

ORDINANCE NO. **BG2014 – 12**  
(Amended)  
ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 2  
(ADMINISTRATION) AND 27 (PROPERTY CODE)  
OF THE CITY OF BOWLING GREEN CODE OF  
ORDINANCES TO ADOPT RECOMMENDED  
CHANGES FROM THE CITIZENS COMMITTEE  
ESTABLISHED TO REVIEW THE CITY'S  
PROPERTY CODE AND CHANGES  
RECOMMENDED BY THE NEIGHBORHOOD AND  
COMMUNITY SERVICES DEPARTMENT

WHEREAS, approximately one year ago, the Neighborhood and Community Services (NCS) Department began the process of rewriting Chapter 27 of the Code of Ordinances, known as the Property Code; and,

WHEREAS, the NCS Department created and worked with a committee of interested citizens to review the existing Property Code for possible amendments and additions to the Property Code; and,

WHEREAS, the committee consisted of ten (10) members representing a cross section of the City with staff from the NCS Department facilitating the process; and,

WHEREAS, the committee met monthly and toured a variety of neighborhoods to review the issues and conditions the committee was being asked to address; and,

WHEREAS, the recommendations for amendments to the Property Code were presented to the Code Enforcement Board in February and to the Board of Commissioners during a work session this past April; and,

WHEREAS, the proposed amendments impacted several other Code of Ordinance chapters that included civil penalties for violations; and,

WHEREAS, it is in the best interests of the City to approve these amendments.

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

1. Chapter 2 (Administration) is hereby amended as follows:

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2-23 CITY OF BOWLING GREEN CODE ENFORCEMENT AND NUISANCE  
BOARD.

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 costs of cleaning, 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 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.

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 or 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.

2-23.03 Powers.

a. The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing City ordinances when a violation of the ordinance has been classified as a civil offense.

b. The Code Enforcement Board shall not have the authority to enforce any ordinance the violation of which constitutes an offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

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. ~~One (1) member of the Board shall initially be appointed to a one (1) year term; two (2) members shall initially be appointed to two (2) year terms and two (2) members shall initially be appointed to three (3) year terms.~~ All subsequent 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~~[, within sixty (60) days of the vacancy. If the vacancy is not filled within the~~

~~time period, the remaining Code Board members shall fill the vacancy].~~

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.

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 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 ~~of the board each month~~. 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 held in accordance with the ~~requirements of applicable State statutes~~ KRS 65.8815(5) and the Kentucky Open Meetings Act.

d. The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.

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.

2-23.06 Conflict of Interest.

Any member of the Board who has any direct or indirect financial or personal interest in

any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter in which he has an interest and shall not be counted for purposes of establishing a quorum.

2-23.07 Jurisdiction.

The Board shall have jurisdiction to enforce and shall enforce those City ordinances which specifically provide for Code Board enforcement.

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 ~~[or to assign a hearing officer to conduct a hearing]~~ to determine if there has been a violation of an ordinance over which it has jurisdiction. ~~[Any board member, including the chairperson, may also be assigned to conduct hearings on behalf of the Board.]~~
- 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 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.

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 violation offender. 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 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 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 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.

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;

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 to a hearing before the Code Enforcement Board to contest the citation and that the determination that a violation was committed shall be final.

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 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.

h. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the Code Enforcement Officer is authorized to issue another citation. If the alleged violator does not contest the citation within the time prescribed by requesting a hearing, the 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 situation and to abate the violation. A copy of the final order shall be served on the person guilty of the violation.

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.~~[The Board may also schedule a hearing to be held before a hearing officer and may assign a Board member as a hearing officer.]~~

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 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. The Board shall enter a final order determining the violation

was committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served on the violator.

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 process shall be observed and shall govern the proceedings.

e. ~~[If a hearing officer is assigned to conduct the hearing, the hearing officer shall make written findings of fact, conclusions of law and a recommended order for consideration by the Board. After the Board conducts a hearing, or upon receipt of recommendations of a hearing officer assigned to conduct the hearing,]~~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 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. 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 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 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 order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The 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 of the Board, or by a final judgment of the court to have committed a violation of a City ordinance for all 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.

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.

c. For nuisance violations, the lien shall 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.

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.

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 fines assessed for the violation and for all charges and fees 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.

2-24 CITATION OFFICERS.

2-24.01 Authorized.

Pursuant to KRS 83A.087, there are hereby authorized citation officers subject to the provisions of this Subchapter.

2-24.02 Powers.

Citation officers shall not have the powers of peace officers to make arrests or carry deadly weapons, but may issue citations and notices of violation as authorized upon observation of violations of City ordinances. The powers and responsibilities of citation officers include, but are not limited to, conducting investigations, conducting inspections, recording and documenting conditions, obtaining outsourced inspection services, issuance of notices of violations or other notices as authorized, the issuance of citations, appeal processes, abatement of nuisances, right of entry, modifications and all other powers vested under applicable statutes and this Code of Ordinances. Citation officers shall have the power to enter upon all properties within the City for the purposes of inspection, observation, measurement, sampling and testing in order to carry out the duties above.

