

ORDINANCE NO. BG2016 - 40

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 2
(ADMINISTRATION) AND 27 (PROPERTY CODE)
OF THE CITY OF BOWLING GREEN CODE OF
ORDINANCES TO COMPLY WITH AMENDED
STATUTORY CHANGES RELATED TO CODE
ENFORCEMENT

WHEREAS, House Bill 422 was passed during the 2016 Regular Session of the Kentucky General Assembly, which enacted new statutes and reorganized and amended others addressing code enforcement boards established by local governments; and,

WHEREAS, the provisions of House Bill 422 necessitates amendments to the property code and related chapters of the City of Bowling Green Code of Ordinances; and,

WHEREAS, it is in the best interests of the City to amend Chapter 2 (Administration) and Chapter 27 (Property Code) to bring both of these chapters into compliance with current state law.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 2 (Administration), Subchapter 2-23 (City of Bowling Green Code Enforcement and Nuisance Board) is hereby amended as follows:

2-23.01 Definitions

The following words, terms and phrases, when used in this Subchapter and in further chapters of this Code of Ordinances shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

"Abatement Costs" shall mean the City's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any City ordinance [the costs of cleaning, preventing unauthorized entry to or demolishing all or a portion of a structure or

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~~premises, or taking any other action with regard to a structure or premises to maintain and preserve public health, safety and welfare in accordance with the portion of the Property Code set out in this Code of Ordinances, including but not limited to costs incurred in the relocation of tenants from the structure or premises pertaining to the condition of and maintenance of the structure or premise].~~

“Citation” shall mean a written notification that a violation occurred and fines, fees and/or remedy charges may apply. This notification is appealable to the Code Enforcement and Nuisance Board with procedures set out below.

“Code Enforcement and Nuisance Board” shall mean an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to KRS 65.8839~~[, the Local Government Nuisance Code Enforcement Act and KRS 82.700 to 82.725].~~

“Code Enforcement Officer” shall mean a City police officer, safety officer, citation officer or other public law enforcement officer with the authority to issue a citation pursuant to the above Kentucky Revised Statutes and this Code of Ordinances.

“Final Order” shall mean any order:

a. Issued by the Code Enforcement and Nuisance Board following a hearing in accordance with the provisions hereinbelow;

b. Created because a violator neither paid nor contested the citation within seven (7) days as provided hereinbelow, or

c. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided hereinbelow.

“Imminent Danger” shall mean a condition which is likely to cause serious or life-threatening injury or death at any time.

“Owner” shall mean a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

“Person” shall mean any individual, firm, agency, establishment, business, company, association, partnership, business trust, joint stock company, body politic or corporation.

“Premises” shall mean a lot, plot or parcel of land, including any structures upon it.

2-23.02 Creation and Membership.

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 [~~and KRS 82.700 to 82.725~~] a Code Enforcement and Nuisance Board (hereinafter Code Enforcement Board) which shall be composed of five (5) members. Code Enforcement Officers and the Code Enforcement Board shall have jurisdiction over and shall enforce the property maintenance and nuisance codes and all other ordinances hereafter adopted which specifically provide for enforcement by Citation Officers, Code Enforcement Officers or the Code Enforcement Board in the manner set forth herein. All members of the Code Enforcement Board shall be residents of the City for a period of at least one (1) year prior to the date of the member’s appointment and shall reside in the City throughout the term in office.

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2-23.04 Appointment of Members; Term of Office; Removal from Office; Oath; and Compensation.

a. Members of the Code Enforcement Board shall be appointed by the Mayor, subject to the approval of the Board of Commissioners.

b. All appointments shall be for a term of three (3) years. A member may be reappointed by the Mayor, subject to the approval of the Board of Commissioners.

c. The Mayor may appoint, subject to the approval of the Board of Commissioners, two (2) alternate members to serve in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Board.

d. Any vacancy on the Board shall be filled by the Mayor, subject to approval of the Board of Commissioners. If the vacancy is not filled within sixty (60) days, the remaining members of the

Code Enforcement Board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

e. A Board member may be removed from office by the Mayor, with approval of the Board of Commissioners, for misconduct, inefficiency or willful neglect of duty. The Mayor shall submit a written statement to the member and to the Board of Commissioners setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

f. All members of the Board must, before entering into office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

g. Members of the Board shall be compensated at the rate of one hundred dollars (\$100.00) per meeting attended ~~[month]~~ and shall be reimbursed for actual expenses.

h. No member of the Board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the City.

