

COMMONWEALTH OF KENTUCKY
COUNTY OF HENDERSON

ORDINANCE NO. 21-13

*** **

AN ORDINANCE ESTABLISHING A CODE ENFORCEMENT BOARD PURSUANT TO KRS 65.8801 TO 65.8839; TO DISSOLVE THE BOARD OF APPEALS; TO CONSOLIDATE THE PROPERTY MAINTENANCE CODE AND NUISANCES AND UNSAFE STRUCTURES CODE AND MAKE VIOLATIONS OF SAID ORDINANCES A CIVIL OFFENSE TO BE HEARD BY THE CODE ENFORCEMENT BOARD.

WHEREAS, at an ordinance workshop on September 9, 2021, the County Judge/Executive and the Henderson County Codes Administrator recommended to the Henderson Fiscal Court to consolidate the Property Maintenance Code, Chapter 195 of the Henderson County Code of Ordinances, with the Nuisances and Unsafe Structures Code, Chapter 176 of the Henderson County Code of Ordinances, for the consistent application and enforcement of those County’s ordinances;

WHEREAS, the County Judge/Executive and Codes Administrator further recommended enforcement of ordinance violations would be served best by the utilization of a code enforcement board, pursuant to KRS 65.8801 to 65.8839, to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with certain ordinances in force within the County; and

WHEREAS, the Fiscal Court of Henderson County believes it to be in the best interests of its citizens to create and utilize the Henderson County Code Enforcement Board to protect, promote, and improve the health, safety, and welfare of the citizens residing within the County by issuing remedial orders and imposing fines when a violation of a civil offense occurs under the Nuisances and Unsafe Structures Code; and

WHEREAS, to effectuate the intent of these recommendations, the Fiscal Court finds its necessary to dissolve the Board of Appeals;

WHEREAS, the Fiscal Court hereby believes it to be in the best interests of the citizens to amend certain sections of the Nuisances and Unsafe Structures ordinances for enforcement by the Henderson County Code Enforcement Board; and,

WHEREAS, the Henderson County Codes Administrator has recommended that the Fiscal Court amend the Nuisances and Unsafe Structures Ordinance and has reviewed and approved the revisions herein.

NOW THEREFORE BE IT ORDAINED BY THE FISCAL COURT OF HENDERSON COUNTY, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

I. There is hereby created Chapter 13, Article V, of the Code of Ordinance of Henderson County, Kentucky which shall read as follows:

Section 13-28 – Definitions.

1. **“Abatement costs”** means the necessary and reasonable costs expended by Henderson County 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 Henderson County ordinance;

2. **“County”** means Henderson County.
3. **“Fiscal Court”** means the Henderson County Fiscal Court.
4. **“Code Enforcement Board”** means the Henderson County Code Enforcement Board established pursuant to Chapter 13, Article V, herein;
5. **“Code Enforcement Officer”** means the Henderson County Codes Administrator;
6. **“Final order”** means any order:
 - (a) Issued by the Code Enforcement Board in accordance with KRS 65.8828(4) or (6);
 - (b) Created because a violator neither paid nor contested the citation within seven (7) days as provided in KRS 65.8825(6);
 - (c) Created because of a failure of a violator to appear at a hearing the violator requested to contest the citation as provided in KRS 65.8828(1);
7. **“Imminent danger”** means a condition which is likely to cause serious or life-threatening injury or death at any time;
8. **“Local government”** means any county, consolidated local government, urban-county government, charter county government, unified local government, or city of any class;
9. **“Ordinance”** means an official action of the Fiscal Court, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the Fiscal Court which embodies all or part of an ordinance;
10. **“Owner”** means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property; and
11. **“Premises”** means a lot, plot, or parcel of land, including any structures upon it.

Section 13-29 - Establishment.

The County hereby finds, determines and declares that it is in the best of the citizens of Henderson County to establish a Code Enforcement Board, pursuant to KRS 65.8801 to 65.8839, for the purpose of issuing remedial orders and imposing civil fines to ensure compliance with certain ordinances in force in Henderson County. To that effect, the County hereby establishes the Code Enforcement Board for aforesaid purposes and declares that it shall be known as the “Henderson County Code Enforcement Board.”

Section 13-30 – Enforcement Powers.

1. 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 expressly deemed to constitute a civil offense.
2. The Code Enforcement Board shall not have the authority to enforce any ordinance regulating conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

Section 13-31 – Membership.

