

**CITY OF SHIVELY
ORD. NO. 7, SERIES 2023**

**AN ORDINANCE AMENDING SHIVELY CODIFIED ORDINANCE CHAPTER 94,
SECTION 94.40, (ORD. NO. 1, SERIES 1991, AMENDED ORD. NO. 4, SERIES 1995),
REGULATING THE GROWTH OF WEEDS AND OTHER PLANT GROWTH WITH
EXCEPTION FOR MANAGED NATURAL LANDSCAPE**

WHEREAS, the City of Shively recognizes the existence of public and environmental nuisances within the City of Shively and that such conditions are detrimental to the aesthetic and environmental welfare and health of its citizens, and

WHEREAS, the Shively City Council desires to exercise jurisdiction and to more clearly define certain violations in the nature of public and environmental nuisances, including excessive weeds and plant growth with an exception for managed natural landscape, now therefore:

BE IT ORDAINED BY THE CITY OF SHIVELY:

SECTION 1. The following section of Shively codified ordinance Chapter 94, Section 94.40 (Ord No. 1, Series 1991, Amended Ord. No. 4, Series 1995) shall be amended to read as follows:

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

“ENVIRONMENTAL NUISANCE.” Any use of the property which causes an annoyance, hazard, or injury, which may be detrimental to the property of others. The term includes, but is not limited to the following:

(A) Permitting the presence, existence or accumulation of waste, rubbish, trash, or other non-operable appliances and vehicles.

(B) Any weeds or plant growth exceeding ~~twelve (12)~~ [eight (8)] inches in height, other than crops, trees, shrubs, flowers, or other ornamental plants. [All noxious weeds shall be prohibited. Any plant growth exceeding eight (8) inches in height on land of more than three acres that abuts another parcel which contains a dwelling or commercial building thereon other than crops, trees, bushes, flowers or other ornamental plants, shall be at least fifty feet from the property line or 200 feet from an occupied structure.] It is not the intent of this provision to cause a change in the character of any geographical area(s) but only to remedy nuisances created by excessive growth of grass and weeds in developed neighborhoods.

[(C) Managed natural landscape - As an exception to section (B), an owner, authorized agent, or authorized occupant of any privately-owned lands or premises may, consistent with this subsection and all other applicable laws, statutes, rules, and ordinances, install and maintain a managed natural landscape such as native plantings, meadow vegetation, prairie, or rain garden, as long as the following requirements are met:

(1) At all times the managed natural landscape must remain in compliance with the City of Shively Code of Ordinances. In addition, the managed landscape must be set back from the property lines by at least five feet. The setback is not required where the defined landscape area

abuts another similar private or public landscape area, a wetland, pond, lake or stream or if a fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area; and

(2) The managed landscape must be mowed or cut back at least once per year in addition to ongoing maintenance; and

(3) The area must be clearly defined by edging, fencing, or similar material. A native planting that directly abuts at least two feet of mowed and maintained turf grass will be considered to have adequate edging; and

(4) The area of plant growth must not extend into the public right of way; and

(5) A sign must be posted on the property in a location likely to be seen by the public, advising that native plants are being established. The City of Shively will work with community partners to provide access to appropriate signage; and

(6) Noxious weeds are not allowed (KRS 176.051); and

(7) Managed natural landscapes shall not include turf-grass lawns left unattended.]

~~(C)~~ [D] Any shrub, tree, or other natural plant growth or any structure or fixture which by reason of its size and location in relation to a driveway or public thoroughfare limits the visibility of motor vehicles.

~~(D)~~ [E] The disposal or accumulation of any foul, decaying, or putrescent substances or other offensive materials in or on any lot, tract of land, street, highway, or any sidewalk or alley abutting any of these.

“OWNER.” Any person who, alone or jointly or severally with others:

- (1) Has legal title to any parcel of real estate, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any parcel of real estate as owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner or as lessee. Any such person thus representing the actual owner shall be bound to comply with the provisions of these rules and regulations imposed upon the owner.

“APPLIANCE.” Includes, but is not limited to, items such as stoves, refrigerators, freezers, washing machines, dryers, dishwashers and water heaters.