2-23.05 Organization of Board; Quorum.

a. The Board shall annually elect a Chair from among its members. The Chairperson shall be the presiding officer and a full voting member of the Board. If the chairperson is not present at a meeting, the Board shall select one of its members to preside in place of and exercise the powers of the chairperson.

b. The Board may elect to hold regular monthly meetings. Meetings other than established regular meetings shall be special meetings held in accordance with the Kentucky Open Meetings Act.

c. All meetings and hearings of the Board shall be public meetings held in accordance with the applicable State statutes and the Kentucky Open Meetings Act.

d. The presence of at least a majority of the Board's entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.

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e. Minutes shall be kept for all proceedings of the Board, and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

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2-23.08 Powers of the Code Enforcement Board.

The City of Bowling Green Code Enforcement Board shall have the following powers and duties:

- a. To adopt rules and regulations to govern its operations and the conduct of its hearings.
- b. To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.
- c. To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Board may be served by a Code Enforcement Officer.
- d. To take testimony under oath. The Chairperson shall have the authority to administer oaths for the purpose of taking testimony.
- e. To make findings of fact and issue orders necessary to abate ~~[remedy]~~ any violation of a City ordinance which the Board is authorized to enforce.
- f. To impose civil fines as authorized on any person found to have violated an ordinance over which the Board has jurisdiction. The Board may forgive or waive any civil fines imposed by the Board within sixty (60) days from the date of the final order. The Board shall have no authority to waive any civil fine imposed by a final order not issued by the Board. Any forgiveness or waiver by the Board of a civil fine within sixty (60) days of the date of the Board's final order shall not forgive or waive any abatement charges or filing fees incurred by the City in recording or releasing liens.

2-23.09 Enforcement Proceedings.

The following requirements shall govern all enforcement proceedings before the Board:

- a. Enforcement proceedings before the Board shall be initiated by the issuance of a citation

by a Code Enforcement Officer.

b. Except as provided below, if a Code Enforcement Officer believes, based on his personal observation or investigation, that a person has violated a City ordinance, he is authorized to issue a citation to the violator. In lieu of a citation, the Code Enforcement Officer may give the violator a notice that a violation has occurred and allow the violator a specified period of time to remedy the violation without fine. The time allowed by the Code Enforcement Officer shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation. Informal settlement of matters is encouraged.

c. The notice of violation or citation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. The notice of violation shall be delivered to the violator by any method chosen by the Code Enforcement Officer. The ~~[or]~~ citation shall be delivered to the violator ~~[at his last known address as it appears from the current tax assessment roll or the records of the Warren County Clerk if those records are more current. Such notice of violation or citation shall be deemed to be properly served if given]~~ by personal delivery, by leaving a copy of the citation ~~[the notice at the person's usual place of residence]~~ with any person ~~[individual residing therein]~~ who is eighteen (18) years of age or older who is on the premises, ~~[and who is informed of the contents of the notice]~~ if the alleged violator is not on the premises at the time the citation is issued, or by posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first class mail to the owner of record of the property if no one is on the premises at the time the citation is issued. When the violation involves a fire damaged structure, a copy of the notice of violation or citation shall also be delivered to any mortgage company, lien holder and any insurance company with verified interest in the property. Every reasonable attempt shall be made to determine all verified interest. After issuing a citation, the Code Enforcement Officer shall deliver a copy of the citation to the person designated by

the Board.

