

COMMONWEALTH OF KENTUCKY
COUNTY OF TRIMBLE
ORDINANCE NO. 830.17
AN ORDINANCE RELATING TO NUISANCES
AND LITTER AND REFUSE CONTROL

RECEIVED
SERIAL NUMBER

DATE 4-24-07
AM 1:00 PM
Yes D.C.

WHEREAS, The Trimble County Fiscal Court has determined that there is a need in Trimble County, Kentucky for local laws concerning the regulation of litter and refuse disposal and,

WHEREAS, The Trimble County Fiscal Court has determined that there is a need in Trimble County for local laws to protect all citizens and property owners from the perpetuation of nuisances by any persons, businesses, corporations or other legal entities, and

WHEREAS, discarded and dilapidated items left discarded on private property and visible from a street, road, or public park produce a blight on the environment and adversely affect the property values of all citizens of Trimble County and affect the efforts of the Trimble County Fiscal Court to maintain the public roads and public properties of Trimble County and adversely affects the continuing economic development of Trimble County, and

WHEREAS, discarded and dilapidated items constitute a public nuisance, detrimental to the welfare and convenience of all citizens of Trimble County, and

WHEREAS, it is necessary to enact this Ordinance to protect and preserve the health, safety, welfare and property values of the citizens of Trimble County, and pursuant to the authority granted the Fiscal Court under KRS 67.083,

NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF TRIMBLE COUNTY, KENTUCKY AS FOLLOWS:

- 1.) Definitions: As used in this Ordinance, unless the context clearly requires a different definition, the following definitions shall apply:
 - a.) Nuisance -- Anything that endangers life or health, give offense to the senses, violates the laws of decency, and obstructs the reasonable and comfortable use or enjoyment of property, including the unreasonable, unwarrantable, or unlawful use by a person of his own real or personal property.
 - b.) Discarded items - includes, but is not necessarily limited to items for and used in recycling motor vehicles, auto body parts, tires, boats, home appliances and furniture which are dilapidated or apparently in an inoperable condition and which are left in storage or discarded on public or private property, including road right of ways for more

than three (3) consecutive days. The following items shall not be included within this definition:

- (1.) Any discarded item or part thereof which is enclosed within a building, such as a garage or other fully enclosed accessory building and which is therefore not visible from a street or road or from private or public property.
 - (2.) 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, or junk or salvage yard, provided that the outside storage of such discarded items shall be within a privacy fence or dumpster area and not on the grass or yard and not visible from a street or road or from private or public property.
 - (3.) The foregoing two exceptions to discarded items shall in no way grant a right or privilege to any person, business or corporation to create a nuisance as defined in this ordinance.
- c.) **Garbage** - any putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- d.) **Refuse** - all putrescible and non-putrescible solid waste (except body waste) including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, swill, abandoned or inoperative automobiles and all portions or parts of abandoned or inoperative motor vehicles, demolition and construction waste, and market and industrial waste.
- e.) **Litter** - all refuse which is not contained or disposed of in accordance with the provisions of this act.
- f.) **Container** - an air-tight fitting metal or plastic constructed item which is designed for the purpose of holding garbage and refuse.
- g.) **Inoperative motor vehicle** - any part or portion of any car, truck, motorcycle, moped, all terrain vehicle or other motorized or mechanized vehicle, and any trailer, cart or wagon which could be hauled by a motor vehicle which is unable to move under its own power due to defective or missing parts and which has remained in that same condition for a period of not less than ten (10) consecutive days.
- h.) **Scrap metal** - any pieces or parts of steel, iron, tin, zinc, copper, aluminum or any alloy or combination of the same, whether or not covered with porcelain, enamel or any other material, and 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 and which is not being for any other meaningful purposes.

