

ORDINANCE 94-9

AN ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY
ENACTING A PROPERTY MAINTENANCE CODE AND STATING
ITS PURPOSES; PROVIDING DEFINITIONS, IMPOSING DUTIES
ON OWNERS AND OPERATORS; CREATING ADMINISTRATIVE PROCEDURES
FOR ENFORCEMENT; IMPOSING PENALTIES; WITH SEVERABILITY AND
REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Russellville has determined that the enactment of a Property Maintenance Code is in the best interest of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE that:

ARTICLE I. TITLE, POLICY AND PURPOSES

Section 1. TITLE. This Ordinance shall be known as "The Property Maintenance Code," and may be referred to in this Ordinance in the short form as "this code."

Section 2. PURPOSE. The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance, conditions and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this code; and to provide for the repair, demolition or vacation of premises

unfit for human habitation or occupancy or use.

ARTICLE II. DEFINITIONS.

Section 1. MEANING OF CERTAIN WORDS. The following terms wherever used herein or referred to in this code shall have the respective meanings assigned to them unless a different meaning clearly appears from the context; all definitions of the BOCA Basic Building Code are hereby included by reference. The BOCA, or Building Officials Conference of America, Basic Building Code referred to is the latest edition published before the passage of this ordinance.

Deterioration: The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.

Exposed to public view: Any premises, or any part thereof, of any building or any part thereof, which may be lawfully viewed by the public.

Exterior of the premises: Open space on the premises outside of any building thereon.

Extermination: The control and elimination of insects, rodents and vermin.

Infestation: The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

Mixed occupancy: Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses or used as a hotel.

Nuisance: (a) Any public nuisance as defined by statute or ordinance.

(b) Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, or any debris.

(c) Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.

(d) Overcrowding of a room with occupants in violation of this code.

(e) Insufficient ventilation or illumination in violation of this code.

(f) Inadequate or insanitary sewage or plumbing facilities in violation of this code.

(g) Insanitary conditions or anything dangerous to health.

(h) Fire hazards.

Operator: Any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner: Any person who, along or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling unit, as owner or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of an estate, or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or

reassigning any part or all of any dwelling or dwelling unit shall be deemed to be coowner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

Parties in interest: Shall mean all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

Premises. A lot, plot or parcel of land including the buildings or structures thereon.

Public authority: Shall mean any officer who is in charge of any department or branch of the government of the municipality county or state relating to health, fire, building regulations or to other activities concerning buildings in the municipality.

Public officer: The City's designated officer or employee responsible for administration of this Ordinance.

ARTICLE III. Applicability.

Section 1. Every residential, nonresidential or mixed occupancy building to the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this code. This code shall also apply to mobile

home parks.

Section 2. HIGHER STANDARD TO PREVAIL IN CASE OF CONFLICT WITH OTHER LAWS OR ORDINANCES.

In any case where the provisions of this code impose a higher standard than set forth in any other local ordinances or under the laws of the state then the standards as set forth herein shall prevail, but if the provisions of this code impose a lower standard than any other local ordinances or of the laws of the state then higher standard contained in any other ordinances or law shall prevail.

Section 3. ENFORCEMENT OF ANY COMPLIANCE WITH OTHER ORDINANCES.

No license or permit or other certification of compliance with this code shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the city from enforcing any such other provision.

ARTICLE IV. DUTIES AND RESPONSIBILITIES OF OWNERS AND OPERATORS.

Section 1. MAINTENANCE OF EXTERIOR OF PREMISES.

(a) Free of hazards and insanitary conditions.

The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of insanitary conditions. Any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

- (1) Refuse.

Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash and debris.

(2) Improper Natural Growth.

Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to person in the vicinity thereof.

(3) Ground surface hazards or unsanitary conditions.

Holes, excavations, breaks, projections, obstructions, icy conditions, hazardous uncleared snow or ice, and excretion of pets and other animals on paths, walks, driveway, parking lots and parking areas, and other parts of the premises which are accessible to the public.

(4) Recurring accumulations of storm water.

Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.

(5) Sources of infestation.

(6) Improper Foundation walls.

Foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.

(b) Appearance of exterior of premises and structures. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property.

Section 2. GENERAL MAINTENANCE. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other condition reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties protected from blighting influences.

ARTICLE V. ADMINISTRATIVE PROVISIONS AND UNFIT BUILDINGS.

Section 1. PUBLIC OFFICER. All inspections, regulations, enforcement and hearings on violations of the provisions of this code, unless expressly stated to the contrary, shall be under the direction and supervision of the public officer. He may appoint or designate such other local public officers or employees to perform duties as may be necessary to the enforcement of this code, including the making of inspections and holding of hearings.

Section 2. GENERAL ADMINISTRATIVE PROVISIONS, UNFIT BUILDINGS.