2-24.03 Procedures.

The procedures for citations issued by a citation officer shall be as provided in ~~KRS 431.015~~ and by the Code of Ordinances. Citation officers shall carry identification identifying

themselves as citation officers and shall so identify themselves immediately to any member of the public while enforcing any ordinance of the City.

2-24.04 Employees Authorized.

The City Manager may designate those persons whose responsibilities include the enforcement of ordinances subject to the jurisdiction of the City of Bowling Green Code Enforcement Board as citation officers, and authorize those persons to issue citations and notices of violation.

2-24.05 Power of Citation Officer to Make Arrest.

This Subchapter shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005. This Subchapter shall not be the exclusive means for enforcement of City of Bowling Green ordinances, and citation officers are not limited to use of a criminal citation, but may swear to a complaint in lieu of citation and may issue citations for civil violations of City code.

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

27-1 GENERAL PROVISIONS.

27-1.01 Title.

This Chapter shall be known and may be cited as the "Property Code."

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, 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

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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.

“Code Enforcement Board” shall mean the administrative body created in Chapter 2 of this Code of Ordinances.

“Code Official” shall ~~mean~~ have the same meaning as a Code Enforcement Officer as set forth in Subchapter 2-23.

“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.

“Improved Parking Surface” means 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” means 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 ~~written~~ 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 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” means 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.

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

“Public Road” or “Road” means 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” means 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 Subsections 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 (4<sup>th</sup>) citation for any violations of the subsections Subchapters listed above involving any of the person’s properties within a two (2) year period; (b) has been issued the third (3<sup>rd</sup>) citation for any ~~the same~~ violation involving any of the person’s properties within a twelve (12) month period; or (c) has been issued a second (2<sup>nd</sup>) citation for any violation of the subsections Subchapters above involving any of the person’s properties within a two (2) year period and the previous citation involves fines or remedy charges that remain unpaid.

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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” means 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.

## 27-2 ZONING ORDINANCE.

### 27-2.01 Adoption.

a. The City of Bowling Green hereby adopts and incorporates by reference, as if produced herein in full the current edition of the Zoning Ordinance prepared by the City-County Planning

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Commission and ~~Duncan/Associates dated June 2001~~, and all amendments thereto approved by the City of Bowling Green. A copy of the Zoning Ordinance is filed in the Office of City Clerk.

b. The City of Bowling Green hereby adopts and ratifies the current edition of the Subdivision Regulations prepared by the City-County Planning Commission which are to be enforced within the City.

#### 27-2.02 Abatement; Penalties; Enforcement.

The Zoning Ordinance and Subdivision Regulations shall be enforced within the City through the imposition of civil penalties as set out in ~~Sec. 7.1, SubSec. 7.2.2, Sec. 7.3 and Sec. 7.4~~ of the Zoning Ordinance and as set out hereinbelow.

#### 27-3 SCREENING REGULATIONS FOR RECYCLING ESTABLISHMENTS.

##### ~~27-3.01 Definitions.~~

~~As used in this Subchapter, unless the context otherwise requires:~~

~~“Public Road” or “Road” means 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.~~

~~“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.~~

~~“Vehicle, Machinery or Parts Recycler” means 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;~~

~~(b) Temporary storage of recyclable materials for less than sixty (60) days if such storage is incidental to a use permitted in this subsection.~~

~~“Material Recyclers” means 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.~~

~~“Operator” means 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.~~

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

~~“Recycling Establishment” means any place operated, maintained or allowed to exist by any vehicle, machinery, parts or material recycler.~~

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27-3.0~~1~~2 Purpose.

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27-3.0~~2~~3 General Provisions.

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27-3.0~~3~~4 Measurement of Control Distance for Screening.

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27-3.0~~4~~5 Standards for Screening.

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27-3.0~~5~~6 Requirements for Recycling Establishment Permit and Fee.

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27-3.0~~6~~7 Revocation of Recycling Establishment Permits.

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27-4 PROPERTY MAINTENANCE CODE.

27-4.01 Adoption.

The City hereby adopts and incorporates by reference as if produced herein the International Property Maintenance Code, current edition, as published by International Code Council, Inc. (ICC), and all amendments thereto and regulations promulgated thereby, except as set out hereinbelow. A copy of the Code is filed in the Office of the City Clerk. Any conflicts between the provisions of the International Property Maintenance Code and the provisions of the City's Code of Ordinances shall be resolved in favor of the provisions of the City's Code of Ordinances. Violations of any of the provisions of the International Property Maintenance Code, and of any of the provisions of the Code amended by the City hereinbelow shall be deemed a nuisance enforceable by any and all provisions of this Chapter.

27-4.02 Standards.

This Subchapter shall govern and control the conditions and maintenance of all property,

buildings and structures in the City by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and that premises are clean and sanitary. This Subchapter shall also govern and control the condemnation of buildings and structures found to be unfit for human occupancy and use, and establish procedures for the demolition of such structures. This Subchapter shall also establish what constitutes a nuisance on public and private properties, prohibit such nuisances, fix the responsibilities of owners, operators and occupants of property and provide for administration, enforcement and civil penalties. The provisions of this Subchapter shall not be construed to prevent the enforcement of other ordinances or regulations.