1. The Code Enforcement Board shall be composed of five (5) members, all of whom shall be residents of the County for a period of at least one (1) year prior to their appointment and shall reside there throughout the term in office.

Section 13-32 - Membership and Appointment; terms of office; removal from office; oath and compensation.

1. Members of the Code Enforcement Board shall be appointed by the County Judge, subject to the approval of the Fiscal Court.
2. The initial appointment to the Code Enforcement Board shall be as follows:
 - a. 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;
 - b. 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
 - c. 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.
3. All subsequent appointments shall be for a term of three (3) years.
4. A member may be reappointed, subject to the approval of the Fiscal Court.
5. Any vacancy on the board shall be filled by the County Judge/Executive, subject to approval of the Fiscal Court, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Enforcement Board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.
6. A board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The County Judge shall submit a written statement to the member and the Fiscal Court setting forth the reasons for removal. The member so removed shall have the right of appeal to the Henderson Circuit Court.
7. All members of the Code Enforcement Board shall, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.
8. Members of the Code Enforcement Board shall be compensated in the amount of fifty dollars (\$50.00) per meeting.
9. No member of the Code Enforcement Board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the County.

Section 13-33 - Organization of Board; meetings; quorum.

1. Upon initial appointments of its members, the board shall elect a chair among its members. Thereafter, the Code Enforcement Board shall annually elect a chair from among its members. The chair shall be the presiding officer and a full voting member of the board. In the absence of the chair, the remaining members of the board shall select a member to preside in place of and exercise the powers of the chair.
2. Regular meetings of the Code Enforcement Board shall be held on the fourth Monday of every month. Meetings other than those regularly scheduled shall be special meetings or

emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

3. All meetings and hearings of the Code Enforcement Board shall be public meetings held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.
4. The presence of at least a majority of the board's entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.
5. Action minutes shall be kept for all proceedings of the Code Enforcement Board and the vote of any member on any issue decided by the board shall be recorded in the minutes. The Fiscal Court shall provide clerical and administrative personnel for the proper conduct of the duties of the Code Enforcement Board.

Section 13-34 – Conflict of Interest.

Any member of the Code Enforcement Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest, 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.

Section 13-35 – Powers of the Code Enforcement Board.

The Code Enforcement Board shall have the following powers and duties:

1. To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with the Local Government Code Enforcement Board Act [KRS 65.8801 to 65.8839], County ordinances, and the provisions of this ordinance.
2. To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.
3. To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any code enforcement officer, law enforcement or any person authorized to serve a subpoena by the Kentucky Rules of Civil Procedure.
4. To take testimony under oath. The chairman shall have the authority to administer oaths to witnesses prior to their testimony before the Code Enforcement Board on any matter.
5. To make findings of fact and issue orders necessary to remedy any violation of a County ordinance which the board is authorized to enforce.
6. To impose civil fines, as authorized by ordinance, on any person found to have violated a County ordinance over which the board has jurisdiction.

Section 13-36 – Enforcement Proceedings.

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

1. Enforcement proceedings shall only be initiated by the issuance of a citation by a code enforcement officer.

2. Except when immediate action is necessary pursuant to Section 13-43 of this ordinance, 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 County ordinance, the code enforcement officer is authorized to issue a citation by one of the following methods:
 - a. Personal service to the alleged violator;
 - b. 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;
 - c. Mailing a copy of the citation by regular, first-class mail to the last known recorded mailing address of the alleged violator; or,
 - d. If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (1) to (3) 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.
3. The code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation shall be remedied within the time limit set forth in the ordinance alleged to be violated. If the person to whom the notice is given fails or refuses to remedy the violation within the proscribed time period, the code enforcement officer is authorized to issue a citation.
4. The citation issued by the code enforcement officer shall be set forth on the citation form prescribed by the Fiscal Court or by the Code Enforcement Board, which shall, at a minimum, contain the following information:
 - a. The date and time of issuance;
 - b. The name and address of the person to whom the citation is issued;
 - c. The physical address of the premises where the violation occurred;
 - d. The date and time the offense was committed;
 - e. The facts constituting the offense;
 - f. The section(s) of the code or the number(s) of the ordinance violated;
 - g. The name of the code enforcement officer;
 - h. The civil fine that may be imposed for the violation, including, if applicable:
 - i. The civil fine that will be imposed if the person does not contest the citation; and
 - ii. The maximum civil fine that may be imposed if the person elects to contest the citation;
 - i. The procedure for the person to follow in order to pay the civil fine or to contest the citation;
 - j. A statement that the code enforcement officer has the authority to abate any and all deficiencies contained in the citation with all charges and fees incurred by the County in connection with the enforcement of the ordinance billed to the owner.

