

SCOTT COUNTY FISCAL COURT

ORDINANCE NO. 20-07

AN ORDINANCE AMENDING ORDINANCE 16-10
AND MAKING VARIOUS RELATED REVISIONS SUMMARY

Amends Ordinance 16-10 to: make various changes necessary to make the ordinance consistent with recent changes to the state law; to clarify that the code enforcement officer has discretion to require a shorter or longer period of remediation as warranted; to make the default remediation period seven (7) days; to clarify that a \$100 admin fee is added to every violation abatement by the county; to limit the county attorney's discretion to reduce or waive penalties to situations involving error by the county insolvency of the violator or good cause for failure to remedy the violation or if the penalties exceed the value of the property; to provide examples of good cause; to clarify that the hearing officer or Board has the authority to increase or decrease penalties based on the totality of the circumstances in the case; to amend the penalty to provide for three classes of violations with separate penalty structures; to change the trigger for when a violator receives a courtesy Notice of Violation from the first offense within a 24 month period to the first offense within the same calendar year; amending the time to respond to a notice of violation from five (5) days to fourteen (14) days; and amends various sections of the Code of Ordinances to specify whether the violations are Class 1, 2 or 3 for purposes of determining penalties.

The full text of this Ordinance is available for examination in the County Judge Executive's Office, Scott County Courthouse, Georgetown, Kentucky 40324 or at www.scottky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: October 9, 2020

PUBLICLY READ SECOND TIME AND PASSED: October 22, 2020

APPROVED:


Joe Pat Covington
Scott County Judge Executive

ATTEST:


Stacy Hamilton
Scott Fiscal Court Clerk

I, Rand Marshall, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 198 E. Washington St., Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 20-07 of the Scott County Fiscal Court, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.

Rand Marshall

COPY

COUNTY OF SCOTT, KENTUCKY

ORDINANCE NO. 20-07

AN ORDINANCE RELATED TO CODE ENFORCEMENT

WHEREAS, the Kentucky State Legislature has mandated that municipalities codify new nuisance ordinances to include certain provisions; and

WHEREAS, the County of Scott desires to comply with said mandate;

NOW THEREFORE, be it ordained by the Scott Fiscal Court as follows:

ONE

Section 860.0 of the Scott County Code of Ordinances is created to read as follows:

Code Enforcement Board and Procedures

1. Title:

This Division shall be known and may be cited as the "Scott County Code Enforcement Board Ordinance."

2. Definitions:

The definitions set forth in KRS 65.8805 and KRS 65.8840 are incorporated as though set forth fully herein.

3. Code Enforcement Board created:

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 a Scott County Code Enforcement Board (hereinafter the "Code Enforcement Board") which shall be composed of five (5) members and two (2) alternates. In the event the County enters an interlocal agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint code enforcement, the number of members shall be as set forth in the Agreement

4. Jurisdiction

a. The Code Enforcement Board shall have jurisdiction over and shall enforce Scott County Code of Ordinances with respect to the Property Maintenance Code, Nuisances, and all other ordinances herein or hereafter adopted or amended which specifically provide for

enforcement by Citation Officers, Code Enforcement Officers or the Code Enforcement Board in the manner set forth in this Division.

b. At the request of the alcoholic beverage administrator, the board or a hearing officer appointed by the board may serve as the enforcement authority for matters regarding the sale of alcoholic beverages.

c. Upon execution and effect of an interlocal agreement with the City, any other local government may utilize the Code Enforcement Board to enforce any ordinance of that local government.

5. Powers of the Code Enforcement Board.

a. The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing County 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 a criminal offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

c. The Code Enforcement Board shall have the power to:

- i. Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with the requirements of KRS 65.8801 to 65.8839 and ordinances of the local government or local governments creating the board.
- ii. Conduct hearings, or assign a hearing officer to conduct a hearing, to determine whether there has been a violation of any ordinance that the board has jurisdiction to enforce.
- iii. To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Board, or by an assigned hearing officer, may be served by any code enforcement officer.
- iv. To take testimony under oath. The Chairperson or assigned hearing officer shall have the authority to administer oaths for the purpose of taking testimony.
- v. To make findings of fact and issue orders necessary to remedy any violation of any ordinance that the Board has jurisdiction to enforce.
- vi. To impose civil fines as authorized on any person found to have violated an ordinance over which the Board has jurisdiction.

6. Appointment of Members; Term of Office; Removal from Office; Oath; and Compensation.

a. Members of the Code Enforcement Board shall be appointed by the Judge Executive, subject to approval of the Fiscal Court.

b. Initial Board appointments shall be as follows:

- i. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;
- ii. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and
- iii. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of three (3) years.

c. All subsequent appointments shall be made for a term of three (3) years.

d. The Judge Executive may appoint, subject to the approval of the Fiscal Court, 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.

e. Any vacancy on the Board shall be filled by the Judge Executive, subject to approval of the Fiscal Court, within sixty (60) days. If a 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.

f. Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

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

h. Members of the Board shall be compensated at the rate of one hundred dollars (\$100.00) per member, per meeting attended, not to exceed twelve hundred dollars \$1,200 per member per year. Alternates shall be compensated one hundred dollars (\$100) for each meeting to which they are called to attend as an alternate member and for actual expenses, but otherwise shall not be compensated.

i. No member of the Board may hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government that has created the code enforcement board.

j. In the event the County enters an Interlocal Agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code Enforcement, appointment of members and alternates, removal, and qualifications shall be governed by the terms of the Interlocal Agreement, with each participating jurisdiction appointing at least one member. Two (2) or more participating local governments may share an appointment or appointments.

k. Each member of the Code Enforcement Board shall have resided within the boundaries of the County for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office. In the event the County enters an Interlocal Agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code Enforcement, Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

7. Organization of Board; Quorum.

a. The Board shall, upon the initial appointment of its members, and annually thereafter, 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 shall hold regular meetings at least monthly on a schedule to be determined by the Board. 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 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 the members constituting a quorum shall be necessary for any official action to be taken. 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 and shall not be counted for purposes of establishing a quorum.

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.

f. All meetings and hearings of the code enforcement board shall be open to the public.

g. The County shall provide clerical and administrative personnel for the proper conduct of the duties of the Board. In the event the County enters an Interlocal Agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code

Enforcement, members of the agreement shall contribute to the costs of clerical and administrative support.

