

CITY OF PEWEE VALLEY
ORDINANCE #2, SERIES 2013
AN ORDINANCE CONCERNING RESTRICTION OF NUISANCES

WHEREAS, the Council of the City of Pewee Valley is concerned about the property values in the City as well as the public health and safety of its citizens and the enforcement of City ordinances,

AND WHEREAS, the City desires to establish a detailed mechanism to promote the public health and safety by prohibiting nuisances, under the authority of KRS 381.770,

NOW THEREFORE, be it ordained by the City of Pewee Valley that Sections 92.01; 92.02; 92.03; 92.04; 92.05; and 92.99, of the Codified Ordinances, be and hereby are, repealed and replaced as follows:

SECTION 1: PROPERTY MAINTENANCE STANDARDS

1.1 It is hereby declared to be a public nuisance for any owner, or other person in control of said property, or premises, (including a holder of a mortgage, where the home encumbered by such mortgage is deemed by the City as vacant and abandoned and the City has given said mortgage holder notice of the City's intent to so enforce this ordinance, as said notice is set out in 381.770); to keep or maintain property, premises, or rights-of-way adjacent to said premises, in such a manner which causes, or tends to cause, substantial diminution in value of other properties, or which renders such properties as dangerous, or detrimental, or adverse to the health, or welfare, or offensive to the senses of the residents of the City of Pewee Valley. This includes, but is not limited to, the following conditions, which are hereby declared a nuisance:

- (a) Incomplete projects. Any renovation or construction to structures or grounds must be completed through consistent, sustained effort and no such building or grounds under construction or renovation may be allowed to be uncompleted for an unreasonable length of time, given due consideration to the type of project. A period of 120 days without consistent, sustained effort to complete the project shall be an unreasonable length of time, without sufficient, specific, written explanation for said delay.
- (b) Any premises which detrimentally impacts the surrounding neighborhood because of dilapidation, deterioration or decay or is unsafe for the purpose for which it is being used or is not secured or is improperly secured.
- (c) Permits and excessive growth of weeds, grass or other vegetation. Unless otherwise stated, excessive shall be growth to a height of 12 inches or more.
- (d) Permits any structure/residence to become unfit and/or unsafe for human habitation or occupancy, or to permit condition to exist in the structure which is dangerous or injurious to the health or safety of the occupants or the structure, the occupants of neighboring structures, or other residences of the City. All residences within the City shall have a safe, permitted and operable connection to water, electric/gas, and septic or sewer service. Residents who are in the process of construction and are in compliance with Section (a) are exempt from this section during the construction.
- (e) Permits, or causes, the interference of, filling, or obstruction of a drainage ditch, devices or system as to inhibit, alter, or prevent proper drainage patterns.
- (f) Permits the unreasonable accumulation of ashes, leaves, wood, lumber, limbs, twigs, storm debris and/or any residue from the burning of any combustible material; which are not the process of legal and permitted disposal or composting.
- (g) Permits manure or compost piles or other material which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease

carrying pests, animals or insects. This section shall not apply to farming and nursery operations where the matter is kept over 100 feet from the nearest property line.

- (h) Permits any tree, stack, or other object standing in such a condition that is likely to, if the condition is allowed to continue, endanger life, limb or property, or cause hurt, damage or injury to persons or property by falling thereof or of parts thereof.
- (i) Permits the dropping, deposit, or acquiesce in the dropping, depositing, scattering of waste material in any manner, in or on any public or private property any material of any kind, not those activities normally associated with yard maintenance, seasonable disposal activities, or composing.
- (j) Allows unsanitary material on the premises. It shall be unlawful for any person to keep, or permit another to keep upon any property deleterious or septic material, or polluted water, unless such material is retained in containers or vessels which deny access of humans, flies, insects, rodents or animal. This section shall not apply to overflowing septic tanks and lateral lines as those items are subject to existing health department regulations or to farming and nursery operations where the matter is kept over 100 feet from the nearest property line.
- (k) Permits any condition to exist that is injurious to the public health. Such as but not limited to:
 - (1) Unlawful storage of explosives
 - (2) Having an uncovered or insecurely covered cellar, well, pit or any excavation or situated upon any premises in any open lot that any reasonable or prudent man should realize should be injurious to human health.
 - (3) The failure to keep an animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors, or failure to keep an animal's pen, fence or enclosure maintained so as to prevent such animal from escaping the owner's property.
 - (4) Permits the unlawful burning of any refuse, garbage, or waste or material of any kind.
 - (5) Permits any partially dismantled, wrecks, junked, discarded or otherwise non-operating motor vehicle to machine to remain on any property longer than fifteen (15) days; except that this section shall not apply with regard to any vehicle in an enclosed building, or so located upon the premises as to not be readily visible from any public place or from any surrounding private property. This section shall further not apply to a lawfully operated junk yard in the business of sale of part in accordance and with the Zoning Ordinance of Oldham County and with the approval of Planning and Zoning.
 - (6) Permits a vehicle to be parked in any way which is a violation of any Pewee Valley parking ordinance (as may be amended from time to time); and any provision of the Oldham County Zoning Code (as may be amended from time to time) or any Oldham County Ordinance (as may be amended from time to time).
- (l) Permits any condition to exist that causes a building not to be in reasonably good repair, such as, but not limited to:
 - (1) Every window; exterior door; basement; porch; roof; eaves; foundation; exterior wall; exterior stairs; shall be reasonably watertight; weathertight; bird, animal, and rodent proof; and shall be kept in sound condition and good repair.
 - (2) All exterior wood surfaces, other than decay resistant woods, shall be reasonably protected from the elements and decay by paint, which is not lead-based paint, or by other protective covering or treatment.
 - (3) All gutters, shutters, down spouts and any other parts of the exterior of the home shall be maintained and be reasonably fit for their intended purpose.

SECTION 2 RESPONSIBILITY FOR PROPERTY MAINTENANCE

- 2.1 Any owner, or other person in control of said property, or premises, (including a holder of a mortgage, where the home encumbered by such mortgage is deemed by the City as vacant and abandoned and the City has given said mortgage holder notice the City's intent to so enforce this ordinance, as said notice is set out in 381.770); must keep or maintain property, premises, or rights-of-way adjacent to said premises, in a manner consistent with the provisions of this Chapter and the Code of the City of Pewee Valley, Oldham County Ordinances, Oldham County Zoning and Subdivision regulations, Kentucky Revised Statutes and the Kentucky Building Code.
- 2.2 Enforcement of this Chapter may be accomplished by the person or employee as may be designated by the City Council to enforce city ordinances in any manner authorized by this Chapter or by any other law, including but not limited to issuance of criminal citations, civil actions and abatement.
- 2.3 Abatement of public nuisances:
- (a) Non-exclusive authority to abate. The City may choose to abate any public nuisance or violation of the City Code through any of the abatement methods set forth in the City Code or in other local, state or federal law, and nothing contained in this Chapter shall be construed as limiting, prejudicing, or adversely affecting the City's ability to concurrently or consecutively use any of those proceedings as the City may deem are applicable. Proceeding under this Section will not preclude from City from proceeding under other Sections of this Chapter. Whenever the person or employee as may be designated by the City Council to enforce city ordinances determines that any condition exists in violation of the provisions of this Chapter, he/she may take enforcement action pursuant to this Section.
 - (b) Right of entry. The person or employee as may be designated by the City Council to enforce city ordinances may enter any property or premises at all times to perform any duty imposed upon him/her by this Chapter if he/she has cause to believe a violation of provisions of this Chapter is occurring,