- i.) **Unfit for further use** – In a dangerous condition, having defective or missing parts; or in a condition generally as to be unfit for any further use whatsoever.
 - j.) **Automobile, vehicle, or machinery Recyclers** – any place where three (3) or more junked, wrecked, inoperative, or non-licensed automobiles, vehicles, machines, and other similar scrap or salvage materials, excluding inoperative farm equipment, are deposited, parked, placed or otherwise located.
 - k.) **Animal manures** – Animal manures are those wastes of livestock animals, including cattle, horses, sheep, pigs, ostriches, llamas, poultry and any and all other animals that are raised for agricultural purposes, but not pets.
 - l.) **Mobile Home** – a structure, transportable in one (1) or more sections, regardless of body width or body length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes plumbing, heating and electrical systems contained therein.
 - m.) **Abandoned Mobile Home** – any mobile home as defined herein that has been abandoned or is no longer fit for human habitation. Furthermore, a mobile home shall be considered as an abandoned mobile home if it has been moved to a location for storage only and has not been occupied for a period of at least thirty (30) days.
 - n.) **Not fit for human habitation** - a mobile home or home on a permanent foundation shall be presumed as not fit for human habitation if required utilities, including plumbing, heating and electrical systems have not been installed, connected as required by law and are operable, or if such required utilities once having been connected, have then been disconnected or have become inoperable or are in such condition as to violate state regulations concerning such utilities. In addition, a mobile home or home on a permanent foundation shall be considered not fit for human habitation if conditions exist within or around said mobile home or home which create a risk of death or serious physical injury to any person or create chronic serious health risks.
- 2.) **Littering unlawful** – It shall be unlawful in Trimble County, Kentucky for any person, business, corporation or other legal entity to place, leave, dump or accumulate any refuse in any building or on any property so that the same may afford food or harbor for rodents, flies, roaches, or other vermin or so as to create a health hazard or so as to cause a public nuisance. It shall be unlawful for any person, business or corporation to deposit or dispose of any solid

waste or refuse on any site other than a properly licensed and permitted solid waste landfill. It is specifically declared to be unlawful to deposit, dump or otherwise dispose of any solid waste or refuse on any private or public property, or on any county, state, federal or subdivision road, sidewalks or gutters of any such street or road. It shall not be unlawful for any person, business, corporation or other legal entity to place animal manures on the ground for purposes of fertilization of the ground. However, it shall be unlawful for anyone to place, store or accumulate animal manures in such a way that they cannot contribute to fertilization of the ground and in addition may cause pollution to streams, ponds, rivers, wells or other water sources.

- 3.) **Residential refuse disposal and collection** – All household refuse shall be placed in closed containers and secured in such a way as to prevent the contents from escaping. Wet garbage shall be drained or placed in waterproof containers so that the fluid does not escape onto the ground or roads or streets. Toxic or hazardous substances are prohibited from being placed in residential refuse containers. Any person placing garbage or litter at curbs or roadsides is responsible for garbage or litter until it is picked up by the refuse truck. If the garbage or litter is scattered by animals or traffic or weather, including wind, it is the responsibility of the individual who generated the refuse and/or the individual who placed the garbage or litter at the curb or roadside to pick up all litter from the bag within twelve hours.
- 4.) **Commercial and industrial refuse disposal and collection** – All commercial and industrial establishments shall dispose of refuse in closed containers or dumpsters which are designated for their use and which are contained and secured in such a way that the said containers or dumpsters shall not overflow and the refuse so deposited shall not escape. If any refuse is placed by a commercial or industrial establishment in such a way that it is scattered the owner and/or manager of the business shall be responsible for picking up all litter within twelve hours. All loading and unloading docks at all commercial and industrial establishments shall be maintained in such a way that litter does not escape and if any litter, refuse or other debris escapes and is deposited on private or public property or on any county, state, federal or subdivision roads, or on the sidewalks or gutters of said streets or roads, the owner and/or manager of the business shall be responsible for picking up that material within twelve hours.
- 5.) **Unlawful Use of Commercial or Industrial Containers** - It shall be unlawful for any individual, business or corporation to dispose of refuse in a container or dumpster which has

set up and designated for use by any other residence or commercial or industrial establishment.