8. Enforcement Proceedings.

a. Enforcement proceedings before a code enforcement board or hearing officer shall be initiated by the issuance of a citation by a code enforcement officer.

b. When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation by:

- i. Personal service to the alleged violator;
- ii. Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or
- iii. Mailing a copy of the citation by regular, first-class mail to the last known recorded mailing address of the alleged violator; or
- iv. If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (i) to (III) of this subsection is not possible, then the citation is properly served by posting a copy of the citation in a conspicuous place on the premises.

c. The citation issued by the code enforcement officer shall contain, in addition to any other information required by rule of the Board:

- i. The date and time of issuance;
- ii. The name and address of the person to whom the citation is issued;
- iii. The date and time the offense was committed;
- iv. The address where the offense was committed;
- v. The facts constituting the offense;
- vi. The section of the code or the number of the ordinance violated;
- vii. The name of the code enforcement officer;
- viii. When the code enforcement officer has reason to believe that the existence of the violation presents imminent danger, 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, a statement so indicating;

- ix. If applicable, the time period within which the person must remedy the violation;
- x. A specific statement of the remediation necessary.
- xi. A statement that, if the person fails to remedy the violation within the time period specified, the county may abate the violation and bill the person for abatement costs plus an administrative fee of \$100;
- xii. When specifically authorized by the ordinance or code being violated, the citation and any applicable penalties will be waived if the violation is remedied within the time period specified by the ordinance, which period shall be set forth in the citation;
- xiii. A statement that the county shall possess a lien on property owned by the person for all charges and fees incurred by the county in connection with the enforcement of the ordinance, including abatement costs;
- xiv. The civil fine that will be imposed for the violation if the person does not contest the citation;
- xv. The maximum civil fine that may be imposed if the person elects to contest the citation;
- xvi. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
- xvii. A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation within seven (7) days of the date the citation is issued, the person shall be deemed to have waived the right to a hearing before the code enforcement board or hearing officer 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.
- xviii. A statement that contesting the citation shall serve to toll the county's abatement of the violation except where the code enforcement officer has reason to believe that the existence of the violation presents imminent danger, 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.

d. After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board. The code enforcement officer, hearing officer, or code enforcement board may also elect to provide notice of the issuance of the citation to any lienholder with an interest in the subject premises.

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. Nothing in this Subchapter shall prohibit the County from 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.

g. When a citation is issued, the person to whom the citation is issued 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 filing written notice with the County Judge Executive (or designated agent) requesting a hearing to contest the citation. If the person fails to respond to the citation within seven (7) days, the person 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 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 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. Notice of the final order shall be provided to the cited violator by:

- (i) Regular first-class mail;
- (ii) Certified mail, return receipt requested;
- (iii) Personal delivery; or
- (iv) Leaving a copy of the 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 order.

h. Notwithstanding the provisions of paragraph (g) of this section, whenever a hearing before an administrative body is required by law for a particular violation, remedy or abatement action, or when, in the opinion of a Code Enforcement Officer or the County Attorney, such a hearing is necessary or advisable, the Code Enforcement Officer or the County Attorney may request such a hearing before the Board, and the Board shall schedule the hearing and provide notice to the person to whom the citation is issued in accordance with the provisions of this Section.

i. Citations shall be payable to the Georgetown City Clerk and sent to the Office of the Georgetown City Clerk at 100 Court Street, Georgetown, KY 40324.

j. Notice of Violation.

- i. Unless the code enforcement officer has 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, a Notice of Violation shall be issued in lieu of a citation for violation

of any ordinance subject to enforcement under this Division, where any of the following is true:

- a. the property upon which the violation exists has not been the subject of a citation or notice of violation within the same calendar year, or
 - b. the owner of the property has not been issued a citation or notice of violation within the same calendar year, or
 - c. the alleged violator has not been issued a citation or notice of violation within the same calendar year.
- ii. The Notice of Violation shall be in writing and shall give notice of:
- a. The date and time of issuance;
 - b. The name and address of the person to whom the citation is issued;
 - c. The date and time the offense was committed;
 - d. The address where the offense was committed;
 - e. The facts constituting the offense;
 - f. The section of the code or the number of the ordinance violated;
 - g. That the person must remedy the violation within fourteen (14) calendar days or a citation will be issued;
- iii. A Notice of Violation shall be delivered in the same manner as a citation, as specified in subsection 8(b) of this Division.
- iv. A Notice of Violation is not appealable.
- v. If a Notice of Violation is not remedied within fourteen (14) calendar days, the code enforcement officer is authorized to issue a citation.

9. Hearing Officer

- a. The Code Enforcement Board may assign a hearing officer to conduct hearings in accordance with the procedures set forth in KRS 65.8828.
- b. Any member of the Board, including the chair, may be assigned as a hearing officer. In the event a Board member is assigned as a hearing officer, he or she shall not participate in the Board's hearing, deliberation or decision of the appeal.
- c. An individual that is not a member of the Board may be assigned by the Board as a hearing officer as long as the individual does not hold any elected or appointed office or position of

employment with the County or any jurisdiction participating in an Interlocal Agreement for joint enforcement through the Board.

d. Any person assigned to be a hearing officer by a code enforcement board shall have experience or shall have received training in the code enforcement process and basic procedural due process, as specified in the ordinance creating the code enforcement board. The experience or training shall include, at a minimum, acquired knowledge regarding a party's fundamental due process right to:

- i. Be accompanied and advised by counsel at the hearing;
- ii. Present evidence and witnesses on his or her behalf at the hearing;
- iii. Examine the evidence opposing the party; and
- iv. Confront and cross-examine the witnesses opposing the party.

e. An assigned hearing officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses, and evidence to the hearing to which the officer is assigned.

f. Any hearing conducted by a hearing officer under this section shall conform to the procedural requirements of KRS 65.8828(1) to (5).

g. The hearing officer shall make written findings of facts and conclusions of law, and enter a final order consistent with the authority granted to the Board under KRS 65.8828(4).

- iii. The findings of fact, conclusions of law, and final order shall be forwarded within twenty-four (24) hours of entry to the alleged violator in the manner required by KRS 65.8828(5) and to the Board.
- iv. A final order issued by a hearing officer under this subsection may be appealed by the alleged violator to the Board. The appeal shall be filed in writing to the Board within seven (7) days of the receipt of the final order. The failure to file an appeal within seven (7) days shall render the order entered by the hearing officer final for all purposes and an individual receiving a final order under this subparagraph shall be required to exhaust the administrative remedy of appeal to the Board before appealing to District Court as authorized under KRS 65.8831.

10. Hearing, Notice and Final Order.

a. When a hearing has been requested, the Board, through its clerical and administrative staff, shall schedule a hearing.

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. The Board may also elect to provide notice of hearing to any lienholders with an interest in the subject premises.

c. Any person requesting a hearing who fails to appear at the time and place set for 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 determining that the violation was committed and imposing 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. Notice of the final order shall be provided to the cited violator in the manner set forth in KRS 65.8828(5).

d. All testimony shall be taken under oath and recorded. The Board or assigned hearing officer shall take testimony 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. Each case that is the subject of a hearing may be presented by an attorney selected by the local government or by a member of the administrative staff of the local government. An attorney may either be counsel to the Board or may represent the local government by presenting cases at the hearing, but in no case shall an attorney serve in both capacities.

f. The Board or the assigned hearing officer 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 ordering the offender to do either or both of the following:

- i. Pay a civil fine up to the maximum authorized by ordinance; or
- ii. Remedy a continuing violation in order to avoid the imposition of a fine as authorized by ordinance.

g. Every final order of the Board or the assigned hearing officer shall be reduced to writing, which shall include the findings and conclusions of the board, and the date the order was issued. A copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the board 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 a copy of the order at that 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 order.