Whenever a petition is filed with the public officer by a public authority charging that any building is unfit for human habitation or occupancy or whenever it appears to the public officer on his own motion that any building is unfit for human habitation, occupancy or use or that the continuing of any condition constitutes a nuisance in the meaning of this ordinance or presents a condition harmful to the health and safety of the occupants of said building and the general public of the municipality, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties

in interest in such building a complaint stating the charges and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, to have an attorney and to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing for administrative agencies shall be controlling in hearings before the public officer.

Section 3. RESULT OF HEARING. If, after such notice and hearing, the public officer determines that the charges filed involving the subject building are true in whole or in part, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order:

(a) Requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time, which time shall be set forth in the order, or at the option of the owner to vacate or have the said building vacated and closed within the time set forth in the order; or

(b) If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises, and the owner fails to repair, alter or improve the said building within the time specified in the order, then the owner

shall be required to remove or demolish the said building within a reasonable time as specified in the said order of removal.

(c) The financial circumstances of any property owner who resides in a structure which is the subject of a hearing under the ordinance shall be taken into consideration when determining a compliance schedule or other orders.

Section 4. RIGHT TO APPEAL. If after such notice and hearing the person or persons notified disagree with the decision of the public officer then they shall have the right to appeal to the BOCA Board of Appeals within fourteen (14) days after notice of order to repair or demolish. The Board of Appeals may affirm, reverse or modify the decision of the public officer. Any person or persons who disagree with the decision of the Board of Appeals shall have the right of appeal to Logan Circuit Court, which must be filed within thirty (30) days from the date of decision of the Board of Appeals.

Section 5. FAILURE TO COMPLY. If the owner fails to comply with an order to repair, alter or improve, or, at the option of the owner, to vacate and close the building, the public officer may cause such building to be repaired, altered or improved, or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful." If the owner fails to comply

with an order to remove or demolish the building, the public officer may cause such building to be removed or demolished, or may contract for the same after calling for bids.

Section 6. COSTS. The owner of the property where the public officer had a building removed or demolished shall be liable for all costs incurred by the public officer on behalf of the city relating to such removal or demolition. The city attorney shall take steps to collect such costs and to protect the city's interests in collecting such costs.

Section 7. NOTICE. Complaints, orders and notices issued by the public officer shall be served personally or by registered mail. If the person to be served cannot be found, in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing same once each week for two (2) successive weeks in a newspaper printed and published in the municipality. A copy of such complaint, notice or order shall be posted in a conspicuous place on premises affected by the complaint, notice or order.

Section 8. ADDITIONAL POWERS OF THE PUBLIC OFFICER. The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this, including the following powers in addition to others herein granted:

(a) To investigate the building conditions in the municipality in order to determine which buildings therein are unfit for human habitation or occupancy or use;

(b) To administer oaths, affirmation, examine witnesses and receive evidence;

(c) To enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession and provided that any entrance without the permission of the occupant shall be consistent with the rights of the owners and occupants. Where appropriate, a court order may be sought to permit entry;

(d) To appoint and fix the duties of officers and employees to carry out the purposes of this code.

Section 9. STANDARDS. The public officer may determine that a building is unfit for human occupancy if he finds that conditions are dangerous or injurious to health or safety, including fire hazards, danger of accidents, lack of adequate ventilation, light or sanitary facilities, disrepair, structural defects or uncleanliness.

Section 10. EMERGENCIES. The public officer may take immediate action to prevent possible injury, damage or health or death, in an emergency, without previous notice. Such action may include excavation of a building or emergency repair. The owners and occupants of the building shall be notified as soon as possible.

Section 11. PENALTY. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five

dollars (\$5.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 12. SEVERABILITY. In the event any provision of this ordinance is invalid for any reason, such invalidity shall not affect the validity of any other provisions.

Section 13. REPEALER. All portions of any section of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only. Ordinance 86- 10 is specifically not repealed except to the extent of any more stringent regulations which are created by this ordinance.

Section 14. EFFECTIVE DATE. This ordinance shall be effective upon its passage and publication according to law.

FIRST READING CONDUCTED on September 20, 1994.

SECOND READING CONDUCTED AND PASSAGE by roll call vote this 4th day of October, 1994.

AYES:	NAYS:	ABSTAINING:	ABSENT:
<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Patricia Basham</u>	<u></u>	<u></u>	<u></u>
<u>Howard Wren</u>	<u></u>	<u></u>	<u></u>
<u>Russell Jones</u>	<u></u>	<u></u>	<u></u>
<u>Jean Hankins</u>	<u></u>	<u></u>	<u></u>
<u>Michael Baugh</u>	<u></u>	<u></u>	<u></u>


KEN SMITH, MAYOR

ATTEST:


PEGGY JENKINS, CITY CLERK