- 6.) **Disposal of refuse at construction sites** - All construction and demolition sites shall be maintained litter free and it shall be the responsibility of the property owners, contractors, subcontractors and supervisors to insure that no litter, debris or refuse from the construction or demolition site leaves the site and is deposited on private or public property or on any county, state, federal or subdivision roads.
- 7.) **Debris from Fire and other Disaster** - All solid waste, refuse, litter and debris that is created as a result of fire, storm, wind, or other natural disaster shall be completely removed from the property on which it remains within six (6) months of the disaster. During the intervening time period the owner, tenant, occupant or other person responsible for the property shall take all means necessary to eradicate and eliminate rats, roaches, flies and other vermin and shall keep all weeds and grass around the site mowed so as to avoid a public nuisance.
- 8.) **Maintenance of private property** - All owners of private dwellings and all owners of commercial or industrial sites and their lessees shall be responsible for maintaining a litter free environment in the areas surrounding the dwellings, yards, driveways, parking areas, garages and streets. The owners and lessees shall be responsible for picking up and properly disposing of any litter in their yards, driveways, parking areas and upon the county, state, federal and subdivision roads immediately adjacent to their property up to the paved or graveled portion of any such street or road. All lots where homes are occupied and all vacant residential lots shall be mowed and kept free of all litter and any obnoxious growth of grasses, weeds or other vegetation which tends to be a gathering place for litter or which could be a harbor for rats or any other vermin shall be eliminated. The Trimble County Fiscal Court shall have the option of employing someone to maintain lots which are not kept mowed and free of all litter and obnoxious growth of grass, weeds or other vegetation which tends to be a gathering place for litter or which could be harbor for rats or other vermin and to bill the property owner for the costs of such maintenance. Trimble County Fiscal Court shall have the right to file a lien against the real property of any property owner who does not pay the bill for such maintenance within thirty (30) days of presentation of such bill and all such bills shall bear interest at the rate of one and one-half per cent per month from the date the work is done until fully paid and satisfied. If there are inoperative motor vehicles or farm machinery that is being kept on property in order to salvage parts, the owner of the property

shall be responsible for mowing around the vehicles or farm machinery in order to reduce the possibility of nuisance created by the presence of vermin.

- 9.) **Landfill is Only Approved Disposal Site** - The only area in which solid waste or refuse may be deposited or disposed of is at a properly licensed and permitted solid waste landfill. No other area in Trimble County shall be used to deposit or dispose of any solid waste or refuse and no person shall permit the deposit or disposal of any solid waste or refuse on their property without a solid waste landfill permit and license.
- 10.) **Legal Presumption regarding waste generation** – If any solid waste or refuse is found disposed of, deposited on or dumped on any private or public property or on any county, state, federal or subdivision road, and there is any means of identifying the person who generated the waste (e.g. prescription medicine labels, magazine subscription labels, addresses on envelopes, etc.) it shall be prima facie evidence and shall be presumed that the person whose name appears on such identifying material was the person who generated the waste and it shall be presumed that that person is responsible for the disposal or depositing or dumping of the waste illegally. If the name of more than one person is identified as a generator of such waste, each such person identified shall be so responsible. If the person responsible for generation of the waste can prove by paid receipt or canceled check that he/she paid a waste hauler to dispose of their waste, the waste hauler so paid shall be presumed to be the person who disposed of, deposited or dumped the waste illegally and the hauler then shall be responsible under the law.
- 11.) **Waste Disposal after Public Events** - The organizers of all public events shall be responsible for obtaining proper containers or dumpsters for the disposal of all solid waste and refuse generated at that event, shall be responsible for maintaining the containers or dumpsters during the event so that no litter escapes from the containers or dumpsters, shall be responsible for proper disposal of the waste during or following the event and shall be responsible for picking up and properly disposing of all litter which escapes the containers or dumpsters during each day of the event and no later than twelve hours following the close of the event.
- 12.) **Special Disposal Problems** - All citizens of Trimble County and all commercial and industrial businesses within Trimble County, who have a special waste disposal problem which is not permitted under this Ordinance or under the Trimble County Solid Waste Plan shall consult with the Trimble County Solid Waste Coordinator with regard to the proper

disposal of the waste. In no event shall the waste be permitted to become litter or a nuisance during the period of time prior to proper disposal.

1.) **A.) Inoperative motor vehicles** - Any inoperative motor vehicle on any county, state, federal or subdivision road shall be removed at the owner's expense within a period not to exceed three (3) days. An attempt will be made through the Trimble County Sheriff's office to identify the owner of the vehicle by the license plate and the owner shall be notified and be given an opportunity to remove the vehicle prior to having it towed. Provided however that if the vehicle is blocking the right of way, creates a danger to drivers, passengers or pedestrians on the road, prevents proper maintenance of the road, or creates any danger to the public at large or any nuisance, the same shall be removed immediately whether or not an attempt has been made to notify the owner, and the owner shall be assessed the costs.

B.) Abandoned mobile homes - Any trailer, mobile home or manufactured home that has been abandoned or is no longer fit for human habitation as defined herein shall be deemed to be a nuisance under this Ordinance and the owner of said mobile home shall take all necessary steps to abate the nuisance and properly dispose of the mobile home within thirty (30) days of notice by public authorities that the home is considered abandoned or no longer fit for human habitation. Failure to properly dispose of the mobile home shall be considered a violation of this ordinance. Notwithstanding the terms of this section, if a mobile home has been damaged or destroyed by fire or other casualty and there is an ongoing dispute regarding insurance coverage or payment of insurance proceeds, the time period for properly disposing of the said mobile home may be extended with approval of the Trimble County Solid Waste Coordinator or other authorized public official pending outcome of the insurance controversy.

C.) Permanent structures -

(1.) Any home that is constructed on a permanent foundation or otherwise cannot be considered a "mobile home" under the definitions contained herein that has been abandoned AND is no longer fit for human habitation shall be deemed a nuisance under this Ordinance and the owner of said home shall take all necessary steps to abate the nuisance and properly dispose of the home within sixty (60) days of notice by public authorities that the home is considered abandoned and no longer fit for human habitation. Failure to properly dispose of the home shall be considered a violation of this ordinance. Notwithstanding the

terms of this section, if a home, under this section, has been damaged or destroyed by fire or other casualty and there is an ongoing dispute regarding insurance coverage or payment of insurance proceeds, the time period for properly disposing of the said home may be extended by approval of the Trimble County Solid Waste Coordinator or other authorized public official pending outcome of the insurance controversy.

(2.) Any structure other than a home which is constructed on a permanent foundation which has become unusable or unsafe to use for the purpose originally intended or for any other use and which creates a danger to any person coming into or around the structure shall be deemed to be a nuisance under this Ordinance and the owner of said structure shall take all necessary steps to abate the nuisance and properly dispose of the structure within sixty (60) days of notice by public authorities that the structure is considered a nuisance. Failure to properly dispose of the structure shall be considered a violation of this ordinance. Notwithstanding the terms of this section, if a structure, under this section, has been damaged or destroyed by fire or other casualty and there is an ongoing dispute regarding insurance coverage or payment of insurance proceeds, the time period for properly disposing of the said structure may be extended by approval of the Trimble County Solid Waste Coordinator or other authorized public official pending outcome of the insurance controversy.

D.) Notwithstanding any other provision of this Section 12, if the owner of a home or other structure (but not a mobile home) that is considered to be a nuisance under this ordinance, is able to show proof that the home or other structure is capable of being reconstructed or refurbished so that it will once again serve a useful purpose and that the same will be done within a reasonable period of time, not to exceed ninety (90) days, then the Trimble County Solid Waste Coordinator or other authorized public official may grant a permit for such reconstruction or refurbishing as long as the owner shows sufficient progress toward restoring the building to a useful purpose.

13.) **Storage of inoperative motor vehicles** - Pursuant to this ordinance, it shall be unlawful for any person to operate or cause to be operated any automobile, vehicle, machinery or material recycling establishment or place of business as defined in this ordinance which is situated closer than One Thousand (1000) feet from the right of way line of any state or

