

**CITY OF WILLIAMSTOWN, KENTUCKY
ORDINANCE NO. 2011-16**

AN ORDINANCE OF THE CITY OF WILLIAMSTOWN, KENTUCKY AMENDING ORDINANCE NO. 1994-04 AND CHAPTER 92, ARTICLES 92.07 PROVIDING WHAT MAY CONSTITUTE NUISANCES AND PROVIDE A METHOD FOR ABATING SUCH NUISANCES AND PROVIDING FOR CITY COSTS FOR ABATING NUISANCES ON PRIVATE PROPERTY TO APPEAR AS A LIEN AND REQUIRE PAYMENT FOR NUISANCE ABATEMENT ON CITY UTILITY BILLS AS TO THE PROPERTY OWNER.

BE IT ORDAINED BY THE CITY OF WILLIAMSTOWN IN GRANT COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

Ordinance No. 1994-04 and Chapter 92, particularly 92.01 through 92.07 are hereby amended with the words and members being added indicated by being underlined and deletions by being struck through as required by KRS 83 A.060(3), and the changes shall be incorporated into the Williamstown Code of Ordinances.

SECTION II

1. Definitions.

For the purpose of this section 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 consecutive days.

“MOTOR VEHICLE.” Any style or type of motor driven vehicle used for the conveyance of persons or property.

“NUISANCE.” Public nuisance.

“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 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.

“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 an unsanitary condition likely to cause sickness among occupants of the dwelling.

2. Common Law and Statutory Nuisance.

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 Penalty.

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 city to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

(A) Dwellings unfit for human habitation. The erection, use, or maintenance of a dwelling which is unfit for human habitation.

(B) Dangerous buildings adjoining streets. Any building, house, or structure so out of repair and dilapidated 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 using or being upon the streets or public way of the city adjoining the premises, by reason of the collapse of the building, house, or structure or by the falling of parts thereof or of objects therefrom.

(C) Dangerous trees or stumps adjoining street. Any tree, stump, 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.

(D) Dilapidated buildings. Any building, house, or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to health, welfare, or safety, or materially interfere with the peaceful enjoyment by owners or occupants of adjacent property.

(E) 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 of its catching or communicating fire, its attracting and propagating

vermin, rodents, or insects, or its blowing of rubbish into any street, sidewalk, or property of another.

(F) Noxious odors or smoke. Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(G) Noise. Emission of 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.

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

(I) Weeds. The existence of thistles, burdock, jimson weeds, ragweeds, milkweeds, poison ivy, poison oak, iron weeds, and all other noxious weeds and rank vegetation in excess of a height of 12 inches.

(J) 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.

(K) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than 8 feet over sidewalks, or the growing and maintenance of shrubbery in excess of 3 feet in height within the radius of 20 feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line and the property line of any street within a radius of 20 feet from the point where the curb line out of any street intersects with the curb line of another street.

(L) Keeping of animals. The keeping of cattle or poultry within 50 feet or of hogs and goats within 200 feet of a dwelling other than the dwelling of the owner of the animal, or failure to keep the animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors.

(M) Junk; scrap metal; motor vehicles. The storage of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts, or scrap metal within the city limits except on premises authorized by the city for such purposes.

4. Abatement Procedure.

(A) It shall be the duty of the City Administrative Officer or other responsible officer designated by the legislative body to serve or cause to be served a notice upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance within five days unless the nuisance constitutes an immediate danger to the health and well being of the community. If

such danger is present, the nuisance shall be abated within 24 hours of notice. Notice shall be served upon persons by certified mail, but if the whereabouts of the persons is unknown and cannot be ascertained by the Director in the exercise of reasonable diligence, the Director shall make an affidavit to that effect, and the serving of notice may be made by publication in a newspaper of general circulation for two consecutive days. A copy of the notice shall be posted in a conspicuous place on the premises affected by the notice and it shall be recorded in the office of the County Clerk.

(B) If the person so served does not abate the nuisance within five days, the city by proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged and paid by the owner or occupant.

(C) Charges for nuisance abatement shall be a lien upon the premises. Whenever a bill for charges remains unpaid for 60 days after it has been rendered, the City Clerk/Treasurer may file with the County Clerk a statement of lien claims. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the city claims a lien for this amount. Notice of the lien claim shall be mailed to the owner of the premises if his address is known. However, failure to record the lien claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges as provided in division (d) below.

(D) Property subject to a lien for unpaid nuisance abatement charges shall be sold for nonpayment and the proceeds of the sale shall be applied to pay the charges after deducting costs, as if the case in the foreclosure of statutory liens. This foreclosure shall be in equity in the name of the city.

(E) In the alternative, the city may cause costs and expenses for unpaid nuisance abatement charges to appear on city utility bills and shall be cause to terminate city utility services if said costs are not paid or abated within 60 days of the city incurring said costs and they remain unpaid.

(F) The City Attorney is authorized and directed to institute such proceedings, in the name of the city, in any county having jurisdiction over the matter, against any property for which the bill has remained unpaid 60 days after it has been rendered.

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 be 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.

6. Suspension of License

(A) Whenever it is brought to the attention of the legislative body that a nuisance exists and the legislative body deems that there is an immediate threat to the public health, safety, welfare, the legislative body may by majority vote suspend the license of any person conducting business upon the premises where the nuisance exists.

(B) The Clerk/Treasurer shall cause notice of the suspension to be served personally upon the licensee or at the premises where the nuisance exists.

(C) Upon application of the licensee, the legislative body may remove the suspension upon such terms as it may direct.

7. Abatement of Nuisances.

At the direction of the Mayor and/or City Administrator, the City Attorney is authorized and directed to institute on behalf of the city common law nuisance abatement actions against any person or properties which the city has determined to constitute a nuisance, or the City Attorney may institute on behalf of the city a declaratory judgment action for determination of whether or not a nuisance exists and the methods by which the city may abate such nuisance.

SECTION III

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

SECTION IV

All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION V

This ordinance shall be effective as soon as possible according to law.

SECTION VI

This ordinance shall be published in summary pursuant to K.R.S. 83A.060(9).

Rick Skinner, Mayor
City of Williamstown, Kentucky

ATTEST:

Vivian Link, City Clerk/Treasurer

2011-16

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Second Reading: 07/19/11

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