~~[d. Notices of violation or citations involving streets, sidewalks and public ways shall be sent to the property owner or other person having control or management of the premises or property adjacent to or fronting the street, sidewalk or public way.]~~

~~[e. Notices of violation or citations involving motor vehicles shall be sent to the property owner or other person having control or management of the premises or property and the motor vehicle owner if known.]~~

d[f]. The citation issued by the Code Enforcement Officer shall contain the following information:

1. A description of the real estate sufficient for identification;
2. The name and address of the person to whom the citation is issued;
3. The date and time of issuance of the citation and date and time the offense was committed;
4. The facts constituting the violation;
5. The section of the ordinance or other code violated;
6. The name of the Code Enforcement Officer;
7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;
8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;
9. The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,
10. A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed as having waived the right

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to a hearing before the Code Enforcement Board to contest the citation and that the determination that a violation was committed shall be final and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

e[g]. Nothing in this Subchapter shall prohibit the City from correcting the violation through self-help or taking immediate action to remedy a violation of its ordinances when there is reason to believe that there is imminent danger or that the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

f[h]. ~~[Upon receipt of a citation,]~~ The person to whom the citation is issued ~~[violator]~~ shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the person ~~[violator]~~ responds by paying the civil fine, the person to whom the citation is issued ~~[violator]~~ shall still be required to remedy the violation. If the person ~~[violator]~~ fails to remedy the violation or to request a hearing within seven (7) days ~~[the designated time]~~, the Code Enforcement Officer is authorized to issue another citation. If the person ~~[alleged violator]~~ does not contest the citation within seven (7) days ~~[the time prescribed]~~ by requesting a hearing, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation and the person shall be deemed to have waived the right to appeal the final order to District Court. ~~[Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation; and, if the property is not brought into compliance or if the Code Enforcement Board orders the property be brought into compliance and the violator refuses, failure to so comply shall constitute permission to an official, employee or other authorized agent of the City to enter upon the property to remedy the~~

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~~situation and to abate the violation.]~~ A copy of the final order shall be served on the person guilty of the violation by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the final order at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

2-23.10 Hearing, Notice and Final Order.

a. When a hearing has been requested, the Board shall schedule a hearing for the next regular meeting of the Board that will permit adequate notification to be made to all parties.

b. Not less than seven (7) days before the date of the hearing, the Board shall notify the requester of the date, time and place of the hearing. The notice may be given by regular first-class mail; certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

c. Any person requesting a hearing before the Board who fails to appear at the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the citation, as issued, shall be deemed a final order ~~[The Board shall enter a final order]~~ determining that the violation was committed and imposing ~~[shall impose]~~ the civil fine set forth in the citation and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court. A copy of the final order shall be served on the violator by regular first-class mail; certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

d. All testimony shall be taken under oath and recorded. Testimony shall be taken from the Code Enforcement Officer, the alleged violator and any witnesses to the violation offered by the Code Enforcement Officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due

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process shall be observed and shall govern the proceedings.

e. The Board shall, based on the evidence, determine whether a violation was committed. If it determines that no violation was committed, an order dismissing the citation shall be entered. If it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized or requiring the violator to abate [remedy] a continuing violation, or both.

f. Every final order of the Board shall be reduced to writing, which shall include the date the order was issued and the findings and conclusions reached, including the fine, charges and costs, including abatement costs, imposed. The Board may also direct the violator to abate the violation within a reasonable time and to assess daily fines for noncompliance. ~~[The final order may contain a statement that if the civil fine is not paid within fourteen (14) days from the date of the order, a lien shall be filed for the civil penalty assessed and any legal expenses the City may incur.]~~ A copy shall be furnished to the person named in the citation. If the person named is not present when the final order is issued, the order shall be delivered to that person by regular first-class mail; certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice ~~[in accordance with the procedures set forth above].~~

2-23.11 Legal Counsel.

Each case before the Board shall be presented by an attorney selected by the City or by a Code Enforcement Officer for the City. ~~[If the Board determines that it needs the City Attorney present at the hearing,]~~ The City Attorney may either be counsel to the Board or may present cases before the Board, but in no case shall the City Attorney serve in both capacities.

2-23.12 Appeals; Final Judgment.

An appeal from any final order of the Board following a hearing pursuant to the provisions

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hereinabove may be made to the Warren District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the Board's final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The District Court shall review the final order ~~[appeal shall be tried]~~ de novo. If no appeal of the final order of the Board is filed within the time allowed, the Board's order shall be deemed final for all purposes.