- k. A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation within the time allowed: the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation; the determination that the violation was committed shall be final; the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation; and the person shall be deemed to have waived the right to appeal the final order to Henderson District Court.
5. After issuing a citation to an alleged violator, the code enforcement officer shall notify the Code Enforcement Board by delivering the citation to the board via email to its designated administrative staff.
6. Once a citation is issued, the code enforcement officer has the authority to abate any and all deficiencies contained in the citation with all charges and fees incurred by the County in connection with the enforcement of the ordinance billed to the owner.
7. The person to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine set forth in the citation or requesting, in writing, 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 and the determination that a violation was committed shall be considered final. In this event, the citation, as issued, shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to Henderson District Court.
8. Notice of a final order shall be provided to the cited violator by:
 - a. Regular first-class mail;
 - b. Certified mail, return receipt requested;
 - c. Personal delivery; or
 - d. 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.

Section 13-37 – Hearing; Notice; Final Order.

1. When a hearing has been requested, the Code Enforcement Board or its administrative staff shall schedule a hearing.
2. Not less than seven (7) days before the date of the hearing, the Code Enforcement Board or its administrative staff shall notify the requester of the date, time, and place of the hearing. The notice may be given by regular first-class mail; 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.
3. 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 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 Henderson District Court. Notice of a final order shall be given in the same manner as set forth in Section 13-36(8).

4. All testimony at the hearing 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.
5. The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The board may impose a fine up to the maximum authorized by ordinance, or require the offender to remedy a continuing violation to avoid a fine, or both.
6. Every final order following a hearing shall be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy of the final order shall be provided to the person named in the citation in the same manner as set forth in Section 13-36(8).

Section 13-38 – Presentation of Cases.

Each case before the Code Enforcement Board shall be presented by an attorney selected by the County, the Code Enforcement Officer, or by a member of the County's administrative staff. An attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but shall in no case serve in both capacities.

Section 13-39 – Fines.

A violation of any section of the Code of Ordinances of Henderson County, Kentucky which is expressly deemed a civil offense shall be subject to the specific fines set forth in said section.

Section 13-40 - Appeals; final judgment.

1. An appeal from a final order of the Code Enforcement Board following a hearing conducted pursuant to Section 13-37(5) of this ordinance may be made to the Henderson 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 final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.
2. If no appeal from a final order of the Code Enforcement Board is filed within the time period set in subsection (a) of this Section, the Code Enforcement Board's order shall be deemed final for all purposes.

Section 13-41 - Lien; fines, charges, and fees.

1. The County shall possess a lien on property owned by the person found by a nonappealable final order as defined by Section 13-28(6) of this ordinance, 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 regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

2. The lien shall be recorded in the office of the Henderson County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall continue for ten (10) years following the date of the nonappealable final order or final court judgment.
3. Subject to Section 13-43 of this ordinance, the lien shall take precedence over all other liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.
4. In addition to the remedy prescribed in subsection (1) of this Section, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the County in connection with the enforcement of the ordinance. The County may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

Section 13-42 - Lienholder notification system.

1. The County shall implement a system for notification to lien holders that meets the minimum requirements of subsection (2) of this section and shall comply with the procedures to permit remedial action by lien holders as provided in subsection (3) of this section in order to obtain and maintain the lien priority over previously filed liens granted in KRS 65.8835.
2. The County shall create a notification system that provides lien holders and others that elect to do so with electronic notification of all final orders entered pursuant to KRS 65.8801 to 65.8839. The system shall meet the following minimum requirements:
 - a. An individual or entity may register with the County to receive information on each final order by providing a name, mailing address, phone number, and an electronic mailing address to the County. The County shall accept this information in any form submitted by a registrant. It shall be the responsibility of the registrant to maintain and update its contact information with the County, except that the County shall inform a registrant of any evidence the County receives that the electronic mailing address is invalid or not functional in order to provide the registrant an opportunity to submit an updated electronic mailing address;
3. At least once a month, the County shall send electronic mail notification of all final orders issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last date of notification to each party registered pursuant to paragraph (1) of this subsection. The notification shall, at a minimum, include or provide an electronic link to a document or database meeting the requirements of this paragraph that includes:
 - a. The name of the person charged with a violation;
 - b. The physical address of the premises where the violation occurred;
 - c. 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;