27-5 AMENDMENTS TO PROPERTY MAINTENANCE CODE.

27-5.01 Means of Appeal.

In that a Code Enforcement Board has been established for the City of Bowling Green, the appropriate sections of the International Property Maintenance Code dealing with means of appeal is deleted in its entirety and that Section shall henceforth read as follows:

a. Correction time. The International Property Maintenance Code is amended to provide that any request for additional time to come into compliance shall be made by written application to the code official within the time allowed in the correction order except as set out hereinbelow. The City may extend the correction time, in its sole discretion, if it determines that the correction time is not reasonable given the facts of a particular violation. It shall be the duty of the violator to notify the City that additional time is needed and to provide justification why the correction time is inadequate. Code officials are not authorized to grant requests for additional time to correct an unsafe / problem structure as defined ~~established~~ in Subsection 27-5.02 (~~ab~~) below and any request for additional time to correct such a problem structure shall take the form of an appeal to the Bowling Green Code Enforcement Board. An appeal may be filed by any party with an equitable interest in the property and any such appeal must be filed within the remedy period specified in Subsection 27-5.02 (b).

b. Appeals. The International Property Maintenance Code is amended to provide that all appeals of a citation issued by the code official shall be made pursuant to the requirements hereinbelow.

27-5.02 Unsafe / Problem Structures.

In that there is a need to establish a period of time an unsafe / problem structure may remain standing, ~~the appropriate section of~~ the International Property Maintenance Code Section 108 dealing with unsafe structures and equipment is amended to add the following:

a. An unsafe / problem structure is defined as a building or other structure that poses a nuisance or danger to the public, police department or fire department and includes, but is not limited to the definition in the International Property Maintenance Code, as well as the following:

~~1. A building whose interior or exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of the base;~~

~~2. A building, exclusive of the foundation, that shows 33% or more damage or deterioration to its supporting members or 50% or more damage or deterioration to its non-supporting members or to the enclosing or outside walls or coverings;~~

~~3. A building having improperly distributed loads on the floors, or roofs, or in which same are overloaded or have insufficient strength to be reasonably safe to occupants or the public;~~

~~4. A building damaged by fire, wind, seismic or other causes so as to cause the building to become dangerous to life, limb or property of the occupants or to the public;~~

~~5. A building that has become or is so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease or injury to health, safety or general welfare of those living therein;~~

~~6. A building having light, air and sanitation facilities that are inadequate to protect~~

the health, safety or general welfare of human beings who live or may live therein;

47. A building having inadequate facilities for egress in case of fire or other events, or having insufficient stairways, fire escapes or other means of travel;

~~8. A building that has parts or elements that are attached or not attached in such a way that they may fall and cause injury to persons or property;~~

59. A building characterized by disconnected utilities, extensive broken glass, peeling or flaking paint on the exterior walls, loose or rotting materials on the roof or the exterior walls; or,

~~610. Any vacant building or structure not secured from entry or the elements.~~

b. When an unsafe / problem structure, not in danger of structural collapse, has been closed and secured from entry and the elements by the property owner and the structure continues to remain closed and secured from entry and the elements by approved methods, it may remain standing in a safe condition for a period not to exceed sixty (60) days from the date of the condemnation, fire, or ~~the date of~~ damage from other means, or the date of the release of the property from a governmental, criminal, fire or explosives investigation, at which time an application must have been made for a building permit to repair or for a demolition permit. If a building permit is requested and approved, ~~repair or renovation work to bring the property into compliance must be completed within sixty (60)~~ days of the date of the issuance of the permit. If a demolition permit is requested and approved, demolition must be initiated within five (5) days and must be completed within thirty (30) days of the date of the issuance of the demolition permit.

c. Failure of the property owner to obtain the required permit(s) in the specified time and/or to keep the structure closed and secured from entry and the elements or to obtain the required permit in the specified time shall constitute permission to an official, employee, or other authorized agent of the City to enter upon the property to remedy the situation and to abate the nuisance by demolition and removal of the unsafe / problem structure.

The appropriate section of the International Property Maintenance Code dealing with motor vehicles is amended to read as follows:

a. No inoperative or unlicensed motor vehicle, whether repairable or not, shall be parked, kept or stored on any public right-of way. No junk ~~inoperative or unlicensed~~ motor vehicle, ~~whether repairable or not~~, shall be parked, kept or stored on any private premises longer than three (3) calendar days unless contained within an approved enclosed building. No motor vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled unless contained within an approved enclosed building. ~~A motor vehicle is covered by this Section if it does not have lawfully affixed thereto an unexpired license. A motor vehicle is also covered by this Section if it is inoperative and remains in an inoperative condition for more than three (3) calendar days, whether or not it is repairable and whether or not it has an unexpired license.~~

1b. This Section shall not apply to business zoned property where two inoperable vehicles may be located or to industrial zoned property which must comply with other ordinances of the City and the laws of the Commonwealth.

