

**AN ORDINANCE RELATING TO THE LIMITATION OF
CONDITIONS UNDER WHICH NUISANCE SUITS MAY BE
BROUGHT AGAINST AGRICULTURAL OPERATIONS AND THE
CREATION OF AN AGRICULTURAL GRIEVANCE COMMITTEE**

WHEREAS, when non-agricultural land uses extend into agricultural areas, agricultural operations can become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements. It is the purpose of this ordinance to reduce the loss to Hardin County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. It is further the purpose of this ordinance to provide to the residents of Hardin County proper notification of Hardin County's recognition and support of its agricultural base and to commit a good neighbor policy by advising the citizens of Hardin County that residential uses of property adjacent to or near agricultural operations of potential concerns of such operation which may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of County of Hardin, Commonwealth of Kentucky, as follows:

A. For the purpose of this Ordinance the following words and phrases shall have the meaning ascribed to them in this section:

1. "Agricultural Land" shall mean all real property within the boundaries of Hardin County currently used for agricultural operations.

2. "Agricultural Operation" shall mean and include, without limitation, any facility for the production of crops, livestock, poultry, livestock products, poultry products including horticultural and growing of timber.

B. Nuisance.

No agricultural operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality thereof after the same has been in operation for more than one (1) year, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent operation of any such agricultural operation or its appurtenances.

The provisions of this Ordinance shall not affect the right of any person firm, or

corporation to recover damages for any injuries or damages sustained by them on account of pollution of the waters of any stream of any such person, firm, or corporation.

This Ordinance shall not be construed in any way modifying or abridging Kentucky Revised Statute 413.072, or any other applicable provision of state law relative to nuisances. It is only to be utilized in the interpretation and enforcement of the provisions of this Ordinance.

C. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

D. Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance, they are hereby repealed with respect to the conflict and no more.

E. Resolution of Disputes.

(a) If any person who resides adjacent or proximate to an agricultural operation believes that an agricultural operation has caused or is causing a nuisance from agricultural operations, including, but not limited to, noises, odors, fumes, dust, the operation of machinery of any kind during any 24 hour period, the storage and disposal of manure, or the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, or other similar activities so as to be maintaining or conducting the operation in a manner not substantially consistent with proper and accepted customs and standards then the person may submit the matter to a grievance committee as set forth below in an attempt to resolve the matter prior to the filing of any formal legal action.

(b) Any dispute arising under subsection (a) may be submitted to a grievance committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

(c) The committee shall be composed of Five (5) members. Those members shall be:

1. Designee of Hardin County, Judge Executive
2. Hardin County, Extension Agent for Agriculture
3. President, Hardin County Board of Realtors

4. President, Hardin County Farm Bureau
5. President, Lincoln Trail Home Builders Association

Or each of these persons may appoint someone to serve on the committee in their place.

(d) The parties shall cooperate in the exchange of pertinent information concerning the dispute.

(e) The committee may investigate the facts of the dispute and shall, within thirty (30) days of the initial request, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting render a written decision to the parties. At the time of the meeting each party shall have an opportunity to present material, relevant or pertinent facts.

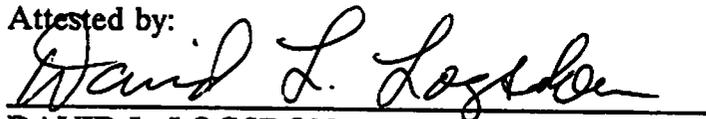
Given first reading on this the 10TH day of OCTOBER, 1994;

Given second reading and adoption on this 24TH day of OCTOBER, 1994.



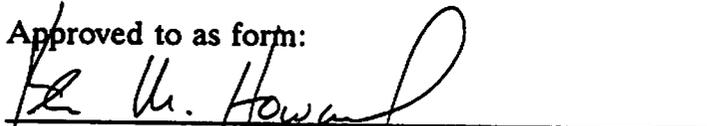
GLEN D. DALTON
HARDIN COUNTY JUDGE/EXECUTIVE

Attested by:



DAVID L. LOGSDON
HARDIN COUNTY COURT CLERK

Approved to as form:



KEN M. HOWARD
HARDIN COUNTY ATTORNEY

AMENDMENT TO

ORDINANCE NO. 105, SERIES 1994
AN ORDINANCE RELATING TO THE LIMITATION OF
CONDITIONS UNDER WHICH NUISANCE SUITS MAY BE
BROUGHT AGAINST AGRICULTURAL OPERATIONS;
NOTIFICATION REQUIREMENT; AND THE
CREATION OF AN AGRICULTURAL GRIEVANCE COMMITTEE

I. Paragraph A 2. shall be amended to read as follows:

2. "Agricultural Operation" shall mean and include, without limitation, any facility for the production of crops, livestock, poultry, livestock products, poultry products including horticultural and growing of timber.

II. Paragraph C Notification shall be deleted in its entirety and the remaining paragraphs shall be re-alphabetized accordingly.

AMENDMENT NO. 2 TO

ORDINANCE NO. 105, SERIES 1994
AN ORDINANCE RELATING TO THE LIMITATION OF
CONDITIONS UNDER WHICH NUISANCE SUITS MAY BE
BROUGHT AGAINST AGRICULTURAL OPERATIONS;
NOTIFICATION REQUIREMENT; AND THE
CREATION OF AN AGRICULTURAL GRIEVANCE COMMITTEE

The first whereas clause in the preamble shall be deleted in its entirety.

The second whereas clause in the preamble shall be deleted in its entirety.

The third whereas clause in the preamble shall be amended to read as follows:

WHEREAS, when non-agricultural land uses extend into agricultural areas, agricultural operations can become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements. It is the purpose of this ordinance to reduce the loss to Hardin County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. It is further the purpose of this ordinance to provide to the residents of Hardin County proper notification of Hardin County's recognition and support of its agricultural base and to commit a good neighbor policy by advising the citizens of Hardin County that residential uses of property adjacent to or near agricultural operations of potential concerns of such operation which may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations.