment.

(3) The county shall keep records detailing all costs incurred in order to abate the nuisance with the owner, occupant and/or person having control or management of the subject property being responsible to the county for those costs.

(C) In the event that the county abates any violation or violations of the provisions of this chapter, the county shall obtain a lien upon the subject property for all costs and expenses incurred as a result thereof including, but not limited to, all costs for labor, equipment, fuel, oil, attorney's fees, fling fees, publication fees, court costs and any other costs expenses incurred in the enforcement of the lien and any foreclosure action resulting there from.

(D) In the event that the owner, occupant and/or person having control or management of property subject to a lien pursuant to this chapter fails to reimburse the county of all costs and expenses incurred by the county in abating a violation or violations within 60 days of the violation having been abated, the county or its designated representative may file a statement of lien claim with the Shelby County Clerk.

(1) The statement of lien claim shall contain the legal description for the subject property, the amount of the costs and expenses incurred by the county related to the abatement of the violation as of the date of filing, the lien amount claimed by the county, and the date that the nuisance was abated.

(2) Notice of the statement of lien claim shall be mailed to the owner, occupant, and/or person having control or management of the property subject to the lien if that person or persons' address is known.

(3) Failure to record the notice of lien statement or to mail said notice to the owner, occupant, and/or person having control or management of the property subject to the lien, or the failure of the

owner, occupant, and/or person having control or management of the property subject to the lien shall not affect the county's right to proceed with a foreclosure action.

(E) All property subject to a lien for unpaid nuisance abatement expenses and costs shall be sold for nonpayment and the proceeds from such sale shall be applied to pay all costs and expenses incurred by the county in abating said nuisance after deducting costs. All foreclosure actions brought pursuant to this chapter shall be in equity and in the name of the county.

(Ord. 03-17-09, passed 3-17-2009)

#### **§ 91.07 NUISANCES CREATED BY OTHERS.**

The provisions of this chapter shall not apply to the owner, occupant and/or person having control or management of any property subject hereto if that person or persons did not cause, create or allow to be caused or created the violation or violations in question to the extent that they may be prosecuted criminally hereunder. This section does not, however, relieve any such owner, occupant and/or person having control or management of any subject property from the provisions herein addressing nuisance abatement.

(Ord. 03-17-09, passed 3-17-2009)

#### **§ 91.08 EFFECTIVE DATE.**

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

(Ord. 03-17-09, passed 3-17-2009)

#### **§ 91.99 PENALTY.**

In addition to any other remedy provided in this chapter or under any other applicable law, any person or persons violating any provision of this chapter shall be guilty of a class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed \$500 or be imprisoned for a period not to exceed 12 months, or both so fined and imprisoned. Each day's continued violation shall constitute a separate offense.

(Ord. 03-17-09, passed 3-17-2009)