11. Appeals; Final Judgment.

a. Within seven (7) days of the entry of a final order issued by the hearing officer, the order may be appealed by the alleged violator to the Board, which shall review the record created before the hearing officer and determine whether there is substantial evidence on the record to support a finding by the hearing officer that a violation was committed. If the Board determines that there is not substantial evidence on the record, it shall issue an order dismissing the citation. If the Board determines that there is substantial evidence on the record that a violation was committed, it shall issue a final order upholding the order entered by the hearing officer. The failure to file an appeal within seven (7) days shall render the order entered by the hearing officer final for all purposes and an individual receiving a final order under this subparagraph shall be required to exhaust the administrative remedy of appeal to the code enforcement board before appealing to District Court as authorized under KRS 65.8831.

b. An appeal from any final order of the Board may be made to the Scott 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 District Court shall review the final order de novo.

c. A judgment of the Scott District Court may be appealed to the Scott Circuit Court in accordance with the Rules of Civil Procedure.

d. If no appeal of the final order of the Board is filed within the time allowed in subsection (a) of this section, the Board's order shall be deemed final for all purposes.

12. Abatement.

a. All violations of ordinances and codes enforced under this Division shall be remedied by the violator within the time period specified in the specific ordinance or code, unless the code enforcement officer determines that a shorter or longer time is warranted. In the absence of a specified time period, the time period for remedy of a violation shall be seven (7) days. Upon request of a violator and for good cause shown, the code enforcement officer, Board or hearing officer may grant an extension of the remediation period, which shall serve to toll the incurring of any initial or additional penalties. The time period for the violation to be remedied shall not be less than twenty-four (24) hours following issuance of the citation, unless the code enforcement officer has reason to believe that the existence of the violation presents imminent danger, 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 time period shall commence upon the issuance of a citation in accordance with subsection 8(b) of this Section.

b. If the property owner so served does not abate the violation within the applicable time period, the county may proceed to abate such violation, keeping an account of the expense of abatement. The abatement costs, including 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 local government ordinance, shall be charged to and paid by the property owner. In addition to the abatement costs, the property shall be assessed a one hundred-dollar (\$100) administration fee.

c. Filing of notice to contest a citation in accordance with subsection 8(g) of this Section shall serve to toll the county's abatement of the violation, unless the code enforcement officer has reason to believe that the existence of the violation presents imminent danger, 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. In the event the Board or a hearing officer determines that the violation contested did occur, the Board or hearing officer may order that the abatement proceed immediately or within a specified time period not to exceed 30 days.

d. The code official shall bill the property owner of such premises at least once following abatement. No lien claimed shall be filed against the property until seven (7) days have elapsed after the bill is sent. If the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill.

13. Liens, Fines, Charges and Fees.

a. The County shall possess a lien on property owned by the person found by a final, non-appealable final order as defined by KRS 65.8805(8), or by a final judgment of the court, to have committed a violation of a County ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the ordinance, including abatement costs. 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. The lien:

- i. Shall be recorded in the office of the county clerk;
- ii. Shall be notice to all persons from the time of its recording and shall bear interest until paid;

- iii. Subject to KRS 65.8836, shall take precedence over all other liens, except state, county, school board, and city taxes;
- iv. Shall continue for ten (10) years following the date of the non-appealable final order, or final judgment of the court; and
- v. May be enforced by judicial proceedings, including an action to foreclose.

b. A copy of the notice of the lien shall be mailed to the owner of the premises. However, the failure to mail the owner a copy of such notice or the failure of the owner to receive such notice shall not affect the right of the county to enforce its lien for such charges as provided by law.

c. 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 County in connection with the enforcement of the applicable Code of Ordinances.

d. The County Attorney is authorized to bring a civil action for the collection of delinquent liens and other costs incurred by the County, and the County shall have the same remedies as provided for the recovery of a debt. The County Attorney is granted authority to reduce or waive penalties or release a lien upon a showing by the violator of error by the county, insolvency of the violator, or good cause for failure to remedy the violation, or if the County Attorney determines the penalties exceed the value of the property. Good cause shall include, but not be limited to:

- (i) Death, incapacity or unavoidable absence of the property owner;
- (ii) Circumstances beyond the control of the violator, such as weather, fire or natural disaster, prevented the violator from remedying the violation;
- (iii) Remedying the violation within the required time period would have been unreasonable or cost prohibitive.

Failure of a violator to receive a Notice of Violation or Citation shall not be considered good cause, absent a showing by the violator that circumstances beyond his or her control prevented the violator from receiving the Notice or Citation and that the same circumstances prevented the violator from knowing the violation existed.

The County Attorney 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 County Attorney is also authorized to release any existing liens that meet the above criteria.

e. Lienholder notification system.

Pursuant to KRS 65.8835 – 65.8836, the county shall obtain and maintain priority over previously filed liens in accordance with the following provisions:

- (i) Individuals and entities, including but not limited to lienholders, may register with the county to receive electronic notification of final orders entered pursuant to this ordinance.
- (ii) In order to receive the notification, the registrant shall submit the following information to the County Clerk:
 - 1. Name;
 - 2. Mailing address;
 - 3. Phone number; and
 - 4. Electronic mailing address.
- (iii) A registrant may use the electronic form provided on the county Web site to submit the information required by subsection (ii) of this Section. It shall be the responsibility of the registrant to maintain and update the required contact information with the county. The county 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.
- (iv) At least once per month and not more than once per week, the county (or agency designated by the County) shall send electronic mail notification of all final orders entered pursuant to this Article since the last date of notification to each party registered pursuant to this Section. The notification shall provide an electronic link to the county code enforcement database located on the county 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, if, in the exercise of reasonable diligence, it is ascertainable.
 - 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.
- (v) If an appeal is filed on a final order pursuant to this ordinance, the county shall send electronic mail notification to all registrants.
- (vi) At the same time notification is required in subsection (iv) of this Section, the county shall update its code enforcement database to reflect the issued final order, and shall post the notification required by subsection (iv) of this Section

containing an updated link to the code enforcement database on the county Web site.