2-23.13 Liens, Fines, Charges and Fees.

a. The City shall possess a lien on property owned by the person found by a final, non-appealable order as set out hereinabove~~[of the Board]~~, or by a final judgment of the court to have committed a violation of a City ordinance for all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the City in connection with the enforcement of the ordinance. An affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

b. The lien shall be recorded in the office of the County Clerk and shall be notice to all persons from the time of its recording and shall bear interest at twelve (12%) percent per annum thereafter until paid. The lien shall continue for ten (10) years following the date of the non-appealable final order or final court judgment.

c. ~~[For nuisance violations,]~~ Subject to the provisions of hereinbelow, the lien shall take precedence ~~[be superior to and have priority]~~ over all other liens on the property, except state, county, school board and city taxes and may be enforced by judicial proceedings, including a foreclosure action.

~~[d. For all other violations, the lien shall be superior to and have priority over all other subsequent liens, except state, county, school board and city taxes and may be enforced by judicial proceedings.]~~

d[e]. In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and

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for all charges, [and] fees and abatement costs incurred by the City in connection with the enforcement of the applicable Code of Ordinances. The City Department of Law is authorized to bring a civil action for the collection of delinquent liens and other costs incurred by the City, and the City shall have the same remedies as provided for the recovery of a debt. The City Attorney, in cooperation with the Neighborhood and Community Services Department staff, is granted authority to use his best judgment and discretion to settle any fine and remedy assessments and to release liens as he deems to be in the best interests of the City. The City Attorney, in cooperation with the Neighborhood and Community Services Department staff, is further authorized to make a determination that a lien not be filed if the cost of the lien and collection is greater than the amount of the lien, when intervening in existing litigation is not cost effective or when the lien would not be enforceable as a matter of law. The City Attorney is also authorized to release any existing liens that meet the above criteria.

2-23.14 Lienholder Notification System.

The City shall obtain and maintain priority over previously filed liens, as provided in the previous Section, in accordance with the following provisions:

a. Individuals and entities, including but not limited to lienholders, may register with the City to receive electronic notification of final orders entered pursuant to this Subchapter.

b. In order to receive the notification, the registrant shall submit the following information to the code enforcement staff:

1. Name;

2. Mailing address;

3. Phone number; and

4. Electronic mailing address.

c. A registrant may use the electronic form provided on the City Web site to submit the information required in this Section. It shall be the responsibility of the registrant to maintain and update

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the required contact information with the City. The City shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

d. No less than once a month but no more frequently than once per week, the City shall send electronic mail notification of all final orders entered pursuant to this Section since the last date of notification to each party registered pursuant to this Section. The notification shall provide an electronic link to the City code enforcement database located on the City Web site. The database shall include the following information regarding each final order:

1. The name of the person charged with a violation;
2. The physical address of the premises where the violation occurred;
3. The last known mailing address for the owner of the premises where the violation

occurred;

4. A copy of the full citation;
5. A copy of the full final order; and
6. The status of the final order regarding its ability to be appealed pursuant to this

ordinance.

e. If an appeal is filed on a final order pursuant to this Subchapter, the City shall send electronic mail notification to all registrants.

f. Within ten (10) days of the issuance of a final order pursuant to this Subchapter, the City shall update its code enforcement database to reflect the issued final order and shall post the notification required by this Section containing an updated link to the code enforcement database on the City Web site.

g. The City shall maintain the records created under this Section for ten (10) years following their issuance.

2-23.15 Lien Holder Rights, Lien Precedence.

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a. A lienholder of record who has registered pursuant to the previous Section may, within forty-five (45) days from the date of issuance of notification under that Section:

1. Correct the violation, if it has not already been abated; or

2. Pay all civil fines assessed for the violation, and all charges and fees incurred by the City in connection with enforcement of the ordinance, including abatement costs.

b. Nothing in this Section shall prohibit the City from taking immediate action if necessary under the provisions of this Subchapter.

c. The lien provided hereinabove shall not take precedence over previously recorded liens if:

1. The City failed to comply with the requirements of the previous Section for notification of the final order; or

2. A prior lienholder complied with this Section.

d. A lien that does not take precedence over previously recorded liens under (c) of this Section shall, if the final order remains partially unsatisfied, take precedence over all other subsequent liens except liens for state, county, school board and city taxes.

e. The City may record a lien before the forty-five (45) day period established in this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the City shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.

f. Failure of the City to comply with this and the previous Sections, or failure of a lien to take precedence over previously filed liens as provided in this Section, shall not limit or restrict any other remedies the City has against the property of the violator.

