

**COMMONWEALTH OF KENTUCKY
SIMPSON COUNTY FISCAL COURT
ORDINANCE NO. 1010.1**

**AN ORDINANCE RELATING TO THE REGULATION OF NUISANCES IN
SIMPSON COUNTY PURSUANT TO THE AUTHORITY IN KRS 381.770**

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF SIMPSON, COMMONWEALTH OF KENTUCKY, after the passage, approval, and publication of this ordinance as follows:

1. General.

That the Simpson 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 within the territorial jurisdiction of Simpson County.

2. Definitions.

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

A. "Abandoned Vehicles" means any vehicles or parts thereof left on public or private property within an area of high population density under circumstances indicating a desertion, relinquishment, nonuse, or divestment of the vehicle.

B. "Accessory Building" means any buildings other than a dwelling.

C. "Area Of High Population Density" means any one half (1/2) mile area which contains three (3) or more residences.

D. "Discarded Items" means and includes, but is not limited to, items for or used in recycling, motor vehicle parts, tires, boats, home appliances and furniture in a dilapidated or apparently inoperable condition and left in open storage or discarded on private property for more than three (3) consecutive days. This definition shall not apply to the following:

(1) Any discarded item or part thereof which is enclosed within a building, such as a garage or other fully enclosed accessory building.

(2) Any discarded item not visible from an adjacent or abutting property owner, street, road, or public park.

(3) Any discarded item stored on private property in a lawful manner in connection with the licensed business of auto body, auto repair, dismantler, vehicle dealer, and junk or salvage yard, provided that outside storage of discarded items be within a privacy fence or dumpster area and not on the grass, or yard.

(4) The preceding exceptions shall not authorize the maintenance of a public or private nuisance as defined by law.

E. "Dwelling" means any part of any building or its premises used as a place of residence or habitation or for sleeping by any person located on 5 acres or less.

F. "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

G. "Litter" means refuse which is not contained or disposed of in accordance with the provisions of this Act.

H. "Nuisance" means Public Nuisance.

I. "Obnoxious Growth" means any plant growth exceeding 12 inches in height, other than crops, trees, bushes, flowers or other ornamental plants; it is not the intent of this provision to cause a change in the character of any geographical area(s), e.g. (vacant) farm or undeveloped land of 5 acres or more.

J. "Refuse" means all putrescible and non-putrescible solid waste (except body waste) including, but not limited to, garbage, rubbish, street cleanings, dead animals, abandoned vehicles and industrial wastes.

K. "Unfit for Human Habitation" means 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 or adjoining properties.

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 statutes of Kentucky 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.

4. Certain Conditions Declared a Nuisance.

It shall be unlawful for the owner, occupant, or person having control or management of any land in unincorporated areas within the territorial jurisdiction of Simpson County to permit a public nuisance or health hazard to develop thereon. The following conditions are declared to be public nuisances:

(A) Dwellings unfit for human habitation that are visible from a county, state, federal or public roadway.

(B) Dilapidated buildings. Any accessory building, house or structure visible from a county, state, federal or public roadway 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 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. Accessory buildings currently being used for agricultural purposes are specifically excluded from this provision.

(C) Accumulation of rubbish. An accumulation or dumping 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 highway, road, street, sidewalk or property of another.

(D) The parking, storage, or abandonment of any kind of motor vehicle on any private or public property within an area of high population density for a period of time in excess of thirty (30) days which is rusted, wrecked, junked, partially dismantled, or inoperative, or in an abandoned condition, whether attended or not, except on premises authorized by the County for such purposes. This section shall not apply to abandoned vehicles in an enclosed building.

(E) For any owners, lessee, or occupant having control of any dwelling, vacant lots, and all public and private parking lots to maintain or permit the maintenance of obnoxious growth.

(F) Any condition which endangers public health.

(G) The Fiscal Court finds that the practice of allowing discarded items to remain on private property constitutes a detriment to the welfare and convenience of the residents of the county, and affects the economic development of the county. Therefore, it is the public policy of this county to prohibit the keeping of discarded items on private property within the unincorporated limits of the county, and such discarded items are hereby declared to be public nuisances.

(5) Abatement Procedure.

(A) It shall be the duty of the Sheriff, building inspector or other personnel designated by the Simpson Fiscal Court 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 Ordinance and to demand abatement of the nuisance within seven (7) 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 personal service or certified mail, but if the address of the persons is unknown and cannot be ascertained by the Sheriff or designated official in the exercise of reasonable diligence, the Sheriff or designated official 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 (2) consecutive publications. A copy of

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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 seven (7) days, the County may, but is not required to, proceed to abate the nuisance or the County may employ independent contractors to abate the nuisance. The person or persons employed to abate the nuisance shall have the full right of access to the property with such personnel, machinery and equipment as are necessary to abate the nuisance. The County shall keep a record of the costs incurred to abate the nuisance and said costs shall be charged to and paid by the owner and/or occupant.

(C) Charges for nuisance abatement shall be a lien on the premises. Nuisance abatement charges shall include labor, equipment usage, fuel and oil, attorney's fees, filing fees, publication cost, court costs, and all other fees and charges when incurred by the County for the abatement of the nuisance, enforcement of the lien and foreclosure on the property. Whenever a bill for charges remains unpaid for sixty (60) days after it has been rendered, the Fiscal Court or its designated representative may file with the County Clerk a statement of lien claim. 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 County 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 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 nuisance abatement charges and attorney's fees after deducting costs. This foreclosure shall be in equity in the name of the County.

(E) The County Attorney shall institute such proceedings, in the name of the County, in any court having jurisdiction over the matter, against any property for which the bill has remained unpaid sixty (60) days after it has been rendered.

6. Nuisance Created by Others.

The provisions of subsections 5A through 5E of this Ordinance shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons on the property.

7. Penalty.

Any person(s) violating any provision of this Ordinance shall be guilty of a Class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or be imprisoned for a period not to exceed twelve (12) months, or both so fined and imprisoned. Each day's continued violation shall constitute a separate offense.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

May 31, 2005 FIRST READING

June 21, 2005 SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Commonwealth of Kentucky held June 21, 2005, on motion made by Honorable Kelly Banton, and seconded by Honorable Larry Randolph, the foregoing ordinance was adopted, after full discussion, by the following vote:

Yes LARRY RANDOLPH

Yes KELLY BANTON

Absent KENNETH UTLEY

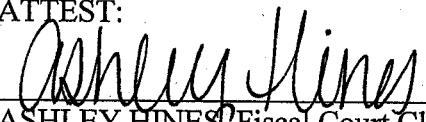
Absent CHARLES McCUTCHEN

APPROVED:

BY:


JIM HENDERSON, COUNTY JUDGE EXECUTIVE
COUNTY OF SIMPSON, COMMONWEALTH OF KENTUCKY

ATTEST:


ASHLEY HINES, Fiscal Court Clerk,
County of Simpson, Commonwealth of Kentucky

(COATTYORDINANCE.Nuisance Ordinance)