2e. This Section shall not apply to a historic motor vehicle registered and licensed pursuant to KRS 186.043, unless it is inoperative and remains in an inoperative condition for more than three (3) calendar days and is not contained within an approved enclosed building.

bδ. A vehicle of any type shall not be permitted to undergo painting and major overhaul, including body work, unless such work is performed inside a building designed, zoned and approved for such purposes. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

ce. A motor vehicle marked and intended for use in a racing occupation or hobby shall not be permitted unless the vehicle is located on a trailer approved for highway transport. A racing motor vehicle shall not be permitted to undergo major overhaul, including body work, unless such work is performed inside a building designed, zoned and approved for such purposes.

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The appropriate section of the International Property Maintenance Code dealing with Electrical Facilities is amended to substitute one hundred (100) amperes in place of sixty (60) amperes in that Section to comply with the Electrical Code adopted by the City.

27-5.05 Abatement; Penalties; Enforcement.

The International Property Maintenance Code is hereby amended to add the provisions related to abatement, penalties and enforcement as set forth hereinbelow.

27-5.06 Application of Other Codes.

Section 102.3 of the International Property Maintenance Code is replaced as follows:

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with procedures and provisions of the Kentucky Building Code, Kentucky Residential Code, Kentucky Plumbing Code, Kentucky Mechanical Code, Kentucky Standards of Safety, National Fire Code, the National Electric Code and any other codes adopted by the Commonwealth of Kentucky or the City of Bowling Green now and in the future. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the Bowling Green-Warren County Zoning Ordinance.

27-5.07 Weeds / Grasses.

Section 302.4 of the International Property Maintenance Code is amended to designate ten (10) inches as the maximum height of weeds or plant growth on properties located in the City except for those parcels being used for agricultural purposes. The presence of any weeds or plant growth, including grass, but excluding crops, trees, bushes, flowers or other ornamental plants, in excess of ten (10) inches in height is hereby declared a nuisance. The property owner is responsible for weeds or plant growth on their property including easements and rights-of-way. Rights-of-way include the property line to the curb or if no curb exists, from the property line to the street.

27-5.08 Insect Screens.

Section 304.14 of the International Property Maintenance Code is amended to designate the period from April 1 to October 31 as the appropriate time period requiring insect screens.

27-5.09 Heat Supply.

Section 602.3 of the International Property Maintenance Code is amended to designate the period from September 1 through April 30 as the appropriate time period requiring heat supply by every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms to furnish heat to the occupants.

27-5.10 Occupiable Work Spaces.

Section 602.4 of the International Property Maintenance Code is amended to designate the period from September 1 through April 30 as the appropriate time period to supply heat to indoor occupiable work spaces.

27-6 NUISANCES.

27-6.01 Purpose Definitions.

~~“Nuisance” shall mean a problem structure as defined hereinabove 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 offensive to those in the neighborhood or passers by on the public streets or ways.~~

Nuisances have the potential to create environments which annoy, injure or endanger the comfort, health or safety of the public. Nuisances hinder neighborhood development and possibly diminish neighboring property values. It is the City’s desire to promote its neighborhoods and ensure that property is maintained in accordance with this Code. For the purposes of this Subchapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant or persons having control or management of the property or premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the

exercise of reasonable care ought to have become aware.

27-6.02 Common Law and Statutory Nuisances.

In addition to what is declared in this Subchapter to be a public nuisance, those offenses which are known to the common law and in the statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this Subchapter or in accordance with any other provisions of law.

27-6.03 Duty of Maintenance of Private Property.

No person owning, leasing, occupying or having charge of any property or premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such property or premises in a manner which could cause ~~causing~~ substantial diminution in the value of the other property in the neighborhood in which such property or premises are located. ~~For the purposes of this Section, it shall not be essential that the nuisance be created or contributed to by the owner, occupant or persons having control or management of the property or premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware.~~

27-6.04 Duty of Maintenance of Streets, Sidewalks, Drainage Areas and Public Ways.

No person shall place, throw, deposit or allow to accumulate or grow or cause to be erected or placed on any street, alley, sidewalk, gutter, storm sewer, public or private drainage ditch or drainage structure or any other public right-of-way, easement or public property, any rubbish, garbage, construction or demolition debris, landscaping debris, furniture, signs, large rocks or boulders, fences, posts, stakes, weeds, inoperative or unlicensed motor vehicle, junk or scrap metal as hereinabove declared to be a public nuisance, abandoned property or any other obstruction or encroachment of any nature and any other materials which may do injury to any person, animal or property, including any person traveling on the street, alley, sidewalk or other public property, except for premises authorized

by the City for such purposes. The presence of such liquids or substances in or upon any street, alley, sidewalk, gutter, storm sewer, public or private drainage ditch or any public right-of-way or easement or property shall constitute a nuisance and is a violation of this Subchapter. Every person owning, occupying or having control or management of any building or lot in the City shall also keep the sidewalk adjacent to such building or lot open and free from all ice, snow and other obstructions, barriers and impediments of every description and shall not allow or permit any tree, brush, hedge or other vegetation to grow in a manner which interferes with normal sidewalk traffic or vehicular traffic within the public right-of-way or to permit any tree, brush, hedge or other vegetation to become diseased to such an extent that it becomes a hazard to persons or property using the sidewalk or streets adjacent to such property. In addition to any other remedies in this Chapter, any materials in violation of this Section found on City streets, sidewalks, public ways, public or private drainage areas and other public property may be removed immediately by the City with or without notice to the property owner. Notwithstanding the above provisions, temporary signs advertising the sale or lease of real estate shall be allowed in City rights-of-way pursuant to the provisions of Chapter 21 (Streets and Sidewalks).