federal highway or road, or closer than Five Hundred (500) feet of any county or subdivision road, unless a permit for such has been obtained from the Trimble County Solid Waste Coordinator or other authorized public official. The operation of any automobile, vehicle, machinery or material recycling establishment or place of business so situated without a county permit is hereby declared to be a public nuisance. Anyone storing such inoperative motor vehicles, machinery or other material, with a county permit, shall be required to remove all fuel, oil, lubricants and other fluids, including but not limited to cooling agents in the air conditioning system, from the inoperative motor vehicles, machinery or material within ten (10) days of placing the vehicle on their property. Any person, company, corporation or other legal entity that obtains a permit for such use from the Trimble County Solid Waste Coordinator or other authorized public official shall construct a fence no less than ten (10) feet in height to shield the view of the business from anyone traveling on such roadways. There may be a requirement that the fence be higher than ten (10) feet if a greater height is required to shield the business from view considering terrain or topography. Any person or other entity holding a state permit authorizing operation as a recycling establishment shall within ninety (90) days of enactment of this ordinance to apply for and obtain a county permit as set out herein. Failure to obtain the required county permit shall constitute a nuisance under this ordinance. Any person or other entity who is denied a county permit as set out herein shall be required to remove all automobiles, vehicles, machinery and other material from the location previously permitted by the state within ninety (90) days of receiving notice to do so by the Trimble County Solid Waste Coordinator or other authorized public official.

All persons or other entities applying for a permit from the county as set out herein shall pay a fee of \$50.00 with their application for the permit. All persons or other entities who are granted such a permit shall pay an annual fee of Five Hundred Dollars (\$500.00) to keep their permit in force. The permit fees required under this section shall be used to help defray the costs of enforcement of this particular section of this ordinance but shall be deposited in the general fund of the Trimble County Fiscal Court.

- 14.) **Coverings for vehicles** – All commercial and private motor vehicles which are used to haul any materials which will be considered litter if they escape from the vehicle, shall have the contents secured by a top covering to prevent the loss of material upon private or public property, county, state, federal or subdivision roads.

- 15.) **Disposal into water sources** - It shall be unlawful and shall be considered a public nuisance for any person, business or corporation to dispose of, deposit or dump any refuse in any form into any stream, creek, river, spring, pond, ditch, storm sewer, sanitary sewer or other drain within Trimble County. It shall likewise be unlawful to dispose of, deposit or dump any refuse in any floodplain or other area where streams, creeks, rivers, springs, ponds, ditches or storm sewers are likely to wash the material away during times of heavy rains or high water. This section shall not apply to the disposal of putrescible waste into a sanitary sewer system or septic system after proper processing in a home "garbage disposal" system.
- 16.) **Disposal in Sinkholes** - It shall be unlawful and shall be considered a public nuisance for any person, business or corporation to dispose of, deposit or dump any refuse or solid waste of any type in a sinkhole. This section shall not apply to depositing dirt, soil, or vegetative waste (not to include garbage) in and on the sinkhole in an attempt to seal the sinkhole.
- 17.) **Sewage Disposal** - It shall be unlawful and shall be considered a public nuisance for any person, business or corporation to discharge human waste or sewage in any manner other than approved by law into a sanitary sewer, septic system or sewer disposal system that has been approved by the State Department of Health.
- 18.) **Orders of Authorities** - The owner, tenant, occupant, or person in control of every premises in Trimble County shall carry out the orders of the Trimble County Solid Waste Coordinator, Trimble County Sheriff's Department, Kentucky Department of Health and any other officials given authority by the Trimble County Fiscal Court to enforce this Ordinance. The owner, tenant, occupant or person in control of the premises who is cited for violation of this Ordinance shall be given ninety (90) days to abate the nuisance, unless a shorter period of time is set out in a particular section of this ordinance. The citing authority may grant a one time extension for purposes of facilitating abatement not to exceed an additional ninety (90) days. In the event that the nuisance as cited is not abated within said time period the owner, tenant, occupant or person in control of the premises may be cited to Trimble District Court for violation of this Ordinance. In addition, in the event that any owner, tenant, occupant or person having control of the property refuses to comply, the proper authority may provide for enforcement of this Ordinance by having the violation abated and any costs involved in such abatement shall be assessed to the owner, tenant, occupant or person having control of the property and the costs shall be lien on the property until paid. This section shall be in addition to any other penalty provisions of this Ordinance.

