

ORDINANCE NO. 2, 2019

**AN ORDINANCE OF THE CITY OF CATLETTSBURG PROHIBITING  
NUISANCES WITHIN THE CITY AND CREATING A PENALTY FOR  
THE VIOLATION OF THE ORDINANCE.**

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**WHEREAS**, it is the desire of the City Council to prohibit nuisances within the City limits and to create a penalty for the violation of the Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF CATLETTSBURG, KENTUCKY;**

**SECTION ONE. DEFINITIONS .**

For the purpose of this Ordinance 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.

**SECTION TWO. 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 is provided in this chapter or in accordance with any other provision of law.

**SECTION THREE. 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 life, limb, or property, 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 objections therefrom.

(C) Dangerous trees or stacks adjoining street. Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger life, limb or property, 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 lack of adequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(E) Accumulation of rubbish. Any 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 that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow into any street, sidewalk, or onto the 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 comfort of human existence.

(H) Storage of explosives. The storage of explosive material which creates a safety hazard

to other property or persons in the vicinity.

(I) 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.

(J) Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of three feet in height within the radius of 20 feet from the point where the curb line of any street intersects with 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 of any street intersects with the curb line of another street.

(K) Keeping of animals. The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors.

(L) 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.

#### **SECTION FOUR. ABATEMENT PROCEDURE.**

(A) It shall be the duty of any City law or code enforcement officer 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 the abatement of the nuisance within ten (10) days, unless other time frame is set out in the Notice, unless the nuisance constitutes an immediate danger to the health and well-being of the community. If such danger is present, then the nuisance may be abated immediately by the City.

(1) Notice shall be served upon persons by certified mail, but if the whereabouts of the persons is unknown and cannot be ascertained by such law or code enforcement officer in the exercise of reasonable diligence, the law or code enforcement officer 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.

(2) If possible, 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 the ten (10) day period, the City may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged to and paid by the owner or occupant of the property in question.

The City may additionally cite the offender into Boyd District Court for a violation of this Ordinance subject to a fine set out in Section 8 hereafter.

(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 may file with the

County Clerk a statement of lien setting out the City's 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 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 on the lien for charges as provided in division (D) below.

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

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

**SECTION FIVE.     NUISANCE CREATED BY OTHERS.**

For the purposes of this Ordinance, 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 by licensees, invitees, guests, or other persons for whose conduct the owner, occupant or operator is responsible, or by persons for whose conduct the owner, occupant or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

**SECTION SIX.     SUSPENSION OF LICENSE.**

(A) Whenever it is brought to the attention of the City Council 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 City Clerk 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 City Council may remove the suspension upon such terms as it may direct.

**SECTION SEVEN.   WEEDS.**

(A) It shall be unlawful for any person, firm, or corporation to suffer or permit weeds and like vegetation to grow and mature upon their privately-owned property within the City. It shall be the duty of all property owners within the City, and they shall be required to cause such weeds and like vegetation that may grow upon their properties to be cut and removed at least once each month during the season between June 1 and October 15 in each year. However, any weeded area over ten inches high at any time of the year shall be in violation of this section.

(B) Should any owner of real estate located within the City fail or refuse to comply with the provisions of this section, after having been given ten days' notice in writing so to do, then, the City shall have the authority to enter upon such premises and cut and remove therefrom such weeds and vegetation, and the owners of such properties or real estate shall be required to pay the expense or costs thereof.

The cost of so cutting and removing of such weeds and vegetation shall, until paid by the owner of such property, be and constitute a lien against such real estate in favor of the City and may be enforced and collected by any appropriate process of law.

The City may additionally cite the offender into Boyd District Court for a violation of this Ordinance subject to a fine set out in Section 8 hereafter.

**SECTION EIGHT. PENALTY.**

Any person, business or entity that violates any of the provisions of this Ordinance shall, upon conviction, be fined not less than fifty dollars (\$50) nor more than any stated amount provided in KRS 534.040(c). Each day of violation after notification shall constitute a separate offense.

Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION NINE. FORCE & EFFECT.**

This Ordinance shall be in full force and effect from and after its adoption, re-adoption and publication, as required by law.

ATTEST:

  
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CITY CLERK

  
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MAYOR

ADOPTED BY THE CITY COUNCIL 1-15-19

RE-ADOPTED BY THE CITY COUNCIL 2-19-19

PUBLISHED 2-28-19