ORDINANCE NO. 1999 - 6

AN ORDINANCE REPEALING ORDINANCE NO. 1994 (7) AND ESTABLISHING A NEW NUISANCE ORDINANCE FOR HOPKINS COUNTY PURSUANT TO THE AUTHORITY GRANTED IN KRS 381.770.

BE IT ORDAINED by the Fiscal Court of Hopkins County,

1. General.

That the Hopkins County Fiscal Court does hereby establish the following reasonable standards, procedures and penalties for the enforcement of KRS 381.770 as it relates to unincorporated areas, or any municipality without a nuisance ordinance within the territorial jurisdiction of Hopkins County.

2. Definitions.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Dwelling." Any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.

"Nuisance." Public nuisance.

"Unfit for Human Habitation." Dangerous or detrimental to life or health because of: want of repair; defects in the drainage, plumbing, lighting, ventilation, or construction; infection with contagious disease; or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling or adjoining properties.

3. Common Law and Statutory Nuisances.

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 provided in this Ordinance or in accordance with any other provision of law.

4. Certain Conditions Declared a Nuisance.

It shall be unlawful for the owner, occupant, or person having control or management of any land within Hopkins County to permit a public nuisance or health hazard to develop thereon. The following conditions are declared to be public nuisances:

(A) Dwellings unfit for human habitation.

(B) Dilapidated buildings. Any building, house or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to inadequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(C) 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 of its catching or communicating fire, its attracting and propagating vermin, rodents, or insects, or its blowing of rubbish into any highway, road, street, sidewalk or property of another.

(D) Noxious, vile or offensive odors or smoke. Emission into the surrounding atmosphere of odor, dust, smoke or other matter which renders ordinary use, enjoyment or physical occupation of other property in the vicinity uncomfortable or impossible.

(E) Noise. Emission of noise which is noxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.

(F) Trees and shrubbery obstructing highways, county roads, and streets. The growing and maintenance of trees with less than fourteen (14) feet clearance over roads, or the growing and maintenance of shrubbery within the radius of twenty (20) feet where the curb line of any highway, county road, or street intersects the curb line of another highway, county road, or street is prohibited if it interferes with the visibility of motorists using such public ways or restricts their passage.

(G) Keeping of animals. The keeping of dog kennels, cattle, swine or poultry within 100 feet of a dwelling other than the dwelling of the owner of the animal, or failure to keep the animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odor.

(H) Junk; scrap metal; motor vehicles. The storage of motor vehicles in an inoperative condition, motor vehicles unfit for further use, automobile parts, refrigerators, stoves, washers, dryers, or scrap metal within the County limits except on premises authorized by the County for such purposes.

(I) Any condition which endangers public health.

5. Abatement Procedure.

(A) It shall be the duty of the Sheriff or other responsible officer designated by the Hopkins Fiscal Court to serve or cause to be served a notice upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this Ordinance and to demand abatement of the nuisance within seven (7) days unless the nuisance constitutes an immediate danger to the health and well being of the community. If such danger is present, the nuisance shall be abated with 24 hours of notice. Notice shall be served upon persons by personal service or certified mail, but if the address of the persons is unknown and cannot be ascertained by the Sheriff or designated official in the exercise of reasonable diligence, the Sheriff or designated

official shall make an affidavit to the effect, and the serving of notice may be made by publication in a newspaper of general circulation for two (2) consecutive days. A copy of the notice shall be posted in a conspicuous place on the premises affected by the notice and it shall be recorded in the office of the County Clerk.

(B) If the person so served does not abate the nuisance within seven (7) days, the County may, but is not required to, proceed to abate the nuisance or the County may employ independent contractors to abate the nuisance. The person or persons employed to abate the nuisance shall have the full right of access to the property with such personnel, machinery and equipment as are necessary to abate the nuisance. The County shall keep a record of the costs incurred to abate the nuisance and said costs shall be charged to and paid by the owner and/or occupant.

(C) Charges for nuisance abatement shall be a lien on the premises. Nuisance abatement charges shall include labor, equipment usage, fuel and oil, attorneys fees, filing fees, publication cost, court costs, and all other fees and charges when incurred by the County for the abatement of the nuisance, enforcement of the lien and foreclosure on the property. Whenever a bill for charges remains unpaid for sixty (60) days after it has been rendered, the Fiscal Court or its designated representative may file with the County Clerk a statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated and a notice that the County claims a lien for this amount. Notice of the lien claim shall be mailed to the owner of the premises if his address is known. However, failure to record the lien claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges as provided in division (D) below.

(D) Property subject to a lien for unpaid nuisance abatement charges shall be sold for nonpayment and the proceeds of the sale shall be applied to pay nuisance abatement charges and attorney's fees after deducting costs. This foreclosure shall be in equity in the name of the County.

(E) The County Attorney shall institute such proceedings, in the name of the County, in any court having jurisdiction over the matter, against any property for which the bill has remained unpaid sixty (60) days after it has been rendered.

6. Nuisance Created by Others.

The provisions of subsections 5A through 5E of this Ordinance shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons on the property.

7. Penalty.

Whoever violates any provision of this Ordinance shall be fined not less than Ten ($10.00) Dollars nor more than One Hundred ($100.00) Dollars for each offense. Each day's continued violation shall constitute a separate offense. Whoever shall allow a nuisance to remain unabated for a period of thirty (30) days or more after receiving a notice thereof by uniform citation, criminal

complaint, personal service or certified mail notice, or otherwise, may also be charged with a Class A Misdemeanor as defined in the Kentucky Revised Statutes.

Upon Motion made by Magistrate Hamilton and seconded by Magistrate Stanley, a first reading was held and approved on the 23rd day of November, 1999.

Richard L. Frymire, Judge/Executive

ATTEST:

Devra Steckler, Clerk

On second reading of the foregoing Ordinance, it was moved by Magistrate Hamilton and seconded by Magistrate Stanley, that this Ordinance be duly adopted.

WHEREUPON, the vote was called.

On roll call the vote stood:

Magistrate Welch	NO
Magistrate Wheeler	NO
Magistrate Stanley	YES
Magistrate Donald Hawkins	YES
Magistrate Hamilton	YES
Magistrate Purdy	YES
Magistrate Patricia Hawkins	NO
Judge Frymire	YES

WHEREUPON, County Judge/Executive Richard L. Frymire declared the Ordinance adopted on its second reading, affixed his signature and the date thereto and declared that the same be recorded.

ATTEST:

Devra Steckler
Hopkins County Clerk

Richard L. Frymire
Hopkins County Judge/Executive

December 9, 1999
Date