- (vii) The county shall maintain the records created under this Section for ten (10) years following their issuance.
- (viii) In the event the County enters into an Interlocal Agreement (approved November 10, 2016) with the City of Georgetown, the responsibilities outlined above for the Lienholder Notification System will be assigned to the City and/or the appropriate City Agency to implement and maintain same.

f. Lien priority

- (i) A lienholder of record who has registered pursuant to Section 13(e) of this Article may, within forty-five (45) days from the date of issuance of notification under Section 13(e) of this Article:
 - 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 county in connection with enforcement of the ordinance, including abatement costs.
- (ii) Nothing in this Section shall prohibit the county from taking immediate action if necessary.
- (iii) The lien provided by this Article shall not take precedence over previously recorded liens if:
 - 1. The county failed to comply with the requirements of Section 13(e) of this Article for notification of the final order; or
 - 2. A prior lienholder complied with subsection (i) of this Section.
- (iv) A lien that does not take precedence over previously recorded liens under subsection (iii) of this Section shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
- (v) The county may record a lien before the forty-five (45) day period established in subsection (i) of this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the county shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.
- (vi) Failure of the county to comply with Sections 14 and 15 of this ordinance, or failure of a lien to take precedence over previously filed liens as provided in subsection (iii) of this Section, shall not limit or restrict any other remedies the county has against the property of the violator.

14. Due Process and Right of Entry

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused or the person having charge or control cannot be located, the code official shall utilize the procedures set forth in Section 18 of this Division to obtain an Administrative Search Warrant, unless a lawful exception to the requirement for a warrant exists.

15. Penalties.

a. Unless otherwise stated therein, the penalty for violation of any ordinance or code provision enforced by the Board under this Division shall be as follows:

(i) The maximum civil fine that may be imposed for each violation if the citation is contested is \$2,000.

a. The Code Enforcement Board or hearing officer, when hearing an appeal, shall have the discretion to decrease or increase a penalty based on a totality of the circumstance analysis, which may include, among other factors, the merits of the appeal, costs associated with conducting the hearing, facts surrounding the violation and other mitigating or aggravating circumstances.

(ii) If the citation is not contested, civil fines will be imposed according to the following schedule:

- a. For a first Class I violation within the same calendar year, where the violation is remedied within the time period required by the ordinance or for which no remediation is required, there shall be no fine.
- b. For a first Class I violation within the same calendar year, where the violation is not remedied within the time period allowed by the ordinance, the penalties shall be as set forth in subsection (d) of this Section.
- c. The maximum civil fine that may be imposed for each violation if the citation is not contested is \$1,000.
- d. Class I Violation: The initial fine shall be fifty dollars (\$50). For each seven (7) days or portion thereof beyond the remediation date that the violation remains unremedied, fifty dollars (\$50) shall be added to the initial fine until

the violation is remedied by the responsible person or is abated by the city or until the total fine reaches five-hundred dollars (\$500).

- e. Class 2 Violation: The initial fine shall be one-hundred dollars (\$100). For each seven (7) days or portion thereof beyond the remediation date that the violation remains unremedied, one-hundred dollars (\$100) shall be added to the initial fine until the violation is remedied by the responsible person or is abated by the city or until the total fine reaches one-thousand dollars (\$1,000).
- f. Class 3 Violation: The initial fine shall be two-hundred dollars (\$200). For each seven (7) days or portion thereof beyond the remediation date that the violation remains unremedied, two-hundred dollars (\$200) shall be added to the initial fine until the violation is remedied by the responsible person or is abated by the city or until the total fine reaches one-thousand dollars (\$1,000).

16. Stop Work Order

A code enforcement officer may order the immediate cessation of any construction or reconstruction work being done in violation of any ordinance or being done on property that is in violation of any ordinance. The stop work order shall be issued in conjunction with or in supplement to a citation for the violation. Work shall not resume until the violation has been remedied and any applicable fees and fines have been paid.

17. RESERVED

18. Administrative Search Warrant.

a. Definition.

(i) An administrative search warrant is a written order of a judge or other officer authorized by statute to issue search warrants that commands the search or inspection of any property, place or thing, and the seizure, photographing, copying, or recording of property or physical conditions found. An administrative search warrant authorizes an officer to enter any premises to conduct any inspection, sampling, and other functions required or authorized by law to determine compliance with the provisions of an ordinance, code, or other regulation including, but not limited to, those relating to the use, condition, or occupancy of property or structures.

b. Who may apply for warrant.

(i) Whenever a law requires or authorizes an inspection or investigation of any place or thing, the administrative officer charged to enforce that law, acting in the course of his or her official duties, may apply for an administrative search warrant. For this purpose, administrative officer includes a building inspector, code enforcement officer, fire chief, their deputies, or other duly authorized representative, as the case may be.

(ii) Before filing an application for an administrative search warrant, the administrative officer shall consult with legal counsel as to its legality in both form and substance.

c. Contents of application.

(i) The application shall:

(a) Be supported by an affidavit sufficient under Section 10 of the Kentucky Constitution and be sworn to before an officer authorized to administer oaths as provided in the Kentucky Rules of Criminal Procedure or other applicable law;

(b) State the applicant's status in applying for the warrant, the ordinance or regulation requiring or authorizing the inspection or investigation, and the nature, scope and purpose of the inspection to be performed;

(c) Describe the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(d) State:

(A) that, for the purpose of making an inspection, access to the property has been sought from and refused by the regulated party, or

(B) that, after making a reasonable effort, the applicant has been unable to locate the regulated party, or

(C) that the facts or circumstances reasonably show that the purposes of the inspection or investigation might be frustrated if entry were sought without first procuring a warrant; and

(e) State the basis upon which sufficient cause exists to search or inspect for violations of the ordinance or regulation specified.

d. Grounds for issuance.

(i) An administrative search warrant may issue upon a showing that probable cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied. Probable cause may be shown by:

(a) Reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection and that those standards are satisfied with respect to the location;

(b) A reasonable administrative inspection program exists regarding the condition of the property and that the proposed inspection comes within that program;

(c) A health, public protection or safety ordinance, regulation, rule, standard or order and that specific evidence of a condition or nonconformity exists with respect to the particular location; or

(d) An investigation is reasonably believed to be necessary in order to determine or verify the condition of the location.

(ii) A copy of the administrative search warrant and supporting affidavit shall be retained by the issuing officer and filed by such officer with the clerk of the court to which the warrant is returnable.

e. Contents of warrant.

(i) The warrant:

(a) May direct its execution and return by the administrative officer charged to enforce the ordinance or regulation specified in the application;

(b) Shall specify the property, place, structure, premises, vehicle or records to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(c) May contain a direction as to the time and manner of its execution; and

(d) Shall command the return to the appropriate court of any evidence of ordinance violations found, or of any property seized pursuant thereto, or a description of such property seized, to be dealt with according to law.

f. Execution and return.

(i) Unless otherwise prescribed in the warrant, the officer executing an administrative search warrant shall make return thereof to the appropriate court within a reasonable time of its execution. The return shall show the date and hour of service.

(ii) Except as provided in the following sentence, in executing a search warrant the person authorized to execute it shall before entry make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show him or her the warrant or a copy thereof upon request. In executing a search warrant, the person authorized to execute the warrant need not inform anyone of his or her authority and purpose, as prescribed in the preceding sentence, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably

believed to be in such condition, but shall orally announce their credentials and authority to execute the warrant prior to entry.