2. Chapter 27 (Property Code) is hereby amended as follows:

27-1 GENERAL PROVISIONS.

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27-1.02 Scope.

This Chapter shall apply to proposed and existing buildings or structures or appurtenances connected or attached to such buildings or structures, vacant lots, premises and other private and public property in the City as identified herein.

27-1.03 Definitions.

“Abandoned” shall mean any structure that is vacant, unoccupied or not in use for a period of one (1) year or more and which is any of the following: neglected, dilapidated, unsanitary, vermin infested, not serviced by public utilities, dangerous to the safety of person, unfit for its intended use by reason of neglect or lack of maintenance, has become a place for the accumulation of trash or debris or is the subject of a building permit requirement and has not satisfactorily passed building inspection in the last six (6) months or more.

“Abatement Costs” shall mean the City’s necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any City ordinance.

“Code Enforcement and Nuisance Board” shall mean the administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to 65.8839 and as created in Chapter 2 of this Code of Ordinances.

“Code Official” shall have the same meaning as a Code Enforcement Officer as set forth in Subchapter 2-23 of the Code of Ordinances with the authority to issue citations.

“Controlled Substance” is as defined in the Controlled Substances Act published annually in Title 21 Code of Federal Regulations (C.F.R.) §§ 1308.11 through 1308.15.

“Final Order” shall mean any order:

a. Issued by the Code Enforcement Board following a hearing in accordance with the provisions of Subchapter 2-23 of the Code of Ordinances;

b. Created because a violator neither paid nor contested the citation within seven (7) days as provided in Subchapter 2-23 of the Code of Ordinances, or

c. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in Subchapter 2-23 of the Code of Ordinances.

“Imminent Danger” shall mean a condition which is likely to cause serious or life-threatening injury or death at any time.

“Improved Parking Surface” shall mean[s] any gravel, concrete, pavers or asphalt surface generally used for parking motor vehicles.

“Junk Motor Vehicle” is any inoperable motor vehicle, whether repairable or not, without a current valid license plate, or which is rusted, wrecked, discharged, partially or totally dismantled or abandoned.

“Material Recyclers” shall mean[s] any place of business, including junk yards, solid waste transfer stations and sanitary fills which are operated or used for storing, buying or selling of old, scrap or recyclable material, including but not limited to steel, copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or motor vehicle parts. Excluded from this definition are containers such as trash dumpsters which are used for storing garbage for regular pick up by an approved sanitation service.

“Notice of Violation” shall mean notification to a person violating a specified City ordinance providing the violator with an opportunity to cure the violation without fines, fees or remedy charges being assessed.

“Nuisance” shall mean a problem structure as defined hereinbelow and any condition or use of public or private property or premises, or of building exteriors which substantially annoy, injure or endanger the comfort, health, repose or safety of the public which is detrimental to the property of others, or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located, or which creates a stench or odor noxious and

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offensive to those in the neighborhood or passers-by and is noticeable from public streets or ways or from the ground of neighboring properties [~~and shall include all definitions of nuisances as set out in KRS 82.700 to 82.725 and KRS 381.770~~].

“Operator” shall mean[s] a person operating a vehicle, machinery, parts or material recycling establishment or the allowing of such establishment to be operated on premises owned or controlled by such person.

“Owner” shall mean a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

“Person” shall mean any individual, firm, agency, establishment, business, company, association, partnership, business trust, joint stock company, body politic or corporation.

“Premises” shall mean a lot, plot or parcel of land, including any structures upon it.

“Public Road” or “Road” shall mean[s] any municipal, county, state, federal or limited access highway or turnpike, or platted street located within a subdivision which has been approved by the Planning Commission and recorded in the Warren County Court Clerk’s office. This term shall also include bridges and bridge approaches.

