

COMMONWEALTH OF KENTUCKY
SHELBY COUNTY FISCAL COURT
ORDINANCE NO. 07-20-05, SERIES 2021

**AN ORDINANCE REPEALING SHELBY COUNTY CODE OF ORDINANCES
CHAPTER 91: NUISANCES, AND SIMULTANEOUSLY ENACTING A NEW
ORDINANCE ADDRESSING NUISANCES IN SHELBY COUNTY, KENTUCKY**

WHEREAS, Shelby County, Kentucky, through the Shelby County Fiscal Court, has previously adopted ordinances addressing nuisances in Shelby County, Kentucky, and

WHEREAS, Shelby County, Kentucky, through the Shelby County Fiscal Court, codified that ordinance in the Shelby County Code of Ordinances, Chapter 91 Nuisances, and

WHEREAS, Shelby County, Kentucky, through the Shelby County Fiscal Court, has reviewed that Ordinance and, based upon that review, now wishes to repeal said ordinance and simultaneously enact a new ordinance addressing nuisances in Shelby County, Kentucky,

THEREFORE, BE IT ORDAINED by Shelby County, Kentucky, through the Shelby Fiscal Court, as follows:

1. Shelby County Code of Ordinances Chapter 91 Nuisances, as previously codified, is hereby repealed.
2. Shelby County, Kentucky, through the Shelby County Fiscal Court, hereby simultaneously adopts a new ordinance addressing nuisances as follows:

SECTION 1: GENERAL

The Shelby County Fiscal Court does hereby establish the following reasonable standards, procedures and penalties for the enforcement of KRS 65.8840 as it relates to unincorporated areas, or any municipality without a nuisance chapter within the territorial jurisdiction of Shelby County.

SECTION 2: DEFINITIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. Code Enforcement Board: The administrative body established by Shelby County Fiscal Court in Ordinance No. 12-1-08, Series 2020, Creating the Shelby County Code Enforcement Board under the authority of KRS 65.8801 to 65.8839.

B. Code Enforcement Officer: A police officer, safety officer, citation officer, sheriff, deputy sheriff or other public law enforcement officer with the authority to issue a citation. If a citation officer, the code enforcement officer shall not have the powers of sworn peace officers to make arrests or carry deadly weapons but may issue citations authorized in accordance with any local government ordinance and KRS 431.005. Citation officers shall carry photo identification denoting them to be Shelby County code enforcement officers and shall identify themselves as such whenever carrying out their duties in accordance with any local government ordinance. In addition to citation officers appointed by the Shelby County code enforcement board, the county judge/executive, with the approval of fiscal court, may appoint as citation officers for the purpose of carrying out the provisions of this ordinance the following county employees to serve as citation officers: The director of Shelby County Clean Community, county building inspectors, the county road supervisor, and any employee of the planning and zoning commission.

C. Imminent danger: Means a condition which is likely to cause serious or life-threatening injury or death at any time.

D. Abatement costs: Shelby County government's necessary and reasonable costs for and associated with cleaning, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve public health, safety and welfare in accordance with any local government ordinance.

E. Owner: A person, association, corporation, partnership, or other legal entity having a legal or equitable title to real property.

F. Premises: A lot, plot, or parcel of land, including structures upon it.

G. Ordinary Public View: Means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property.

H. Automobile Collector: Means a person who collects and restores motor vehicles.

I. Parts car: Means an automobile that is not intended to be operated along streets and roads but is used to provide parts for the restoration of other automobiles.

J. Final Order: Any order:

(1) Issued by the Shelby County Code Enforcement Board;

SHELBY COUNTY
O2019 PG645

(2) Created because a violator neither paid nor contested a citation issued by code enforcement officer within seven (7) days as provided in the Ordinance No. 12-1-08, Series 2020, Shelby County Code Enforcement Board;

(3) Created because of a failure of a violator to appear at a hearing the violator requested to contest a citation as provided in Ordinance No. 12-1-08, Series 2020, Shelby County Code Enforcement Board.

SECTION 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 Kentucky statutes 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.

SECTION 4: MAINTAINING PREMISES FREE OF NUISANCE

A. Except as provided herein, it shall be unlawful for the owner, occupant, or person having control or management of any premises subject to this ordinance to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of:

(1) Junked, inoperative or wrecked automobiles, vehicles, machines or similar scrap or salvage materials, excluding inoperative farm equipment;

(2) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited;

(3) Rubbish, garbage, litter, refuse or other waste material including but not limited to putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, offal, paper, glass, cans, bottles, trash, debris or other foreign substance;

(4) The excessive growth of weeds or grass in excess of twelve (12) inches but not including crops, trees, bushes, flowers or other ornamental plants.

B. The provisions of subsection A.(1) of this section shall not apply to:

(1) Junked, inoperative or wrecked automobiles, vehicles, machines or similar scrap or salvage materials located on the business premises of a:

(a) Licensed automotive recycling dealer as described in KRS 190.010(8);

(b) Used motor vehicle dealer as defined in KRS 190.010(6): or

SHELBY COUNTY
O2019 PG646

(c) Motor vehicle auction dealer as defined in KRS 190.010(11);

(2) Junked, inoperative or wrecked motor vehicles, including parts cars, stored on private premises by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means; and

(3) Any motor vehicle as defined in KRS 281.010 that is owned, controlled, operated, managed or leased by a motor carrier.

B. An owner, occupant or person having control or management of any premises shall not permit any structure upon said premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of property subject to this ordinance.