(iii) If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place. The return shall be accompanied by any photographs, copies or recordings made, and by any property seized, along with a copy of the itemized receipt of such property required by this section.

(iv) The officer may summon as many persons as he deems necessary to assist him in executing the warrant and may request that a peace officer assist in the execution of the warrant.

19. RESERVED.

20. Remedies not exclusive

Any code enforcement officer designated by the interlocal agreement as authorized to enforce the provisions of KRS 65.8801 to 65.8839 on behalf of the member jurisdictions is hereby authorized to enforce all county ordinances that specifically provide for enforcement according to the procedures set forth in the Scott County Code Enforcement Board Ordinance.

TWO

Municipal code enforcement officer.

(a) Creation of code enforcement officer. There is hereby created the position classification of Code Enforcement Officer who shall have all the powers granted under KRS 65.8801 to KRS 65.8839. This position shall answer to the Scott County Sheriff, unless administratively reassigned by executive order. The position requires the qualifications and performance of duties as may be adopted by the Scott County Fiscal Court. In the event that the County enters into an interlocal agreement (approved on November 10, 2016) with the City of Georgetown concerning code enforcement, this position will not be filled by the Scott County Fiscal Court.

(b) Positions subject to temporary re-assignment. This position is subject to temporary re-assignment by the County Judge Executive as the needs of the county dictate. This position is also subject to the assignment of additional duties, as the needs of the county dictate.

THREE

A new Section 860.1 of the Code of Ordinances is created to read as follows:

BLIGHTED AND DETERIORATED PROPERTIES

1. Purpose and Findings. The Fiscal Court of the County of Scott hereby finds and declares that there exists within the county blighted or deteriorated properties and that there is need for the exercise of powers, functions, and duties conferred by KRS 99.700 to 99.730 within the county. The county further adopts the findings and policy of the General Assembly regarding blighted and deteriorated properties, as expressed in KRS 99.700, as its own findings and policy.

2. Adoption of State Law. The county hereby adopts the provisions of KRS 99.700 to 99.730.

3. Assignment of duties of Vacant Property Review Commission. As authorized by KRS 99.710, the duties that would otherwise be assigned to a Vacant Property Review Commission under KRS 99.700 to 99.730 are hereby assigned to the Code Enforcement Board (hereinafter, "the Board") created under the Scott County Code Enforcement Board Ordinance.

4. Definitions. The definitions set forth in KRS 99.705 are incorporated as though set forth fully herein.

5. Elimination of Blight and Deterioration. The County shall have the power to acquire, by eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to KRS 99.700 to 99.730, and shall have the power to hold, clear, manage, or dispose of property so acquired, pursuant to the provisions of KRS 99.700 to 99.730.

6. Certification of Blight Deterioration.

(a) The County shall not institute eminent domain proceedings pursuant to KRS 99.700 to 99.730 unless the Board has certified that the property is blighted or deteriorated. A property which has been referred to the Board by a local government as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the Board has determined:

(i) That the owner of the property or designated agent has been sent an order by the appropriate local government agency to eliminate the conditions which are in violation of local codes or law;

(ii) That the property is vacant;

(ii) That the property is blighted and deteriorated; and

(iv) That the Board has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for

correction of such condition has expired and the property owner or agent has failed to comply with the notice.

(b) The findings required by subsection (a) of this section shall be in writing and included in the report to the county.

(c) (i) The Board shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the local government under KRS 99.700 to 99.730.

(ii) Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the Board in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected.

(iii) The written notice sent to the owner or his or her agent or posted on the property shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(d) An extension of the ninety (90) day time period may be granted by the Board if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

7. Eminent Domain. The county may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the Board if it finds:

(a) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(b) That such property is likely to continue to deteriorate unless corrected;

(c) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(d) That the owner of such property has failed to correct the deterioration of the property.

FOUR

Section 340.2, Section III of the Scott County Code of Ordinances, entitled Dirt, Earth and Debris on Public Street or Highway, is repealed in its entirety and replaced with the following language:

Sec. III. Enforcement and Penalties.

(a) Violation of any section of this Chapter shall constitute a civil offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance. All violations of this section shall be considered Class 1 Violations.

(c) Penalties for a violation of any section of this Article will be waived only if the same or similar violation has not occurred on the property within the same calendar year and the violation is remedied within 7 days of issuance of the citation, or within the time period specified by the Code Enforcement Officer.

FIVE

Sections 560.1, 560.3, Section 4 of the Scott County Code of Ordinances entitled Abandoned Motor Vehicles, is hereby repealed in its entirety and replaced with the following language:

Section 4, Enforcement and Penalties.

(a) Violation of any section of this Chapter shall constitute a civil offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance. All violations of this Section shall be considered Class 3 violations.

(c) Penalties for a violation of any section of this Article will be waived only if the same or similar violation has not occurred on the property within the same calendar year and the

violation is remedied within seven (7) days of issuance of the citation, or within the time period specified by the Code Enforcement Officer.

SIX

Section 620.2, Section 2 of the Scott County Code of Ordinances entitled Advertising on County Roads, is hereby repealed in its entirety and replaced with the following language:

Section 2, Enforcement and Penalties.

(a) Violation of any section of this Chapter shall constitute a Class 1 offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance. All violations of this Section shall be considered Class 2 violations.

(c) Penalties for a violation of any section of this Article will be waived only if the same or similar violation has not occurred on the property within the same calendar year and the violation is remedied within seven (7) days of issuance of the citation, or within the time period specified by the Code Enforcement Officer.

SEVEN

Sections 1010.1, Section 5 (Enforcement) of the Scott County Code of Ordinances entitled Noise, is hereby repealed in its entirety and replaced with the following language:

Section 5, Enforcement and Penalties.

Violation of this Article shall be considered a criminal violation, subject to enforcement by uniform citation by a police officer or citation officer. Penalties for violation shall be as follows:

First offense: \$50

Second offense within 12 months: \$100

Third and subsequent offenses within 12 months: \$200

EIGHT

Sections 840.1 and 840.2, Section 2.3(7) of the Scott County Code of Ordinances entitled Dogs in Residential Districts, is hereby repealed in its entirety and replaced with the following language:

Section 4, Enforcement and Penalties.

(a) Violation of any section of this Chapter, other than a violation which would also constitute a criminal offense under any provision of the Kentucky Revised Statutes, shall constitute a civil offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance. All violations of this section shall be considered Class 1 violations.

(c) A citation for a violation of any section of this Article and any applicable penalties will be waived only if the same or similar violation has not occurred on the property within the past 24 months and the violation is remedied within seven (7) days of issuance of the citation.

NINE

Ordinance No. 16-05, Section 7, of the Scott County Code of Ordinances entitled Number of Dogs to be Owned or Possessed by a Resident Without a Kennel License, is hereby repealed and replaced with the following language:

Section 7, Enforcement and Penalties.