27-6.05 Certain Conditions Declared a Nuisance.

It shall be unlawful for the owner, occupant or person having control or management of any public or private land within the City to permit a public nuisance to develop thereon. Public nuisances include, but are not limited to, the following conditions:

a. Junk; scrap metal. The storage of junk motor vehicles, motor vehicle parts, ~~including~~ tires, storage tanks, dumpsters, refuse/trash containers not being served by the County's garbage collection franchisees, junk machinery, machinery parts, abandoned, discarded or unused appliances, objects or equipment in unusable condition such as stoves, refrigerators, washers, dryers and similar equipment, or scrap metal (whether recyclable or unrecyclable) within the City limits, except on premises authorized by the City for such purposes;

b. Accumulation of construction, demolition, ~~or~~ landscaping debris or other waste

materials. All exterior property and premises shall be free from any accumulation of combustible and noncombustible waste materials, including any material resulting from maintenance, demolition, repair, alteration or construction of buildings, structures or grounds, or landscaping or natural damage of grounds, including, but not limited to, ashes, stones, glass, concrete, fallen trees, tree branches, brush and yard trimmings;

c. Exterior use or storage of indoor furniture. The use or storage of furniture which is upholstered or not designed for outdoor use in an uncovered or exposed area in which it is likely to decay, decompose or retain moisture causing a health hazard ~~or diminution in the value of neighboring properties~~;

d. Compost piles. ~~Any compost pile which is of such a nature as to spread or harbor disease, emit unreasonable, unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance~~ All compost shall be contained to compost bins and all material included in the bin shall originate from the property where it is located. Compost bins must not exceed one hundred twenty-five (125) cubic feet and must be made of permanent materials, including but not limited to wood, fiberglass, wire or metal. Compost bins should be constructed to prevent the harborage of rodents and insects and to mitigate noxious odors. Compost bins are not allowed in the front or side yards and must be at least five (5) feet from the property line with a maximum of three (3) bins per residence;

e. Nauseous substances or odors. The permitting of any offal, manure, rubbish or filth, decaying animal or vegetable matter, excessive animal excrement or any foul or nauseous substance, or nauseous or offensive odor to be emitted or to be discharged out of or flow from the premises;

f. Dangerous trees or stacks adjoining streets. The permitting of any tree, shrubbery, hedge or other object adjoining public rights-of-way to grow or stand in such a condition that it interferes with the use, construction or maintenance of streets or sidewalks, that could cause injury to

streets or sidewalks, or that causes an obstruction to drainage or poses a danger to life, limb or property of persons using the sidewalks or rights-of-way. No such person shall allow any dead tree adjoining public sidewalks or rights-of-way to stand more than three (3) feet in height;

g. Obstructions of storm water and drainage facilities. The permitting of any limbs, leaves, grass clippings or other objects to be placed in a manner that interferes with the use or maintenance of any storm water and drainage facilities;

h. Visual obstructions of streets. The permitting of any hedge, shrubbery, fence or other visual obstruction on any ~~corner~~ lot to attain a height which prohibits proper sight distance as stated in the Sight Distance Triangle section of the Zoning Ordinance and/or the Sight Distance Regulations in the City of Bowling Green Traffic Management Manual;

i. Dilapidated structures. All buildings, walls and other structures including, but not limited to greenhouses, smokehouses, antennas, retaining walls, mailboxes and fences, which have been damaged by fire, decay or otherwise and which are in a state of dilapidation, deterioration or decay so as not to provide shelter, sufficient sewer, plumbing, electrical or heating facilities or which are unsound or in danger of collapse or failure and which are a danger to the safety of the public or which are vacant or abandoned and open or accessible to vagrants or passersby or which are otherwise built, erected or maintained in violation of any ordinance. All fences and walls shall be structurally sound and maintained in good repair. Repair of fences and walls shall be made with materials that are comparable in composition, color, size, shape, design and quality to those originally used to construct the fence or wall being repaired. Materials for new fence or wall construction shall be insect and/or weather resistant or have protective treatment applied soon after the construction or repair is completed. Materials such as pallets, slabs or similar materials are not an acceptable construction material;

j. Obstructions over streets. All hanging signs, awnings, canopies, wires and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety

or to be contrary to ordinance, unless approved in the Central Business District by the City Engineer or designee;

k. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply;

