

ORDINANCE NO. 10-04

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, AMENDING ORDINANCE NO. 07-25, WHICH SETS FORTH THE RULES AND REGULATIONS REGARDING ABANDONED, JUNKED AND INOPERATIVE MOTOR VEHICLES, WATERCRAFT, AND APPLIANCES, AS ADOPTED BY THE COMMON COUNCIL ON Dec 10, 2007;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:

(I) That an amendment is hereby made to Ordinance No. 07-25 as set forth below:

- Section C. *Junked motor vehicles*...shall now read as follows:

C. *Junked motor vehicles* shall mean any contrivance, or parts thereof, both licensed and unlicensed, which are propelled by power and used for transportation of persons or property on public streets, highways or waterways, the condition of which is one (1) or more of the following:

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

(II) If any part of this ordinance amending Ordinance 07-25, or the Amendment herein made, is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

(IV) This ordinance amendment shall be in full force and effect upon passage, approval, and publication according to law.

FIRST READING March 22, 2010

SECOND READING April 12, 2010

ATTEST:


City Clerk, David Godsey

Approved: 
Mayor, Eddie Girdler

ORDINANCE NO. 10-04

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, AMENDING ORDINANCE NO. 07-25, WHICH SETS FORTH THE RULES AND REGULATIONS REGARDING ABANDONED, JUNKED AND INOPERATIVE MOTOR VEHICLES, WATERCRAFT, AND APPLIANCES, AS ADOPTED BY THE COMMON COUNCIL ON Dec 10, 2007;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:

(I) That an amendment is hereby made to Ordinance No. 07-25 as set forth below:

- Section C. *Junked motor vehicles*...shall now read as follows:

C. *Junked motor vehicles* shall mean any contrivance, or parts thereof, both licensed and unlicensed, which are propelled by power and used for transportation of persons or property on public streets, highways or waterways, the condition of which is one (1) or more of the following:

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

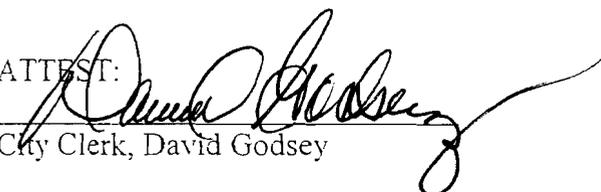
(II) If any part of this ordinance amending Ordinance 07-25, or the Amendment herein made, is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

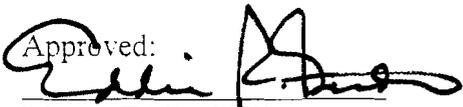
(IV) This ordinance amendment shall be in full force and effect upon passage, approval, and publication according to law.

FIRST READING March 22, 2010

SECOND READING April 12, 2010

ATTEST:


City Clerk, David Godsey

Approved: 
Mayor, Eddie Girdler

ORDINANCE NO. 09-25

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, REPEALING ORDINANCE NUMBER 351 AND ANY AND ALL AMENDMENTS ENACTED REGARDING SAID ORDINANCE; SETTING FORTH THE NEW RULES AND REGULATIONS REGARDING ABANDONED, JUNKED AND INOPERATIVE MOTOR VEHICLES, WATERCRAFT, AND APPLIANCES LOCATED ON PROPERTY WHICH IS WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF SOMERSET;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY AS FOLLOWS:

I. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. *Automobile collector* shall mean a person who collects and restores motor vehicles.

B. *Junked appliances* shall mean 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, beds, lamps, tools, objections of art, etc.; the condition of which is one (1) of the following:

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

Provided, the terms shall not apply where the unit does not exceed fifteen (15) cubic feet or the combination of units in the immediate proximity to each other does not exceed one hundred twenty (120) cubic feet.

C. *Junked motor vehicles* shall mean any contrivance, or parts thereof, propelled by power and used for transportation of persons or property on public streets, highways or waterways, the condition of which is one (1) or more of the following:

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

D. *Ordinary public view* shall mean a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property.

E. *Parts vehicle* shall mean an automobile or watercraft that is not intended to be operated along streets, roads, or waterways, but is used to provide parts for the restoration of other like items.

II. Maintaining nuisance unlawful; exception.

(a) Except as provided in subsection (b) of this section, 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, health hazard, or source of filth to develop thereon through the accumulation of junked or wrecked appliances, automobiles, vehicles, machines, personal watercrafts, boats, or other similar scrap or salvage materials, excluding inoperative farm equipment; or through the storing or accumulation on any land within the city of one (1) or more mobile or manufactured homes, as defined in KRS 227.550, that are junked, wrecked or non-operative, and which are not inhabited. The presence of any such items on public property or on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city, 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 such nuisance item on the real property of another; or to suffer, permit or allow any such nuisance item to be parked, left or maintained on his own real property.

(b) This section shall **not** apply with regard to:

(1) Junked, wrecked or non-operative automobiles, vehicles, machines, personal watercrafts, boats, 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); or any such items or appliances in an enclosed building.

(2) Junked, wrecked, or non-operative automobiles, vehicles, machines, personal watercrafts, boats, or other similar scrap or salvage materials, including parts vehicles, stored on private real property by automobile collectors, whether as a hobby or a profession, if such items are stored out of ordinary public view by means of suitable fencing, trees, shrubbery or other means.

(3) Any motor vehicle that is owned, controlled, managed or leased by a motor carrier.

(c) Nothing in this article shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.

III. Declared public nuisance.

This article is not the exclusive regulation of abandoned, wrecked, dismantled, or inoperative vehicles, watercrafts, or appliances within the city. Such junked items are hereby declared to be a public nuisance and unlawful as set out above.

IV. Supplementary provision.

The provisions of this article are supplemental and in addition to all other regulatory codes, statutes and articles heretofore enacted by the city, state or any other legal entity or agency having jurisdiction.