(a) Violation of any section of this Chapter, other than a violation which would also constitute a criminal offense under any provision of the Kentucky Revised Statutes, shall constitute a civil offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance. All violations of this section shall be considered Class 1 violations.

(c) A citation for a violation of any section of this Article and any applicable penalties will be waived only if the same or similar violation has not occurred on the property within the past 24 months and the violation is remedied within seven (7) days of issuance of the citation.

TEN

Section 950-4 of the Scott County Code of Ordinances is hereby repealed and replaced with the following language:

Sec. 950-4. Adoption of the Kentucky Building and Residential Codes.

The International Building Code and the Kentucky Building Code amendments and the minor codes incorporated thereby, promulgated in 815 KAR 7:120 and the International Residential Code and the Kentucky Residential Code amendments and the minor codes incorporated thereby promulgated in 815 KAR 7:125 by the Board of Housing, Buildings and Construction, Commonwealth of Kentucky, are to be enforced by Scott County as though set forth fully herein.

ELEVEN

Sections 950-1 and 950-2 of the Scott County Code of Ordinances are hereby repealed and replaced with the following language:

Sec. 950.1. Adoption of National Electrical Code.

The National Electrical Code, 2014 edition, also known as the NFPA 70, is hereby adopted by reference as if copied in full and set forth herein.

TWELVE

Section 950-4 of the Scott County Code of Ordinances is hereby repealed and replaced with the following language:

Sec. 950-4. Adoption of International Basic Mechanical Code.

There is hereby adopted by reference the International Mechanical Code, 2012 edition, as published by the Building Officials and Code Administrators International, Inc., which shall be in full force and effect in the county as if fully set forth herein.

THIRTEEN

Section 950-11 of the Scott County Code of Ordinances is hereby repealed and replaced with the following language:

Sec. 950.11. Adoption of property maintenance code.

Repeal of current code and adoption of 2012 Code. The County of Scott, Kentucky, hereby repeals the current 2003 edition of the International Property Maintenance Code and adopts the 2012 edition of the International Property Maintenance Code. Three (3) copies of the 2012

edition of the International Property Maintenance Code are, and shall remain, on file in the Georgetown City Clerk's Office, as published by the International Code Council. This code shall regulate:

- (1) The conditions and maintenance of all property, buildings and structures;
- (2) Provide 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;
- (3) Provide for the condemnation of buildings and structures unfit for human occupancy and use along with the demolition of such existing unfit structures;
- (4) Provide for the issuance of appropriate permits and collection of required fees; and
- (5) Each and all of the regulations, provision, penalties, conditions and terms of the 2012 edition of the International Property Maintenance Code on file in the Georgetown City Clerk's Office are referenced and incorporated as part of this chapter as if set out in full in this article.

FOURTEEN

Sec. 950-11. Amendments to the text of the printed code.

The following sections set forth all additions, insertions, deletions and changes, which the Fiscal Court deems appropriate to customize the 2012 International Property Maintenance Code (hereinafter "the IPMC") to the Scott County's property maintenance enforcement system.

The following language shall be read in conjunction with the language in section 101.1 of the IPMC.

§101.1 Title. The jurisdiction shall be Scott County, Kentucky.

The following language shall be read in conjunction with the language in section 103.1 of the IPMC.

§103.1 General. The Code Enforcement Board and the County's code enforcement officers are responsible for the enforcement of this code.

Section 104.3 of the IPMC is omitted and the following language substituted in its stead:

§104.3 Right of entry.

The provisions of Section 14 of the Scott County Code Enforcement Board Ordinance shall govern Right of Entry and Due Process.

The following language shall be read in conjunction with the language in section 106 of the IPMC.

§106 Violations

All references to a "notice of violation" throughout the code shall be replaced by the word "citation" as that term is used in the Scott County Code Enforcement Board Ordinance.

Section 106.4 is omitted and the following language substituted in its stead:

106.4 Penalties

Penalties for violations of the Property Maintenance code shall be as set forth in section 15 of the Scott County Code Enforcement Board Ordinance.

Sections 107.1 through and including 107.5 are omitted and the following language substituted in their stead:

The procedures set forth in the Scott County Code Enforcement Board Ordinance shall govern notice, form and service.

The following language is added to the text provided in the Section 108.2 of the printed code:

§ 108.2 Closing of vacant structures.

An administrative fee of one hundred dollars (\$100.00) shall be assessed in addition to the cost of closing the property. The payment of all charges assessed for the closing of the property, costs and fee, shall be secured by a lien on the real estate upon which the structure is located. Notice of the lien shall be filed of record as provided elsewhere in the code.

Section 109.5 is omitted and the following language substituted in its stead:

§109.5 Costs of emergency work. The section is amended to read as follows:

The county shall pay the costs incurred in the performance of emergency work necessitated by violations of this code. Legal counsel of the jurisdiction shall institute appropriate proceedings, including the placement of a lien, against the owner of the premises where the unsafe structure is or was located for the recovery of such costs including the administrative fee of one hundred dollars (\$100.00) assessed pursuant to Section 108.2.

The following language is added to the text provided in Section 110.3 of the printed code:

§ 110.3 Failure to comply.

The cost of such demolition and removal includes an administrative fee of one hundred dollars (\$100.00) assessed pursuant to Section 108.2.

Section 111 is omitted and the following language substituted in its stead:

§ 111. Means of Appeal.

The procedures set forth in the Scott County Code Enforcement Board Ordinance shall govern notice, form and service.

Section 113 is added:

§ 113 Abatement Procedure.

(a) The procedures set forth in the Scott County Code Enforcement Board Ordinance shall govern County abatement of violations of the Property Maintenance Code.

The following language is added to the text provided in the corresponding section of the printed code:

§ 302.2.1 Premises not covered by subdivision regulations or ordinance governing construction on individual lots. Each individual lot [premises] located within approved subdivisions for which final plat approval has been given, but for which a building permit has not been issued, shall be subject to the following:

§ 302.2.1.1 Requirements where subdivision regulations previously applied. If the premises are disturbed as a result of subdivision development preparation, sediment and erosion control measures required by the subdivision regulations, § 1100, B, 1, shall have been in place at the time of the final subdivision plat approval. Until such time as a building permit is obtained for construction on an individual lot(s) within the development, the soil stabilization required for final plat approval and erosion and sediment control measures required under the subdivision regulations shall be maintained. No grading shall be performed within any development subsequent to final plat approval and before the issuance of a building permit for individual lots.

§ 302.2.1.2 Requirements for undisturbed lots. Premises require no special sediment and erosion control measures where vegetation on those premises is sufficient to preclude erosion and sediment creation measures.

