

**MARSHALL COUNTY ORDINANCE
NO. 2000-01**

AN ORDINANCE RELATING TO THE REMOVAL OF JUNKED MOTOR
VEHICLES AND APPLIANCES.

BE IT ORDAINED BY THE FISCAL COURT OF COUNTY OF MARSHALL,
COMMONWEALTH OF KENTUCKY;

SECTION I

The presence of any junk motor vehicle or appliance on public property or on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the County of Marshall, Kentucky, shall be deemed a public nuisance, and shall further be considered rubbish or refuse, and it shall be unlawful for any person to cause or maintain such a public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle or appliance on real property of another or to suffer, permit or allow a junked motor vehicle or appliance to be parked, left or maintained on his own real property, provided that this provision shall not apply with regards to:

- (a) Any motor vehicle or appliance in an enclosed building;
- (b) Any motor vehicle or appliance on the premises of a lawful business enterprise when necessary to the operation of such business enterprise; or
- (c) Any motor vehicle or appliance on property occupied and used for repair, reconditioning and remodeling of motor vehicles or appliances in conformance with the laws of the Commonwealth of Kentucky or subordinate governmental unit.

Nothing in this section shall authorize the maintenance of a public or private Nuisance as defined under other provisions of law.

SECTION II Definitions.

For the purpose of this article, the following terms, phrases, words and their duration shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future; words used in the plural number shall include the singular number; and words used in the singular number shall include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) **Junked Motor Vehicles:** Any contrivance, or part thereof, propelled by power and used for transportation of persons or property on or off public streets and highways, the condition of which is one or more of the following:

- (1) Wrecked
- (2) Dismantled
- (3) Partially Dismantled
- (4) Inoperative
- (5) Abandoned
- (6) Discarded

- (b) **Junked Appliances:** Any unit, or part thereof, of machinery, furniture, or equipment, whether functional or ornamental, and whether mechanical or powered by some source of energy or not, including, but not limited to, stoves, refrigerators, television sets, stereos, beds, lamps, tools, objects of art, etc., the condition of which is one of the following:

- (1) Wrecked
- (2) Dismantled
- (3) Partially Dismantled
- (4) Inoperative
- (5) Abandoned
- (6) Discarded

Provided, however, the term shall not apply where the unit is not of sufficient size, or the combination of such units, to constitute an eyesore or to detract from the neat and orderly appearance of the neighborhood generally.

- (c) **Person:** Any individual, firm, partnership, association, corporation, company or organization of any kind.

SECTION III

Whenever the Code Enforcement Officer shall deem such a public nuisance to exist, he shall issue a notice to the parties hereinafter stated, and such notice shall:

Specify the code violation and its location; request the code violation to be resolved; and advise the said party they have ten (10) days to resolve code violation or to make a written demand for a hearing before the Code Enforcement Officer.

Notice shall be sent by registered mail to the last known address of the owner of the property whereon the nuisance is located. Where the owner of the property is not the occupant thereof, such notice shall be mailed also to the occupant(s). The Code Enforcement Officer shall coordinate his efforts to determine ownership of a junk motor vehicle with the Marshall County Sheriff's Office. Notice shall also be sent to the last registered and legal owner of record of the junked motor vehicle unless the owner is the owner or occupant of the premises wherein the nuisance is located, and unless identification numbers are not available to determine ownership of the vehicle.

If the owner, or his address, of any junked motor vehicle is not known or cannot be readily ascertained, the notice to him to abate, and of his right to a hearing may be given by attaching such notice to the vehicle no less than ten (10) days before action is to be taken. If the latter method of notice is used, the Code Enforcement Officer shall make an affidavit attesting to such facts. Where a junked motor vehicle is found to be upon any public property within the county, notice to the owner of the vehicle is all that shall be required. Where a junked appliance is found on public property, no notice shall be required.

In the event a hearing is requested, such hearing shall be held within ten (10) days after the request is made and shall be conducted by the Code Enforcement Officer, who shall hear all the facts and testimony on the condition of the junked motor vehicle or appliance and the circumstances concerning the location. Such hearing shall not be limited by technical rules of evidence. The Code Enforcement Officer may impose such conditions and take such other actions as he deems appropriate under the circumstances to carry out the purpose of this article. He may delay the time for removal of the junked motor vehicle or appliances if, in his opinion, circumstances justify it. At the conclusion of any hearing, the Code Enforcement Officer may find that a junked motor vehicle or appliance has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and order disposal of the same. The order requiring removal shall include a description of the junked appliance or junked motor vehicle and the correct identification number and state license tag number of the junked motor vehicle, if available at the site.