l. Accumulation of refuse/trash and placement of trash containers/recycle containers. The storing or permitting the accumulation of refuse/trash, unless such refuse/trash is kept separately in standard refuse/trash containers or dumpsters which are covered by solid, tight fitting lids and which have no uncovered holes, and the storing or permitting the accumulation of refuse and trash for which removal of refuse and trash is not provided. Trash containers/recycle containers in residential areas are permitted more than five (5) feet past the front corner of the residence only on the assigned pickup date for the residence where they are placed;

m. Scattering garbage, etc. The throwing, placing, or scattering of any garbage, rubbish, trash, or other refuse over or upon any premises, street or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove or burn;

n. Attractive nuisances. The allowing of any physical condition, use or occupancy of any property or premises to be an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, standing pools of water, basements, excavations, retaining walls, unsafe fences and refrigerators, freezers, ice chests, ice boxes or similar airtight box or container which has a locking device inoperable from within, without first unhinging and removing the door or lid and detaching the locking device from the door or lid;

o. Graffiti. The allowing of any graffiti which is defined as any inscription, drawing or design that is scratched, painted, sprayed or placed on any surface of any structure that has no redeeming artistic, moral or social value;

p. Hoarding of pet animals. The keeping of more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners or others

and without constituting a nuisance to the occupants or neighboring properties, characterized by failure to provide proper food, water, shelter, veterinary care and sanitation to the animals and resulting in squalid living conditions for the animals and the keeper and by complaints from neighbors including, but not limited to, mistreated or neglected animals, stench from the property and rodent and insect infestations; ~~and,~~

q. Hoarding of materials. The accumulation of ~~combustible~~ materials, trash, food, newspapers, magazines, old clothes and other items that create a serious fire ~~and~~ or health hazard that can cause disease, contribute to vermin and/or insect infestations, affect the occupants of the building, neighbors, public safety personnel and the general public, or violate any other City safety code;

r. Parking in yards. The parking or storage or allowing another to park or store a motor vehicle in the front, side or rear yard of any property upon any surface other than an improved parking surface. For the purposes of this Section motor vehicles is defined as a licensed means of motorized transportation for the movement of people and goods along public roadways including, but not limited to cars, trucks, vans, RVs and motorcycles;

s. Mobile or Manufactured Homes. The allowing of one (1) or more mobile or manufactured home or recreational vehicle as defined in KRS 227.550 that are junked, wrecked or non-operative and which are not inhabited;

t. Tires. The outdoor storage of tires within the City limits, except on premises authorized by the City for such purposes; and,

u. Abandoned Structures. It shall be unlawful to allow any building or structure to become abandoned.

#### 27-6.06 Criminal Activity as a Nuisance.

a. Any building or premises where law enforcement officers have on more than one (1) occasion in the preceding twelve (12) month period criminally cited or arrested persons for crimes involving prostitution, controlled substances or gambling on the premises, or executed a court-issued

search warrant for violations of the laws governing prostitution, controlled substances or gambling on the premises are hereby declared a nuisance.

b. The Bowling Green Police Department shall notify the Department of Neighborhood and Community Services after criminally citing or arresting persons for crimes involving prostitution, controlled substances and gambling on the premises or after executing court-issued search warrants for the same offenses by providing in writing the specific violation, the address of the property on or in which the violations or search warrants occurred and the circumstances of the violation or warrants. The Department of Neighborhood and Community Services shall then notify the property owner by first class mail of this violation.

c. If the Department of Neighborhood and Community Services receives information that criminal citations or arrests involving prostitution, controlled substances or gambling have occurred or that court-issued search warrants were executed for the same offenses at the same location within twelve (12) months of the previous incidents, it shall send a notice of violation to the property owner describing the nuisance and requesting that the nuisance be abated within a specified time. If a property owner or tenant reports such criminal activity, such citations or arrests will not be considered a criminal nuisance.

d. Should the criminal activity not be abated, a citation may be issued pursuant to the procedures hereinbelow.

e. In addition to other remedies set out in this Chapter, upon failure of the property owner to request a hearing before the Code Enforcement Board and to abate the nuisance, or the failure of the property owner to abate the nuisance pursuant to orders of the Code Enforcement Board, the Department of Neighborhood and Community Services is authorized to order the closing and vacating of the premises or portions thereof to abate the criminal activity nuisance. Such closing and vacating shall be for a period of time as the Code Enforcement Board or the Department of Neighborhood and Community Services reasonably may direct, but in no event may the closing and vacating be for a

period of more than one (1) year from the date of closing. If the premises consist of multi-unit dwellings or mixed uses and the criminal activity nuisance has occurred solely with a unit or units, the authority to close and vacate is restricted to the unit or units in which the criminal activity nuisance has occurred and does not extend to any other unit in the premises. Upon the failure of the property owner to comply with an order to close and vacate, the Department of Neighborhood and Community Services may prohibit the furnishing of utility service to the premises and may use any other legal remedy available.

f. It shall be a defense to a violation of this ~~sub~~Section that the owner has instituted an eviction proceeding against the offending tenant or occupants of the offending premises within thirty (30) days of the date of the notice of violation and the owner completes the eviction within sixty (60) days of the date of commencement of the action or as soon thereafter as court procedures allow.

## 27-7 ABATEMENT.

### 27-7.01 Issuance of Notice of Violation or Citation.

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 official as set out in Chapter 2 of the Code of Ordinances.