§302.2.1.3 Standard by which compliance is determined. If no building permit is obtained for construction on the premises, the erosion and sediment control measures required under the subdivision regulations shall be maintained until such time as vegetation is sufficient to

eliminate erosion and sediment creation. The premises' compliance with this section shall be certified in writing by the office of building inspection. This certification signifies only that the premises were compliant at the time of the inspection and does not satisfy the requirement of continuing compliance.

Section 302.4 is omitted and the following language substituted in its stead:

§ 302.4 Weeds.

a. **Legislative Purpose.** The county acknowledges the desirability of permitting and encouraging the preservation and restoration of natural plant communities in urban, suburban and rural areas. It further acknowledges the need to enjoy and benefit from the variety, beauty and values of natural landscaping, including freedom from toxic chemicals, and seeks to guarantee its citizens the freedom to employ natural landscaping as a viable and desirable alternative to conventional modes of landscaping.

There are a limited number of plant species that constitute serious agriculture pests, which in some instances may adversely affect human health or safety. Further, this section promotes the use of native vegetation, including native grasses and wildflowers, in managed yards and landscapes for the preservation and restoration of our natural plant communities. This section does not promote the use of plants otherwise designated by state law to be noxious, e.g., Johnson grass, giant foxtail, Canada and nodding thistles, multiflora rose, wild cucumber, black nightshade, kudzu, or poison ivy, sumac or oak. The presence of these plants, though not per se prohibited, constitute evidence of untended, rank or unmanaged vegetation, a violation of this section.

The use of wildflowers and other native plants in managed landscape design can be economical, low-maintenance, effective in soil and water conservation, and may preclude the excessive use of pesticides, herbicides, and fertilizers. The county notes that native vegetation and native plant communities, on a worldwide basis, are disappearing at an alarming rate. It is desirable to permit and encourage managed natural vegetation within the county limits while maintaining public health and safety protections.

§ 302.4 A. Definitions. Definitions applicable to the interpretation and enforcement of section 302.4:

Untended, rank or unmanaged vegetation: Overgrown vegetation or vegetation in an unhealthful condition, which provides either a direct health hazard or a demonstrated breeding ground for fauna known to create a safety or health hazard, e.g. rodents, snakes, mosquitoes. Untended, rank or unmanaged vegetation is a public nuisance.

The presence of untended, rank or unmanaged vegetation exceeding ten (10) inches in height is a violation of this section.

Conventional yards, which if regularly mowed, appear well managed and are comprised of many plants other than grass. There is also an abundance of chicory, dandelions, crabgrass, and numerous other vegetation. For this reason, the conventional yard is included in the definition of "primarily of grass" or "untended, rank or unmanaged vegetation." The conventional yard, however, will not constitute a violation of this section unless the height of the yard exceeds ten (10) inches.

Managed vegetation: Managed vegetation is vegetation utilized in a planned/designed yard or landscape, including natural landscaping, with the intent to control, direct, and maintain the growth of natural vegetation according to its natural characteristics and reduction, if not elimination, of fauna known to create a safety or health hazard. Managed vegetation is not subject to the ten (10) inches height restriction.

§ 302.4 B. Declaration of Nuisance and Prohibition. Untended, rank and unmanaged growth of vegetation on any property within the county, which is visible from any public way, street, sidewalk or alley or from any adjoining property, is declared a public nuisance. Such vegetation is prohibited and may be abated in accordance with the procedures referenced below.

§ 302.4 C. Natural Landscaping Protected. No agents or employees of the county shall undertake to enforce this section or issue an order directing the destruction or removal of any native vegetation, including native grasses and wildflowers, in managed yards and landscapes.

Agents and employees of the county shall enforce this section and issue enforcement orders directing the destruction or removal of all vegetation in violation of this section, including, but not limited to all conditions that create a clear and present hazard to public health or safety, a threat to the agricultural economy, or a harborage for rodents, snakes, or mosquitoes. All enforcement orders under this section shall be limited to the offending vegetation, unless general destruction, cutting or removal is necessary to reasonably eliminate the offending condition.

§ 302.4 D. Managed natural landscaping. It is lawful to grow native and naturalized plants to any heights, including ferns, wildflowers, grasses, forbs, shrubs, and trees, in a managed landscape. The growing of native or naturalized plants must be obtained and possessed according to law.

§ 302.4 E. Statement of the county's intention in the enforcement of this section.

A. This section regulating unmanaged and managed vegetation shall be proactively and uniformly enforced and apply to all property within the county limits. However, any property exempted under state law shall be exempt from this provision.

B. Aesthetic judgments shall not be a consideration in determining required compliance under this section.

C. The county shall promptly notify the property owner of all applicable rights, including right of appeal.

D. No agent of the county shall enter upon or take action upon private land without the providing due process of law.

Section 302.10 is added:

§ 302.10 Public ways not to be obstructed. No owner, occupant or person otherwise responsible for the care and maintenance of premises shall construct, place or otherwise allow the construction or placement of any item that, in whole or in part, extends beyond the property line of the premises into space comprising a public way as defined in Section 202, General Definitions. One example of a violation of this section is a basketball goal, though mounted, whether temporarily or permanently, on the premises, which extends beyond the property line into the public way (the right-of-way often includes beyond the curb and sidewalk. All of which is part of the public way).

§ 304 Exterior Structure.

§ 304.14 Insect screens. The period during which insect screens are required is from April 1 to December 1.

§ 602 Heating Facilities. § 602.3 Heat supply. The period during which the temperature must be maintained according to this section is from October 1 to April 15.

§ 602.4 Occupiable work spaces. The period during which the temperature of indoor occupiable workspaces must be maintained according to this section is from October 1 to April 15.

Section 704.3 is omitted and the following language substituted in its stead:

§ 704.3 Power source.

The owner of premises may continue to use battery-powered smoke detectors if the premises have a sufficient number of existing battery-powered smoke detectors in operational condition. Whenever the premises are renovated or otherwise modified in such a manner to provide accessible installation of primary power to smoke alarms from building wiring from a

commercial source, the premises shall have smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection

FIFTEEN

A new Section 860.0 of the Scott County Code of Ordinances is hereby adopted as follows:

Sec. 860 A. Common law and statutory nuisances.

In addition to what is declared in this chapter and Code to be a public nuisance, those offenses which are known to the common law and statutes of the state as public nuisances may, in case any thereof exist within the county limits, be treated as such and be proceeded against as is provided in this chapter and Code, or in accordance with any other provisions of law. Wherever the word "nuisance" is used in this chapter it refers to public nuisance.

Sec. 860 B. Certain conditions declared to be nuisances.