SECTION 5. ENFORCEMENT

A. Notwithstanding any other provisions of this ordinance or Ordinance No. 12-1-08, Series 2020, Shelby County Code Enforcement Board to the contrary, if the Code Enforcement Officer issues a Notice of Violation as authorized in Ordinance No. 12-1-08, Series 2020, the owner, operator or person having management or control of the premises, unless the violation poses an imminent danger as defined herein, shall have thirty (30) days from the date of the Notice of Violation to remedy said violation without penalty. This time period may, in the sole discretion of the code enforcement officer, and for good cause shown, be extended up to an additional thirty (30) days. If the violation poses an imminent danger, the owner, occupant or person having management or control of the premises shall only have twenty-four (24) hours from the date of the Notice of Violation to remedy the violation.

B. Any owner, occupant or person having management or control of a premises found in violation of this ordinance pursuant to a non-appealable final order issued by the code enforcement officer or the Shelby County Code Enforcement Board or a final court judgment pursuant to the procedures authorized by Ordinance No. 12-1-08, Series 2020, Shelby County Code Enforcement Board, shall be deemed to have committed a civil offense in conformity with KRS 65.8800, et seq.

C. In addition to all remedies prescribed herein and pursuant to any other Shelby County, Kentucky ordinances, Shelby County Fiscal Court may take any steps it deems necessary including, but not limited to, filing a civil action in Shelby Circuit Court seeking an injunction, mandamus, abatement or any other proceeding to prevent, enjoin, abate, remove or otherwise address any violation of this ordinance.

D. Any owner, occupant or person having control or management of a premises found to have committed a civil offense in violation of this ordinance pursuant

to a final order or a final court judgment shall be fined a not less than two hundred (\$200) dollars nor more than five hundred (\$500) dollars and shall pay all costs and expenses incurred by the county in pursuing and, if necessary, in remedying the violation. Provided, any such violator that does not contest a citation from a code enforcement officer, remedies the violation and pays the fine, shall be fined only one hundred (\$100) dollars.

E. In addition to all other remedies prescribed herein, Shelby County shall also have a lien as authorized in Ordinance No. 12-1-08, Series 2020, Shelby County Code Enforcement Board, for all civil fines assessed for the violation and all charges, fees and abatement costs incurred by Shelby County in connection with enforcement. Shelby County may bring a civil action against the violator and shall have the same remedies as provided for the recovery of a debt.

SECTION 6: ABATEMENT

A. In the event a violator fails to remedy a violation after receiving a "Notice of Violation" issued pursuant to Section 5A., supra, in a timely manner, the code enforcement officer shall issue a citation and seek a final order as authorized by Ordinance No. 12-1-08, Series 2020.

B. Upon the entry of a final order or a final court judgment, the county may, but is not required to remedy and abate the violation unless the violation constitutes an "imminent danger," as defined herein, in which case the county may take all reasonable steps that it deems necessary to remedy and abate the violation.

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

D. All persons utilized by the county to remedy and abate any violation of this chapter shall have full access to the subject property with all necessary personnel, machinery and equipment.

E. The county shall keep records of all costs incurred in remedying and abating all violations of this chapter which the violator will be responsible for reimbursing the county for those costs.

SECTION 7: AGRICULTURAL AND SILVICULTURAL OPERATIONS AND PERMISES ASSESSED AS AGRICULTURAL LAND FOR TAX PURPOSES

A. This ordinance does not apply to agricultural or silvicultural operations or any appurtenances when the operator of the agricultural or silvicultural operation utilizes normal and accepted practices in course of their agricultural or silvicultural operation. However, this section shall not apply if a violation of this ordinance results from the negligent operation of an agricultural or silvicultural operation or its appurtenances.

B. Pursuant to KRS 65.8840, the provisions of this ordinance shall not be enforced upon any premises situated in an unincorporated portion of the county that is assessed as agricultural land for tax purposes by the property valuation administrator.

SECTION 8: NUISANCES CREATED BY OTHERS

When the owner, occupant or person having control or management of any premises did not cause, create or allow to be caused or created a violation of this ordinance, the code enforcement officer shall issue a "Notice of Violation" as authorized herein initially in order to allow the owner, occupant or person having control or management of the premises an opportunity to remedy or abate the violation. In the event that the owner, operator or person having control or management of the premises fails to remedy or abate the violation, the code enforcement officer shall proceed as authorized herein.

SECTION 9: SEVERABILITY

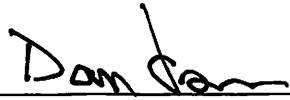
If any part of this ordinance is held invalid, that part shall be deemed severable, and the invalidity thereof shall not affect the remaining parts of this chapter.

SECTION 10: EFFECTIVE DATE

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

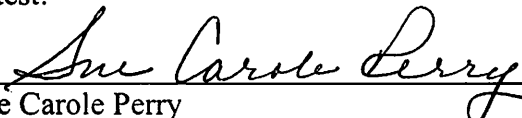
INTRODUCED, SECONDED AND GIVEN A FIRST READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 6th day of July, 2021.

INTRODUCED, SECONDED AND GIVEN A SECOND READING AND APPROVAL at a duly convened meeting of the Shelby County Fiscal Court held on the 7th day of July, 2021.



Dan Ison
Shelby County Judge/Executive

Attest:



Sue Carole Perry
Shelby County Clerk

05/06/2021