“Recycling Establishment” shall mean[s] any place operated maintained or allowed to exist by any vehicle, machinery, parts or material recycler.

“Repeat Offender” shall mean a person violating the provisions of Subchapters 27-4 (Property Maintenance Code); 27-5 (Amendments to Property Maintenance Code) and/or 27-6 (Nuisances) set out hereinbelow who: (a) has been issued the fourth (4th) citation for any violations of the Subchapters listed above involving any of the person’s properties within a two (2) year period; (b) has been issued the third (3rd) citation for any violation involving any of the person’s properties within a twelve (12) month period; or (c) has been issued a second (2nd) citation for any violation of the Subchapters above involving any of the person’s properties within a two (2) year period and the previous

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citation involves fines or remedy charges that remain unpaid. Only those citations that are final orders from the Code Enforcement Board with all appeals concluded shall be counted and the time periods shall commence from the date of the order of the Code Enforcement Board.

“Vehicle, Machinery or Parts Recycler” shall mean[s] any zone-approved place of business where junk motor vehicles, machines or other similar scrap or salvage materials are parked or otherwise located and material recyclers as defined herein, and includes the following, whether it is a principal or incidental activity:

- a. Salvaged automobile parts dealer;
- b. Salvaged heavy equipment dealer;
- c. Salvaged steel or metal dealer;
- d. Wholesale or retail material recycler;
- e. Body shop operator;
- f. Wrecker service operator;
- g. Auto repair operator; and,
- h. Salvaged office or household equipment dealer.

Excluded from this definition are the following:

- a. Storage of recyclable materials indoors on appropriately zoned property which complies with the Zoning Ordinance, Building Code, Property Code and other applicable laws and regulations; and,
- b. Temporary storage of recyclable materials for less than sixty (60) days if such storage is incidental to a use permitted in this Chapter.

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27-7 ABATEMENT.

27-7.01 Issuance of Notice of Violation or Citation.

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a. Enforcement proceedings for this Chapter shall be initiated by the issuance of a notice of violation or a citation by a Code Enforcement Officer as set out in Subchapter 2-23 of the Code of Ordinances. The Code Enforcement Officer is authorized to abate any violations of this Chapter upon a final order.

b. Enforcement proceedings involving weeds and grass nuisances shall initiate with a letter to the alleged violator. The letter shall inform the alleged violator that a Code Enforcement Officer will inspect the property after a seven (7) day period. If the weeds and grass nuisance still exists, the City shall issue a citation and shall abate the violation. If the alleged violator timely appeals the citation and, after having considered the evidence in the matter, the Code Enforcement Board dismisses the citation or that portion of the citation alleging weeds or grass violations, the City may not recover the abatement costs to remedy the alleged weeds or grass violations which were dismissed.

c. After determining that compliance has been achieved in the allowed correction time, the code official shall report that statistic to the Code Enforcement Board.

27-8 PENALTIES.

27-8.01 Property Code Fine Schedule.

Violations of this Chapter and other provisions as set out in other specified chapters of this Code shall be subject to the following schedule of civil fines which shall be in addition to any remedy or abatement costs, filing costs and other costs incurred by the City:

a. If a citation for a violation of this Chapter is not contested by the person charged with the violation, the maximum penalties below shall apply~~[-; however, the Board may waive any or all of a penalty for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Chapter].~~ The penalties listed below are for each day a violation continues, beginning on the first day after the ending date of the correction period given in the citation. A second offense is an offense that occurs within five (5) years of the determination by the Code Enforcement

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Board of a prior offense. All others are those that occur within five (5) years of the determination by the Code Enforcement Board of two (2) or more prior offenses.

...

3. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

4. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

5. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on December 6, 2016, and given final reading on December 20, 2016, and said Ordinance shall be in full force and effect as of January 1, 2017, and upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: December 20, 2016

APPROVED: Bruce Wilkerson
Mayor, Chairman of Board of Commissioners

ATTEST: Kathy Silva Ward
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 11/17/2016, 3:30 p.m.