SECTION 4 ENFORCEMENT

- 4.1 This ordinance shall be enforced upon the filing of a petition to the City of Pewee Valley Mayor by two City of Pewee Valley residents, alleging that an owner, lessee, or occupant of any property is maintaining or keeping a nuisance thereon, or maintain his or her premises in a manner causing substantial diminution in the value of other property, or tends to render such properties as dangerous, or detrimental, or adverse to health and welfare, or offensive to the senses of the residents of the City of Pewee Valley.
- 4.2 Criminal or Civil Penalty. Pursuant to the City's prosecutorial discretion, the City may enforce violations of the provisions of this Chapter as criminal, civil or abatement actions.
- (a) Misdemeanor. Any person who is violating any of the provisions of this Chapter shall be guilty of a misdemeanor. Each and every day, during which any such offence is committed, continued or allowed shall be a separate offense.
 - (b) Each and every offence under this Chapter is punishable by:
 - (1) A fine not exceeding one hundred dollars (\$100.00) for the first offence;
 - (2) A fine not exceeding five hundred dollars (\$500.00) for the second offence of the same or similar provision within one year period; or,
 - (3) A fine no less than one thousand dollars (\$1,000.00) for each additional offence, after the second, of the same or similar provision of this Chapter within a one year period of the first offence.
- 4.3 Enforcement Procedures and Notice
- (a) The City hereby establishes the standards and procedures for the enforcement of this ordinance under KRS 381.770 as follows:

- (1) Whenever a violation of this ordinance is discovered, the City, person or employee as may be designated by the City Council to enforce city ordinances, shall give at least five (5) days written notice to any one or more or all: the owner, operator, agent, occupant or person having control or management of the property to remedy such violation. The City may, in its discretion, may provide more time to remedy the violation. If the violation concerns a home which has been deemed vacant and abandoned and notice is being sent to the holder of a mortgage, any notice of violation sent to the mortgage holder must also comply with the notice provisions set out in 381.770.
 - (2) The notice shall be served upon the responsible person as stated above, by mail, or by personal service. If by mail, it shall be addressed to the last known address of the owner of the said property, as it appears on the current tax assessment roll. The failure of any or all of the addresses to receive the notice shall not invalidate any of the proceedings. Further, the posting of notice of a hearing or order pursuant to this Chapter shall be conclusively deemed to be adequate notice to any and all occupants, users or possessors of the property or its contents, and the failure of any such occupant, user or possessor to see, read, understand or otherwise receive the notice shall not invalidate any of the proceedings. Upon the failure to the owner of the property to comply, the City is authorized to send employees or persons hired by the City upon said property to remedy the situation. If the violation concerns a home which has been deemed vacant and abandoned and notice is being sent to the holder of a mortgage, any notice of violation sent to the mortgage holder must also comply with the notice provisions set out in 381.770.
- (b) 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 person or employee as may be designated by the City Council to enforce city ordinances, shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this ordinance and KRS 381.770, and shall be recorded in the Office of the Oldham County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid at the rate of 1.5% per month, compounded monthly, and may be enforced by judicial proceedings.
 - (c) In addition to the remedy prescribed in the previous sections of this ordinance or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section 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 recover of a debt owed.

SECTION 5 APPEALS

- 5.1 Any action taken by the person or employee as may be designated by the City Council to enforce city ordinances may be appealed to the City Council by any person cited hereunder. Such appeal must be in writing, stating with specificity the grounds of the appeal and it must be filed with the City Clerk within the same time allowed for abatement (without extension). The grounds for the appeal shall be stated in such appeal in detail. Such appeal shall be heard by the City Council within 60 days of it being filed with the City Clerk. While such appeal is pending, the abatement notice shall be held in abeyance.

SECTION 6 SEVERABILITY

- 6.1 If any provision, clause, sentence, paragraph, or phrase of this Ordinance or the application thereof to any person or circumstances is held, for any reason by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable. The City Council of the City

of Pewee Valley declares that it would have passed this Ordinance, and every section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases were to be held invalid or unconstitutional by such court.

This ordinance shall take effect immediately upon its adoption, passage and publication.

First Reading: _____

Second Reading: _____

Passed and approved this the ____ day of _____, 2013.

Mayor

ATTEST:

Clerk

Those in Favor: _____

Those Opposed: _____