- d. A specific description of the citation leading to the final order, including the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be satisfied by including a copy of the full citation;
 - e. The findings of the final order, including the penalty or penalties imposed by the final order, which may be satisfied by providing a copy of the full final order; and
 - f. The status of the final order in regards to its ability to be appealed pursuant to KRS 65.8831, except that the County shall provide an update to registrants if an appeal is filed or a final order pursuant to KRS 65.8831.
4. At the same time the electronic notification required under paragraph (2) of this subsection is sent, the County shall post this notification or provide a summary of the information regarding each final order required by paragraph (2) of this subsection in a conspicuous place on its public Web site, which shall be affiliated with the County and contain other information about the County. If the County posts using summary form:
 - a. The summary shall be calculated to reasonably allow identification of the specific properties which may be impacted by the lien; and
 - b. Upon request, the County shall provide the complete record of a final order created under paragraph (2) of this subsection without charge.
5. The County shall maintain the records created under this subsection for a period of ten (10) years following their issuance.
6. A lien holder of record may, within forty-five (45) days from the date of issuance of notification under subsection (a) of this section, correct the violation if it has not already been abated, or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the County in connection with the enforcement of the ordinance, including abatement costs. This subsection shall not prohibit the County from taking immediate action if necessitated under KRS 65.8838.
7. The lien provided by KRS 65.8835 shall not take precedence over previously recorded liens if:
 - a. The County failed to comply with the requirements of subsection (1) of this section for notification of the final order; or
 - b. A prior lien holder corrected the violation or paid all civil fines assessed for the violation and all charges and fees incurred by the County in connection with the enforcement of the ordinance, including abatement costs within forty-five (45) days as provided in paragraph (1) of this subsection.
8. A lien that does not take precedence over previously recorded liens under the circumstances outlined in paragraph (2) of this subsection, shall, if the final order remains partially unsatisfied, take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
9. Nothing contained in this subsection shall prohibit the County from recording a lien before the forty-five (45) day period established in paragraph (1) of this subsection expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period

established in paragraph (1) of this subsection, the County shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.

10. The County may delegate responsibility for compliance with this section to the Code Enforcement Board and its administrative staff.
11. The failure of the County to comply with this section or the failure of a lien to take precedence over previously filed liens as provided in subsection (b)(2) of this section, shall not limit or restrict any other remedies that the County has against the property or the violator.
12. The Henderson County Attorney is given authority to sign any release of liens under this section on behalf of the County of Henderson.
13. The requirements of this section shall not apply to a local government when it enforces KRS 65.8840.

Section 13-43 - Immediate action.

Nothing in this ordinance 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.

Section 13-44 - Transfer of ownership.

It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation, or upon whom a citation or final order has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the notice of violation, citation or final order have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation, citation or final order issued by the code enforcement officer and shall furnish to the code enforcement officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation, citation or final order and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation, citation or final order.

- II. Chapter 176 of the Code of Ordinances of Henderson County, Kentucky shall be replaced in its entirety and shall hereinafter incorporate the following regulations and shall read as follows:

Article I - Administration

Section 176-1 - Authority.

It shall be the responsibility of the Henderson County Codes Administrator or his/her designee to enforce this chapter in the interest of public health, safety, and general welfare. The Henderson County Codes Administrator shall be deemed a citation officer authorized to issue citations for purposes of enforcing the provisions of this Chapter.

Section 176-2 - Inspections.

The Codes Administrator shall make the required inspections or accept reports of inspection by approved agencies or individuals.

Section 176-3 - Right of entry.

The Codes Administrator or his designee is authorized to enter the structure or premises in question at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

Section 176-4 - Department records.

The Codes Administrator shall keep official records of all business and activities of the department specified in this chapter.

Article II – Unsafe Structures and Public Nuisances

Section 176-5 – Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. **“Abatement costs”** means the necessary and reasonable costs expended by Henderson County 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 Henderson County ordinance;
2. **“Automobile collector”** means a person who collects and restores motor vehicles;
3. **“County”** means Henderson County.
4. **“Fiscal Court”** means the Henderson County Fiscal Court.
5. **“Imminent danger”** means a condition which is likely to cause serious or life-threatening injury or death at any time;
6. **“Ordinance”** means an official action of the Fiscal Court, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the Fiscal Court which embodies all or part of an ordinance;
7. **“Ordinary public view”** means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property; and,
8. **“Owner”** means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property;
9. **“Parts car”** means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles.
10. **“Premises”** means a lot, plot, or parcel of land, including any structures upon it.