“RUBBISH.” Any combustible and noncombustible waste materials, except garbage, including but not restricted to paper, rags, boxes, cartons, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and the residue from burning combustible materials.

“WASTE.” Ashes, discarded wood, abandoned, discarded, or unused objects or equipment such as furniture, appliances, junk cars, rubber tires, cans, or containers, garbage or refuse of any kind, whether liquid or solid or any accumulation of any foul, decaying, or putrescent substances; but

does not include the deposit of materials under authorization of any Kentucky statute, administrative regulation, ordinance, conditional use permit or other appropriate governmental approval or to goods, wares or merchandise deposited on any public way or in any public place temporarily in the necessary course of trade or business and removed therefrom within two hours of being so deposited.

“WEEDS.” ~~Any uncultivated plant growth such as, but not limited to, jimson, burdock, rag weed, thistle, johnson grass, sweet annie, beggar weed, horse weed, cocklebur, or any other similar growth exceeding twelve (12) inches in height. [All grasses, annual plants and vegetation other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens. Noxious weeds include, but are not limited to, sorghum halpanese, (commonly known as Johnson grass), giant foxtail, Canada and nodding thistles, multiflora rose, kudzu, poison hemlock, marestail, amur honeysuckle, Japanese knotwood and common teasel.]~~

“VEHICLES.” Any agency for the transportation of persons or property over or upon the public highways which is propelled otherwise than by human or animal muscular power, excepting electric or steam railways, road rollers, road graders, farm tractors and construction equipment customarily used only on construction sites and which is not practical for the transportation of persons or property.

SECTION 94.99 PENALTY

(A) Violation of any provision of this chapter for which a penalty has not otherwise been established shall constitute a criminal violation for which a citation may issue returnable to District Court with a fine to be assessed for each violation consistent with subsection (B) and (C) of this section, or at the option of the city, and in addition to the foregoing, a violation shall constitute a civil offense and shall be enforced pursuant to the provisions of Chapter 41.

(B)(1) Any person violating any section for 94.15-94.17 shall be fined not less than fifty dollars (\$50.0), or more than five hundred dollars (\$500.00) and/or confined for no more than fifty (50) days in jail. Each separate occurrence or each day such violation is committed or permitted to continue shall constitute a separate offense. It shall be defense for an owner, lessee or occupant of any premises involved in an offense by some other party, if there is posted on said property a sign adequately noticeable in size (no larger than twelve (12) square feet) which contains sufficient warnings as to the criminal liability applicable for noise pollution violations. Said sign shall not contain any other messages such as advertising for said business.

(2) In lieu of issuing a citation as provided for herein, any law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be prohibited by this subchapter, except where a person is acting in good faith to comply with an abatement order issued pursuant to this subchapter. Any violation shall be cause for a citation to be issued by a law enforcement officer.

(C) Any person who violates any provision of this chapter where another penalty is not set out shall be guilty of a violation and shall be punished by a fine of not less than twenty-five dollars (\$25.00) or more than two hundred fifty dollars (\$250.00).

(D) The civil penalty for violating this subchapter shall be not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00). Each day's violation shall constitute a separate offense. This chapter shall be subject to enforcement by the Code Enforcement Board of the city.

SECTION 2. Severability. The provisions of this ordinance shall be considered severable. If any provision of this ordinance is found to be invalid, that finding shall not necessarily invalidate the entire ordinance.

SECTION 3. Effective Date. This ordinance shall become effective after passage, approval and summary publication as required by law.

First Reading: June 5, 2023

Second Reading: June 20, 2023 Not Passed, Not Approved

Introduced by: Ms. Thompson

Maria D. Johnson

Attest:

Mitzi R. Kasitz

Maria Johnson, Mayor

Mitzi R. Kasitz, City Clerk

Council	Yea	Nay
Ms. Bizzle	√	___
Ms. Burton-McBroom	___	X
Mr. Gibson	___	X
Ms. Thompson	√	___
Mr. Vincent	___	X
Ms. Wakaba	___	X