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. Except as provided below, if a code official 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 official may give the violator a notice of violation 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 official 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 official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.~~

~~e. The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll. Such notice of violation or citation shall be deemed to be properly served if given by 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. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy shall also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation. 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 and any insurance company with verified interest in the property. Every reasonable attempt shall be made to determine all verified interest.~~

~~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. Upon the failure of the violator to comply with the directives of the citation or of any orders of the Code Enforcement Board, the appropriate City official is authorized to send employees or authorized agents of the City upon the property to remedy the situation and to abate the~~

~~nuisance by removing the vehicle. The vehicle must be reclaimed by the vehicle owner or authorized representative within thirty (30) days upon furnishing proof of ownership, payment of any civil penalty assessed, towing and storage charges, and an acceptable statement of vehicle disposal or relocation that would immediately comply with the laws of the Commonwealth and ordinances of the City. If the vehicle is not reclaimed within thirty (30) days following the date on which it was taken up, it is deemed abandoned and shall escheat to the City.~~

~~f. The citation issued by the code official 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 the violation was observed and the date and time of issuance of the citation;~~
- ~~4. The facts constituting the violation;~~
- ~~5. The section of the ordinance or other code violated;~~
- ~~6. The name of the code official;~~
- ~~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 to a hearing before the Code Enforcement Board, and the determination that a violation was committed shall be final.~~

~~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 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. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses.~~

~~h. After issuing a citation, the code official shall deliver a copy of the citation to the person designated by the Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to remedy the violation.~~

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

~~27-7.02 — Permit to Repair Does Not Extend Compliance Time.~~

~~When abatement of a violation by repair requires a permit obtained from the Department of Neighborhood and Community Services, the completion time shall correspond to the correction time allowed in the notice of violation issued by the code official or the correction time established by this Chapter. It shall be the duty of the violator to notify the code official that additional time is needed and to provide justification why the completion time is inadequate. The Director for the Department of Neighborhood and Community Services may extend the completion time, in his sole discretion, if he determines that the completion time is not reasonable given the facts of a particular violation. Any cessation of the normal construction or repairs may cause the permit to become invalid. Code officials are not authorized to grant requests for additional time to correct a problem structure as established in Subsection 27-5.02 (b) above and any request for additional time to correct such a problem structure~~

~~persons from the time of its recording and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e. The lien shall take precedence over all other subsequent liens except state, county, school boards and city taxes, and may be enforced by judicial proceedings.~~

~~d. In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

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:

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 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.

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Recycling Establishments			
Screening Violations	\$ 100.00	\$ 250.00	\$ 500.00
Property Maintenance and Nuisances			
Structural Violations	<del>\$ 75.00</del>	<del>\$ 150.00</del>	<del>\$ 300.00</del>
	<del>\$ 150.00</del>	<del>\$ 300.00</del>	<del>\$ 600.00</del>
Non-Structural Violations	<del>\$ 50.00</del>	<del>\$ 100.00</del>	<del>\$ 200.00</del>

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	<u>\$ 100.00</u>	<u>\$ 200.00</u>	<u>\$ 400.00</u>
Zoning Ordinance/Subdivision Regulations			
Use Violations	\$ 100.00	\$ 200.00	\$ 300.00
Yard/Dimensional Violations	\$ 50.00	\$ 100.00	\$ 200.00
Sign Violations	\$ 50.00	\$ 100.00	\$ 200.00
Violation of General			
Development Standards	\$ 100.00	\$ 200.00	\$ 300.00
Violation of Development			
Review Procedures	\$ 100.00	\$ 200.00	\$ 300.00
Violation of Overlay			
District Standards	\$ 250.00	\$ 500.00	\$ 750.00
<u>Obstruction on City Property</u>	<u>\$ 100.00</u>	<u>\$ 200.00</u>	<u>\$ 400.00</u>
Storm Water			
Erosion Prevention and Sediment Control	\$ 250.00	\$ 500.00	\$1,000.00
Illicit Discharge	\$ 500.00	\$1,000.00	\$2,000.00
Post Construction BMP Maint.	\$ 250.00	\$ 500.00	\$1,000.00
Cemeteries			
Unleashed Animal	\$ 25.00	\$ 50.00	\$ 100.00
Animal Waste Removal	\$ 25.00	\$ 50.00	\$ 100.00
Animal on Grass	\$ 25.00	\$ 50.00	\$ 100.00
Contractors Licensing			
Expired License	\$ 100.00	\$ 200.00	\$ 300.00
No License	\$ 250.00	\$ 500.00	\$ 750.00
Expired Insurance	\$ 100.00	\$ 200.00	\$ 300.00
No Insurance	\$ 250.00	\$ 500.00	\$ 750.00