In addition, in the event that the County Judge/Executive or any magistrate receives two (2) complaints in writing regarding the presence of any condition that would be a violation under this Ordinance, the County Judge/Executive shall direct the Trimble County Solid Waste Coordinator or other official authorized by the Trimble County Fiscal Court to enforce this ordinance to investigate and cite any offender to the District Court.

- 19.) **Dangerous conditions** – Any object of any nature whatsoever which exists in a condition that if allowed to continue would or could endanger the life, limb or property of any person or cause hurt, damage or injury to persons or private or public property, including the public streets and roads, sidewalks or gutters of any such street or road, if the same were to fall, the same is a public nuisance and shall be removed by the owner, tenant, occupant or other person responsible for the continuance of the nuisance.
- 20.) **Storage of hazardous or explosive material** - The storage of explosive or hazardous material by any person, business or corporation which creates a hazard of death, injury or property damage is a public nuisance and no such material may be stored in Trimble County. Nothing within this ordinance shall abrogate or supersede the provisions of the Trimble County Hazardous Materials Ordinance and where the two are in conflict the Hazardous Materials Ordinance shall control and any person, business or corporation dealing with hazardous or explosive materials shall be required to abide by the Hazardous Materials Ordinance.
- 21.) **Trees, Shrubbery obstructing roadways, etc.** - The growth of trees, shrubs and other vegetation in such a way as to interfere with the use, construction or maintenance of county, state, federal or subdivision road, sidewalks or gutters of any such street or road, or which cause injury to any such streets, roads or sidewalks or gutters of any such street or road or which constitute an obstruction to drainage from such roads are a public nuisance and the owner, tenant, occupant or person responsible for property where such trees, shrubs or other vegetation is growing shall remove such trees, shrubs or other vegetation so as not to constitute such a nuisance. Nothing within this section shall be considered to apply to growing crops regardless of whether the growing crops interfere with the use, construction or maintenance of county, state federal or subdivision roads, etc. Provided however, that no person shall be permitted to plant crops within county, state or federal highway rights of way.
- 22.) **Penalties** – Any person who violates any section of this Ordinance shall be subject to citation to the Trimble District Court by the Trimble County Solid Waste Coordinator,

Trimble County Sheriff's Office, Trimble County Constables, Kentucky Health Department, Kentucky Department of Fish and Game, and Kentucky State Police and any other official authorized by the Trimble County Fiscal Court to enforce this ordinance. Any person who is found to have violated any of the provisions of this Ordinance shall be subject to a fine of not less than \$10.00 nor more than \$500.00. Each day of the continued violation shall be considered a separate offense subject to a separate fine. The penalties set out herein shall be in addition to any penalties for violations or criminal acts set out in the Kentucky Revised Statutes.

- 23.) **Severability** – If any section or part of a section of this Ordinance is found to be unconstitutional or otherwise invalid, such part shall be deemed severable and the invalidity of that section or part of a section shall not affect the remaining parts of this Ordinance and the same shall remain in full force and effect unless amended or revoked by subsequent ordinance.
- 24.) **Effective Date** - This Ordinance shall become effective immediately upon the passage by motion and second after two readings at meetings of the Trimble Fiscal Court and publication as required by the Kentucky Revised Statutes.

The first reading of this Ordinance was made at a meeting of the Trimble County Fiscal Court on February 19, 2007.

The second reading of this Ordinance was made at a meeting of the Trimble County Fiscal Court on April 6, 2007, and upon motion and second the same was called for a vote and approved by a majority vote of the Trimble County Fiscal Court.

Approved as to form and content by Trimble County Attorney:

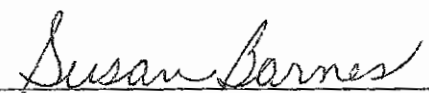


Perry R. Arnold, Trimble County Attorney

After second reading on April 6 the foregoing Ordinance was approved to be published and on the same occasion was signed in open Court by the County Judge/Executive, Honorable Randy K. Stevens as evidence of his approval, attested under the seal of the Trimble County Fiscal Court Clerk.



Randy K. Stevens, Trimble County Judge/Executive

Attest: 

Trimble County Fiscal Court Clerk

Published: _____