

## ORDINANCE NO. 2016-09

AN ORDINANCE PROHIBITING NUISANCE AND ABATEMENT OF ABANDONED PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF PIONEER VILLAGE, BULLITT COUNTY, KENTUCKY.

WHEREAS, the 2016 session of the Legislature of the Commonwealth Kentucky enacted a new statute that controls the ability and priority of a municipal corporation to enforce a local nuisance ordinance, and

WHEREAS, the City of Pioneer Village is required to change its existing Nuisance/Clean Up Ordinances to comply with this change in state law, and

WHEREAS, the City of Pioneer Village currently has and will have in the future real and personal property within its corporate limits that will constitute a nuisance or abandoned property as defined by Kentucky Statutes, and

WHEREAS, the City of Pioneer Village wishes to provide for the health, safety and welfare of both residents and non-residents; now, therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PIONEER VILLAGE, BULLITT COUNTY, KENTUCKY as follows:

### SECTION 1: Definitions

- (1) As used in this Ordinance the following terms shall mean:
- (a) "Automobile collector" means a person who collects and restores motor vehicles.
  - (b) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property, or visible from immediately adjoining real estate.
  - (c) "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.
  - (d) "Imminent danger" means a condition which could cause serious or life-threatening injury or death at any time.
  - (e) "Nuisance" - Public nuisance.
  - (f) "Private property" - Any real property in the city which is privately owned.
  - (g) "Public property" - Any real property to which the general public has a right to resort.
  - (h) "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.
  - (i) "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 the life, limb, or property of, or cause, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereon or on parts thereof.
  - (j) "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 that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

- (k) "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.
  - (l) "Storage of explosives" - The storage of explosive material, which creates a safety hazard to other property or persons in the vicinity.
  - (m) "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.
  - (n) "Open Wells" - The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises on any open or unfenced lot or place.
  - (o) "Trees and shrubbery obstructing streets and sidewalks" - The growing and maintenance of trees with less than fourteen (14) feet clearance over streets or less than eight (8) feet over sidewalks, or the growing and maintenance of shrubbery in excess of three (3) feet in height within the radius of twenty (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 twenty (20) feet from the point where the curb line of any street intersects with the curb line of another street.
  - (p) "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.
- (2) Except as provided in subsection (3) of this section, it shall be unlawful for the owner, occupant or person having control or management of any land within a city to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:
- (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;
  - (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or nonoperative and which are not inhabited;
  - (c) Rubbish; or
  - (d) The excessive growth of weeds or grass.
- (3) The provisions of paragraph (a) of subsection (2) of this section shall not apply to:
- (a) Junked, wrecked, or nonoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer as defined under the provisions of KRS 190.010(8);
  - (b) Junked, wrecked, or nonoperative motor vehicles, including parts cars, stored on private real property 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; or constituting an accumulation of rubbish, and

- (c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled, operated, managed, or leased by a motor carrier.
- (4) It shall be unlawful in the city for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure 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 the city.
- (5) Unless imminent danger exists on the subject property that necessitates immediate action, the City shall send, within fourteen (14) days of a final determination after hearing or waiver of hearing by the property owner, a copy of the determination to any lien holder of record of the subject property by first-class mail with proof of mailing. The lien holder of record may, within forty-five (45) days from receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted by subsection (6) of this Ordinance.
- (6) The City shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the Mayor shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this Ordinance, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in subsection (7) of this Ordinance. The lien may be enforced by judicial proceeding.
- (7) The lien provided in subsection (6) of this Ordinance shall not take precedence or priority over a previously recorded lien if:
  - (a) The city failed to provide the lien holder a copy of the determination in accordance with section (5) of this Ordinance; or
  - (b) The lien holder received a copy of the determination as required by section (5) of this Ordinance, and the lien holder corrected the violations or paid the fines, penalty charges, and costs incurred in remedying the violation.
- (8) In addition to the remedy prescribed herein or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this Ordinance shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the City may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of a City to comply with section (5) of this section, and the failure of a lien to take precedence over previously filed liens as provided in section (7) of this Ordinance, shall not limit or restrict any remedies that the City, has against the owner of the property.
- (9) 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 Ordinance or in accordance with any other provision of law.

(10) NUISANCE CREATED BY OTHERS.

For the purpose of this section, 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 or operator is responsible, or by person for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

(11) This Ordinance shall take effect upon publication.

(12) Should any section, clause, line, paragraph, or part of this Ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance.

(13) All ordinances or parts of ordinances in conflict with this Ordinance or any part of this Ordinance are repealed.

Given first reading at a regular meeting of the City Council of the City of Pioneer Village, Bullitt County, Kentucky, on the 22nd day of November, 2016. Given second reading, voted upon and passed at a special meeting of the City Council of the City of Pioneer Village, Bullitt County, Kentucky, on the 19th day of December, 2016.

Votes for 6;                      Votes against 0;                      Not Voting 0.

  
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GARY HATCHER, MAYOR

ATTESTED BY:

  
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RECKA DANIELS, CITY CLERK