b. If the citation is contested and a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Recycling Establishments			
Screening Violations	\$ 200.00	\$ 500.00	\$1,000.00
Property Maintenance and Nuisances			
Structural Violations	<del>\$ 150.00</del>	<del>\$ 300.00</del>	<del>\$ 600.00</del>
	<u>\$ 300.00</u>	<u>\$ 600.00</u>	<u>\$1,200.00</u>
Non-Structural Violations	<del>\$ 100.00</del>	<del>\$ 200.00</del>	<del>\$ 400.00</del>
	<u>\$ 200.00</u>	<u>\$ 400.00</u>	<u>\$ 800.00</u>
Zoning Ordinance/Subdivision Regulations			
Use Violations	\$ 200.00	\$ 400.00	\$ 600.00
Yard/Dimensional Violations	\$ 100.00	\$ 200.00	\$ 400.00
Sign Violations	\$ 100.00	\$ 200.00	\$ 400.00
Violation of General			
Development Standards	\$ 200.00	\$ 400.00	\$ 600.00
Violation of Development			
Review Procedures	\$ 200.00	\$ 400.00	\$ 600.00
Violation of Overlay			

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District Standards	\$ 500.00	\$1,000.00	\$1,500.00
<u>Obstruction on City Property</u>	<u>\$ 200.00</u>	<u>\$ 400.00</u>	<u>\$ 800.00</u>
Storm Water			
Erosion Prevention and Sediment Control	\$ 500.00	\$1,000.00	\$2,000.00
Illicit Discharge	\$1,000.00	\$2,000.00	\$4,000.00
Post Construction BMP Maint.	\$ 500.00	\$1,000.00	\$2,000.00
Cemeteries			
Unleashed Animal	\$ 50.00	\$ 100.00	\$ 200.00
Animal Waste Removal	\$ 50.00	\$ 100.00	\$ 200.00
Animal on Grass	\$ 50.00	\$ 100.00	\$ 200.00
Contractors Licensing			
Expired License	\$ 200.00	\$ 400.00	\$ 600.00
No License	\$ 500.00	\$1,000.00	\$1,500.00
Expired Insurance	\$ 200.00	\$ 400.00	\$ 600.00
No Insurance	\$ 500.00	\$1,000.00	\$1,500.00

27-9 REPEAT OFFENDER.

27-9.01 Designation.

A person shall be classified as a repeat offender only by the recommendation of the code enforcement staff and action by the Code Enforcement Board. The code enforcement staff shall recommend that a person be classified as a repeat offender with no less than fourteen (14) days' notice to that person prior to the next Code Enforcement Board meeting. That person may appear at the Board meeting to contest the recommendation. The repeat offender designation shall be determined at the sole discretion of the Code Enforcement Board and the Code Enforcement Board will establish a period of time a person will remain in repeat offender status of no less than twelve (12) months, but no longer than twenty-four (24) months. A person will remain as a repeat offender for the appointed amount of time and until all outstanding fines/fees are paid. ~~Any person designated as a repeat offender shall remain in that status until the expiration of the time period leading to the designation or the payment of outstanding fines and remedy charges, whichever is applicable.~~ Citations used as justifications for deeming a person a repeat offender cannot be used as justification for future recommendations of repeat offender status.

27-9.02 Enforcement.

In addition to all of the procedures set forth above, enforcement action shall be enhanced

against designated repeat offenders. No personal contact or notices of violation shall be required of the code enforcement staff and the staff may cite designated repeat offenders immediately upon confirmation of a code violation. The code enforcement staff may also institute a program of regular inspections involving properties of repeat offenders without the necessity of complaints. The names of designated repeat offenders may be made public by use of the City's website or other appropriate means.

#### 27-9.03 Penalties.

If a designated repeat offender is cited for a violation of the provisions of Subsections 27-4 (Property Maintenance Code), 27-5 (Amendments to Property Maintenance Code) and / or 27-6 (Nuisances) set out hereinabove and the citation is not contested, a maximum fine of one thousand two ~~six~~ hundred (~~\$600~~ \$1,200) dollars shall apply; however, the Code Enforcement Board may waive any or all of that fine for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Chapter. If the designated repeat offender contests the citation and a hearing before the Board is required, the Board may impose a maximum fine of ~~one~~ two thousand ~~two~~ four hundred (~~\$1,200~~ \$2,400) dollars at the discretion of the Board. The Code Enforcement Board may also classify all such civil fines as daily fines until the violation is remedied. The Code Enforcement Board findings that assess the civil fines and remedy charges against repeat offenders shall also authorize the City to file civil actions in the appropriate Warren County court against the repeat offender to collect the civil fines and remedy charges, including foreclosure actions if deemed appropriate by the City.

#### 27-10 ENFORCEMENT.

The International Property Maintenance Code is amended to provide that this Chapter shall be enforced by any Code Official or Code Enforcement Officer designated by the City Manager.

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

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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 July 15, 2014, and given final reading on August 5, 2014, and said Ordinance shall be in full force and effect, upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: August 5, 2014

APPROVED: Bruce Wilkerson  
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson  
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 04/28/2014, 11:25 a.m.

First reading of Ordinance No. BG2014-12 was tabled at the May 20, 2014 Board of Commissioners meeting. Re-filed 6/25/2014, 8:45 a.m.

Ordinance No. BG2014-12 was amended from the floor at the July 15, 2014 Board of Commissioners meeting.