The following conditions are hereby declared to be a public nuisance and are prohibited:

(1) Dwellings unfit for human habitation. The erection, use or maintenance of a dwelling which is unfit for human habitation. A "dwelling" shall include any part of any building or its premises used as a place of residence or habitation or for sleeping by any person. A dwelling is "unfit for human habitation" when it is dangerous or detrimental to life or health because of want of repair, defects in drainage, plumbing, lighting, ventilation or construction, infection with contagious disease or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

(2) Dangerous buildings adjoining streets. There is caused or suffered any building, house or structure to become so out of repair and dilapidated that, in the condition it is permitted to be and remain, it shall, if such condition is suffered to continue, endanger the life, limb or property of, or cause hurt, damage or injury to persons or property using or being upon the streets or public ways of the county adjoining such premises, by reason of the collapse of such building, house or structure or by the falling of parts thereof or of objects therefrom. For purposes of this section, failure to maintain lawfully required water, sewer, or a source of heat to a dwelling shall be conclusive evidence that a dwelling is unfit for human habitation. In a dwelling being used for residential rental, failure to maintain lawfully required water, sewer, electrical or a source of heat to a dwelling shall be conclusive evidence that a dwelling is unfit for human habitation.

(3) Dangerous trees, stacks, etc., adjoining street. There is caused or suffered any tree, stack or other object to remain standing upon such premises in such condition that it shall, if the condition is suffered to continue, endanger the life, limb or property or cause hurt, damage or

injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.

(4) Dilapidated buildings. There is caused or suffered any building, house or structure to become so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire because of its condition and lack of repair, or that due to lack of adequate maintenance or neglect it endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(5) Accumulation of rubbish. There is caused or suffered such an accumulation on any premises of filth, refuse, trash, garbage or other waste material that it endangers the public health, welfare or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents or insects, or its blowing into any street, sidewalk or property of another. It shall be the duty of persons owning or being in charge of those business establishments whose patrons purchase goods or services from their automobiles, commonly known as "drive-ins," to furnish sufficient covered receptacles for the deposit of wastes created in the operation of such business and to clean up such wastes as are not deposited in receptacles at the close of business of each day (or if such business operates continuously, at least once each day) and at such other times when weather conditions are such that waste from the operation of such business is being blown to adjoining premises.

(6) Open storage of furnishings, appliances, scrap or salvage materials. There is caused or suffered any open storage of furnishings, appliances, scrap or salvage materials, including metal, lumber, masonry and other building materials not actively being used for construction, that is dangerous to public health, safety or welfare or that creates an unsightly condition that would reduce property value or promote urban blight. This section shall not apply where permitted by KRS 65.8840 or other applicable state or federal laws or where such equipment, furnishings, appliances, scrap or salvage materials are stored in a fully enclosed structure in a manner that prevents said items from being either a fire hazard or a harborage of pests and rodents.

(7) Open wells. There is caused or suffered the maintenance of any open or uncovered, or insecurely covered, cistern, cellar, well, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.

(8) Trees and shrubbery obstructing streets and sidewalks. There is caused or suffered the growing and maintenance of trees with less than fourteen (14) feet clearance over streets or less than eight (8) feet, over sidewalks, or the growing and maintenance of shrubbery in excess of three (3) feet in height within the radius of twenty (20) feet from the point where the curb line of any street intersects the curb line of another street. No shrub shall be planted between the curb line and the property line of any street within a radius of twenty (20) feet from the point where the curb line of any street intersects with the curb line of another street.

(9) Junked, wrecked or inoperative motor vehicles and automobile parts. The storage of motor vehicles unfit for further use, motor vehicle in inoperative condition, or automobile parts within the county limits, except where permitted by KRS 65.8840.

"Motor vehicle in an inoperative condition" means and includes any style or type of motor-driven vehicle used or useful for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten (10) consecutive days.

"Motor vehicle unfit for further use" means and includes any style or type of motor driven vehicle used for the conveyance of persons or property, which is in a dangerous condition, has defective or missing parts, or is in such a condition generally as to be unfit for further use as a conveyance.

"Automobile parts" mean and include any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

(10) Failure to secure pool or spa. There is caused or suffered any pool or spa that is not secured in conformance with the requirements of the 2012 International Property Maintenance Code.

SIXTEEN

Section 440-1, Section 9, entitled Solicitors and Salesmen, and Section 440-2, Section 9, entitled Itinerant Roadside Merchants, of the Scott County Code of Ordinances, are repealed in their entirety and replaced with the following language:

Sec. 9. Enforcement and Penalties.

(a) Violation of any section of this Article shall constitute a civil offense which shall be enforced according to the procedures set forth in the Scott County Code Enforcement Board Ordinance by the Code Enforcement Board, hearing officers, code enforcement officers, citation officers and other persons duly authorized to investigate and enforce the violations through investigation, inspection and issuance of citations.

(b) The penalty for violations of this Article shall be as set forth in Section 15 of the Scott County Code Enforcement Board Ordinance.

SEVENTEEN

A new section of Section 400.0 of the Scott County Code of Ordinances is created to read as follows:

Section 460-0

Administrative Hold

(a) Persons, businesses or entities who:

(1) Own property in the county for which there exists:

- a. Unpaid county ad valorem taxes,
- b. Unpaid fines and abatement costs assessed by the county, or
- c. A final order finding a violation of any code or ordinance of the county that has not been remedied, or

(2) Are delinquent on payment or filing of occupational license/net profits taxes, insurance premium taxes, tourism taxes or any other taxes owed to the county or its agencies shall be administratively ineligible for the issuance of any license, permit or other approval issued by the county or its agencies, including the Planning Commission and Staff, Building Inspection Department, Revenue Commission, County Clerk, or Fire Department, or by any agency with which the county has an agreement for reciprocal application of this section, until such time as the deficiency or deficiencies have been corrected. Notwithstanding this prohibition, the county or agency may issue any permit necessary to remedy the condition causing the administrative ineligibility.

(b) An administrative hold resulting from the application of section (a) shall run with the land and be binding on the person, business or entity's successors and heirs, provided that the successors and heirs have notice or constructive notice of the delinquent obligation. The filing of a lien in the County Clerk's office shall presumptively establish constructive notice to all persons.

EIGHTEEN

The following sections of the Scott County Code of Ordinances are hereby repealed in their entirety:

(a) 820.1, 820.2, 820.3, Ordinance 10-03 and Ordinance 16-06, relating to Weeds and High Grass in Residential Areas:

(b) 950.14 Establishing minimum standards for Electrical Wiring Installations; and

(c) Ordinance 14-02 adopting a Uniform Building Code.

NINETEEN

If any portion of this Ordinance is for any reason held invalid or unlawful such portion shall be deemed a separate provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

TWENTY


All prior ordinances and parts of ordinances in conflict with this Ordinance are repealed.


TWENTY-ONE

This Ordinance shall become effective after passage and publication as required by law.

PUBLICLY INTRODUCED AND READ FIRST TIME: Oct. 9
~~September 11, 2020~~

PUBLICLY READ SECOND TIME AND PASSED: Oct 22

APPROVED: 
Joe Pat Covington, County Judge Executive

ATTEST: 
Stacy Hamilton, Scott Fiscal Court Clerk