Any interested party may appeal the decision of the Code Enforcement Officer by appealing to any court of competent jurisdiction pursuant to the Rules of Civil Procedure within fourteen (14) days after the decision. If no appeal is taken within the time prescribed or immediately after a final judicial review affirming the right to remove the nuisance, the Code Enforcement Officer shall cause the junked motor vehicle or appliance to be removed and disposed of in any manner as he may provide.

SECTION IV

Upon the failure, neglect or refusal to abate by any owner-occupant or owner of private property who has been notified and ordered to abate such public nuisance within the time set forth above, the Code Enforcement Officer is hereby authorized, empowered and directed to remove same and dispose of it.

The cost of such removal and disposal shall be accounted for by the Code Enforcement Officer, and where the full amount due to the county for such services is not paid by such owner within thirty (30) days after the disposal of such nuisance, then and in that case, the Code Enforcement Officer shall cause to be recorded in the Marshall County Court Clerk's Office a sworn statement showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien on said property, and shall remain in full force and effect for the amount due in principal and

interest at legal rate, plus cost of court, if any for collection, until final payment has been made. Sworn statements recorded in accordance with the provisions hereafter shall be prima facie evidence that all legal formalities have been complied with and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectable as provided by law.

SECTION V

Neither the owner nor occupant of the premises from which any aforesaid junked motor vehicles shall be removed, their servants or agents, shall be liable for any loss or damage to said junk motor while being removed or as a result of any subsequent sale or other disposition.

SECTION VI

The removal of the junked motor vehicle from the premises prior to the time for removal by the County shall be considered compliance with the provisions of this article and no further action shall be taken. Written permission given to the Code Enforcement Officer for the removal of the junked motor vehicle or appliance by the owner of the same or the owner or occupants of the premises on which it is located, shall be considered compliance with the provisions of this article on their part and no further action shall be taken against the ones giving such permission, except for collection of towing charges or hauling cost for the removal of the nuisance.

SECTION VII

The provisions of this article shall be administered and enforced by the Marshall County Code Enforcement Office. In the enforcement of this article, the Code Enforcement Officer and his duly authorized agents, assistants, employees, or contractors may enter upon private or public property to examine a junked motor vehicle or appliance, obtain information as to the identity of a junked motor vehicle or appliance and the owner of thereof, and to remove or cause removal of a junked motor vehicle or appliance declared to be a nuisance pursuant to this article.

SECTION VIII

In addition to the civil remedies provided for in this article, it shall be unlawful for any person to continue and maintain the public nuisance as described herein, and any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not less than \$25.00 nor more than \$300.00, or be imprisoned in the county jail for a period not exceeding thirty (30) days, or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION IX

This ordinance revokes Marshall County Ordinance No. 75-1 and 87-1.

ORDINANCE 2000-01
REMOVAL OF JUNK VEHICLES
AND APPLIANCES

NOTICE BY CERTIFIED MAIL TO:

Owner of property

Occupant (if not owner)

Owner of Vehicle (If not owner or occupant of property)

If owner of vehicle cannot be found, notice to abate and right to a hearing may be given by attaching such notice to the vehicle no less than 10 days before action.

IF HEARING REQUESTED:

Hold hearing within **10 days** after request

Decision of Code Enforcement Officer may be appealed to court within **14 days**.

FAILURE TO ABATE WITHIN SPECIFIED TIME:

Remove and dispose of

If cost of removal and disposal not paid within thirty (30) days; file sworn statement with county clerk showing: cost and expense incurred; date work was done; and location of property on which work was done.

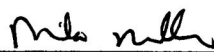
THIS CONSTITUTES A LIEN ON SAID PROPERTY.

The foregoing ordinance shall be published in The Tribune Courier on February 9th, 2000.

1ST reading on January 18, 2000.

2ND reading on February 1, 2000.

Passed by the Fiscal Court of Marshall County on the 1st day of February, 2000, on the motion of Commissioner English, seconded by Commissioner Hargrove.



MIKE MILLER
MARSHALL COUNTY JUDGE/EXECUTIVE