Section 176-6 - Unsafe and unfit structures.

An owner shall not permit any structure upon his or her premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents. An unsafe and unfit structure shall include, but is not limited to: a structure that is in disrepair or lacks maintenance; is unsanitary; vermin- or rat-infested; contains filth and contamination; lacks ventilation, illumination, sanitary

or heating facilities or other essential equipment; fails to provide minimum safeguards to protect or warn occupants in the event of fire; contains unsafe equipment; or, a structure that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.

Section 176-7 - Unlawful structures.

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code or which was erected, altered or occupied contrary to law.

Section 176-8 - Public nuisances.

Any premises upon which a continuing act or physical condition is made, permitted, allowed or continued by any person or legal entity, their agents or servants or any persona or legal entity who aids therein, which is significantly detrimental to the safety, welfare or convenience of the inhabitants of the County of Henderson or a substantial part thereof, or any act or condition specifically set forth in this chapter or any act or condition so designated by statute or ordinance, is hereby deemed a public nuisance.

Section 176-9 - Sanitation.

All exterior property and premises shall be maintained in a clean, safe, and sanitary condition.

Section 176-10 - Grading and drainage.

All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon or within any structure located thereon.

Section 176-11 – Inoperable vehicles; mobile homes.

1. It shall be unlawful for the owner, occupant, or person having control or management of any premises to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:
 - a. Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment; or,
 - b. One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited.
2. The provisions of subsection (1)(a) of this section shall not apply to:
 - a. Junked, wrecked, or inoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a:
 - b. Licensed automotive recycling dealer as described in KRS 190.010(8);
 - c. Used motor vehicle dealer as defined in KRS 190.010(6): or
 - d. Motor vehicle auction dealer as defined in KRS 190.010(11);

Section 176-12 – Rubbish and garbage.

It shall be unlawful for the owner, occupant, or person having control or management of any premises to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of rubbish or garbage.

Section 176-13 - Weeds.

It shall be unlawful for the owner, occupant, or person having control or management of any premises to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of the excessive growth of grass or weeds. All noxious grass or weeds shall be prohibited.

1. For purposes of this section, “grass or weeds” shall be defined as all grasses, annual plants and vegetation other than trees or shrubs; provided, however, that this term shall not include cultivated flowers and gardens.
2. For purposes of this section, “excessive growth of grass or weeds” shall be defined as those in excess of 12 inches high in platted subdivisions and 18 inches high in all other property.

Section 176-14 - Harborage.

It shall be unlawful for the owner, occupant or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish or excessive weeds that cause a nuisance due to rodent, insect, reptile or mosquito harborage or infestation.

Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Section 176-15 – Exemptions.

The provisions of Article II of Chapter 176 of the Code of Ordinances of Henderson County shall not be enforced upon any premises situated in an unincorporated portion of Henderson County that is assessed as agricultural land for tax purposes by the Henderson County Property Valuation Administration.

Section 176-16 – Civil Offense

A violation of any provision of Section 176, Article II, shall hereby expressly constitute a civil offense and shall be enforced by the Codes Enforcement Officer pursuant to Chapter 13, Article V, of the Code of Ordinances of Henderson County, Kentucky.

Section 176-17 – Time Limits

Pursuant to Chapter 13-36(3), the Code Enforcement Officer may provide the following maximum time periods for violations to be remedied before issuance of a citation:

| <u>Ordinance</u> | <u>Maximum Time Period</u> |
|------------------|----------------------------|
| § 176-6 | 60 days |
| § 176-7 | 60 days |
| § 176-8 | 30 days |
| § 176-9 | 10 days |
| § 176-10 | 30 days |
| § 176-11 | 30 days |
| § 176-12 | 7 days |
| § 176-13 | 7 days |
| § 176-14 | 7 days |

Section 176-18 – Fine Schedule

A violation under this Section shall be subject to the following schedule of civil fines:

1. If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this subsection shall apply and shall be calculated per noted violation:

| VIOLATION (Uncontested) | 1 st Offense | 2 nd Offense | All Others |
|-------------------------|--|--|---|
| § 176-6 | \$125.00 | \$150.00 | \$200.00 |
| § 176-7 | \$125.00 | \$150.00 | \$200.00 |
| § 176-8 | \$50.00 | \$100.00 | \$150.00 |
| § 176-9 | \$30.00 | \$60.00 | \$100.00 |
| § 176-10 | \$30.00 | \$60.00 | \$100.00 |
| § 176-11 | \$50.00 | \$100.00 | \$200.00 |
| § 176-12 | \$30.00 | \$60.00 | \$100.00 |
| § 176-13 | \$50.00 <i>(plus \$5.00 per acre)</i> | \$75.00 <i>(plus \$5.00 per acre)</i> | \$100.00 <i>(plus \$5.00 per acre)</i> |
| § 176-14 | \$50.00 | \$100.00 | \$200.00 |

2. If a citation for a violation of an ordinance is contested by the person charged with the violation, the penalties set forth in this subsection shall apply and shall be calculated per noted violation:

| VIOLATION (Contested) | 1 st Offense | 2 nd Offense | All Others |
|-----------------------|--|---|---|
| § 176-6 | \$200.00 | \$225.00 | \$300.00 |
| § 176-7 | \$200.00 | \$225.00 | \$300.00 |
| § 176-8 | \$100.00 | \$150.00 | \$200.00 |
| § 176-9 | \$60.00 | \$125.00 | \$100.00 |
| § 176-10 | \$60.00 | \$125.00 | \$100.00 |
| § 176-11 | \$100.00 | \$150.00 | \$250.00 |
| § 176-12 | \$60.00 | \$125.00 | \$100.00 |
| § 176-13 | \$80.00 <i>(plus \$5.00 per acre)</i> | \$120.00 <i>(plus \$5.00 per acre)</i> | \$150.00 <i>(plus \$5.00 per acre)</i> |
| § 176-14 | \$100.00 | \$175.00 | \$250.00 |

In addition to the fines in this subsection, the Code Enforcement Board may impose a daily civil penalty not to exceed one hundred dollars (\$100.00) per day after a hearing and a finding upholding a citation and where the violation has not been corrected. The Code Enforcement Officer is permitted to petition the Code Enforcement Board for a hearing to request the imposition of the daily civil penalty for any violation.

- III. The provisions of Chapter 195 of the Code of Ordinances of Henderson County shall be deleted in their entirety and held for naught.
- IV. The Fiscal Court finds it to be in the best interests of the citizens of Henderson County to dissolve the Board of Appeals.
- V. All ordinances, or parts thereof, in conflict herewith are, to the extent of such conflict hereby repealed and superseded.
- VI. The provisions of this ordinance are severable and, if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

On first reading of the foregoing Ordinance, it was moved by Magistrate Puttman, seconded by Magistrate Berry, that the Ordinance be adopted on its first reading.

WHEREUPON, the vote was called.

Upon roll call the vote stood:

| | | | |
|---------------------|------------|--------------------|------------|
| Magistrate Berry | <u>AYE</u> | Magistrate Moran | <u>AYE</u> |
| Magistrate Southard | <u>AYE</u> | Magistrate Puttman | <u>AYE</u> |
| Magistrate McCollom | <u>AYE</u> | | |

WHEREUPON, County Judge-Executive Brad Schneider declared the Ordinance adopted on its first reading and ordered that the same be published in summary form and presented for second reading on December 7, 2021 at the regular meeting of Fiscal Court.

On second reading of the foregoing Ordinance, it was moved by Magistrate McCollom, seconded by Magistrate Puttman, that the Ordinance be adopted.

WHEREUPON, the vote was called.

Upon roll call the vote stood:

| | | | |
|---------------------|---------------|--------------------|------------|
| Magistrate Berry | <u>ABSENT</u> | Magistrate Moran | <u>AYE</u> |
| Magistrate Southard | <u>AYE</u> | Magistrate Puttman | <u>AYE</u> |
| Magistrate McCollom | <u>AYE</u> | | |

WHEREUPON, County Judge-Executive Brad Schneider declared the Ordinance adopted on its second reading, affixed his signature and the date thereto and declared that the same be recorded.

ADOPTED this the 7th day of December, 2021.

This Ordinance is adopted pursuant to KRS 67.077 in was introduced and read on the 23rd day of November, 2021, and that it was published in summary form on the 30th day of November, 2021, and given final reading on the 7th day of December, 2021, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary form pursuant to KRS Chapter 424 and KRS 67.077(3).

ATTEST:



 Kurt Wiesen
 Henderson Fiscal Court Clerk



 Brad Schneider
 Henderson County Judge-Executive