V. Enforcement officers; right of entry.

The provisions of this article shall be administered and/or enforced by the city code enforcement officer and/or the City's police department. In the enforcement of this article, said officer(s) may enter upon private or public property in accordance with the law to examine and/or investigate a junked or wrecked motor vehicle, appliance, machine, mobile or manufactured home, watercrafts, personal or otherwise, and scrap or salvage material, or any of such items or materials; or to obtain information as to the identity of the owner of any such materials and/or items; and to remove or cause removal of any such materials and/or items declared to be a nuisance pursuant to this article.

VI. Notice.

(a) Whenever the code enforcement officer and/or police department officer deems a public nuisance to exist pursuant to this Ordinance, the Code Enforcement Officer, if permitted under the law, and/or the City Police Department shall issue a notice to the parties hereinafter stated, and such notice shall:

- (1) Be in writing.
- (2) Specify the public nuisance and its location.
- (3) Request the public nuisance to be abated.

(4) Advise such party that he has ten (10) days to abate the nuisance or to make a written demand for a hearing before the code enforcement officer, or else the public nuisance will be removed and abated by the city.

(b) The notice shall be sent by registered mail, return receipt requested, to the last known address of the owner of the property whereon the nuisance is located, as it appears on the current tax assessment roll. Where the owner of the property is not the occupant thereof, such notice shall be mailed also to the occupant. The code enforcement officer shall coordinate his efforts to

determine ownership of a junked motor vehicle or mobile home with the police department, and notice shall also be sent to the last registered and legal owner of record of the junked motor vehicle, watercraft, or mobile home, unless the owner or occupant of the premises whereon the nuisance is located, and unless identification numbers are not available to determine ownership of the vehicle or mobile home. If the owner, or his address, of any junked motor vehicle, watercraft, or mobile home 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, watercraft, or mobile home, no less than ten (10) days before action is taken. If the latter method of service is used, the code enforcement officer and/or the police officer shall make an affidavit attesting to such facts. Where a junked motor vehicle, watercraft, or mobile home is found to be upon any public property within the city, notice to the owner of the vehicle, watercraft, or mobile home is all that shall be required. Where a junked appliance or other item declared to be nuisance under this article is found on public property, no notice shall be required.

VII. Hearing.

If a hearing following receipt of a notice as provided for in this Ordinance is demanded, the hearing shall be held within five (5) days after the demand 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, watercraft, appliance, or other item of nuisance, and the circumstances concerning its location. Such hearing shall not be limited by the technical rules of evidence. The code enforcement officer may impose such conditions and take such other action 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, watercraft, appliance, or other item of nuisance, if, in his opinion, circumstances justify it. At the conclusion of any hearing, the code enforcement officer may find that a nuisance item, junked motor vehicle, watercraft, 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 same. The order requiring removal shall include a description of the nuisance item, junked appliance, watercraft, or junked motor vehicle, and the correct identification number and state license tag number of the junked motor vehicle, watercraft, or mobile home, if available at the site.

VIII. Appeals.

Any interested party may appeal the decision of the code enforcement officer, by appealing in writing to the Mayor who shall conduct an administrative review of the matter within fourteen (14) days after the final decision of the code enforcement officer. If the interested party does not agree with the decision of the Mayor to uphold, alter, amend, or vacate the finding of the code enforcement officer, said party may appeal the Mayor's final decision to any court of competent jurisdiction pursuant to the rules of civil procedure, within fourteen (14) days after the Mayor's final decision is made known to the interested party by personal contact or certified mail. 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, appliance, watercraft, or other nuisance item to be removed and disposed of in any manner as he may provide.

IX. Failure to abate.

(a) Upon the failure, neglect or refusal to abate a public nuisance pursuant to this article by any owner-occupant or owner of private property who has been notified and ordered to abate such public nuisance within the times as set forth in this Ordinance, the code enforcement officer is hereby authorized, empowered and directed to remove same and dispose of it.

(b) The cost of such removal and disposal shall be accounted for by the code enforcement officer, and where the full amount due the city for such service 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 county court clerk's office a sworn statement showing the cost and expenses incurred for the work, the date the work was done, and the location of the property on which such work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus cost of court, if any, for collection, until final payment has been made. Sworn statements recorded in accordance with the provisions of this article 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 collectible as provided by law.

X. Liability.

Neither the owner nor occupant of the premises from which any junked motor vehicle, watercraft, mobile home, or other nuisance item shall be removed, or any department of the city, shall be liable for any loss or damage to such nuisance items, while being removed or as a result of any subsequent sale or other disposition.

XI. Actions considered compliance.

The removal of the junked motor vehicle, watercraft, appliance, or other nuisance item from the premises prior to the time for removal by the city shall be considered in compliance with the provisions of this article, and no further action shall be taken against the owner of said nuisance items, or against the owner or occupant of the premises. Written permission given to the enforcement officer for the removal of such nuisance items by the owner of 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 costs for the removal of the nuisance.

XII. Penalties.

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 in this article, and any person violating any provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law.

XIII. Severability; Conflicting Ordinances; Repeal of Former Ordinance; Effective Date

If any of this Ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance shall continue in full force and effect. Any Ordinance in conflict with this Ordinance or any policies in conflict with the ones enacted herein are hereby repealed in so far as the same are in conflict herewith. This Ordinance shall hereby **repeal in full City of Somerset Ordinance 351**, enacted in full February 14, 1968, and further **fully repeals any and all amendments to said former Ordinance**. This ordinance shall be in full force and effect upon passage, approval, and publication according to law.

FIRST READING November 26, 2007

SECOND READING December 10, 2007

Approved:



Mayor, Eddie Girdler

ATTEST:


City Clerk, David Godsey