

ORDINANCE NO. 21-03

AN ORDINANCE RELATING TO THE BOYD COUNTY FISCAL COURT CREATING A CODE ENFORCEMENT BOARD PURSUANT TO KRS 65.8801 ET SEQ.; CREATING A PROPERTY MAINTENANCE CODE FOR THE UNINCORPORATED AREAS OF BOYD COUNTY AND REPEALING OR AMENDING ORDINANCES MADE REDUNDANT OR REPLACED BY THE CREATION OF A CODE ENFORCEMENT BOARD AND PROPERTY MAINTENANCE CODE

Be it ordained by the fiscal court of county of Boyd, Commonwealth of Kentucky:

Whereas, Boyd County Fiscal Court has determined that code enforcement boards and property maintenance codes are tools widely utilized by local government as a citizen-guided and less formal approach to address concerns and complaints; and

Whereas, it is the intent of KRS 65.8801 to KRS 65.8839 to protect, promote, and improve the health, safety, and welfare to the citizens residing within Boyd County by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious and cost effective method of ensuring compliance with the ordinances in force within the County; and

Whereas, The Fiscal Court of Boyd County, Kentucky, after due consideration, has determined that the creation of an administrative body to enforce certain local ordinances will provide an additional level of due process and will serve as a desirable alternative method of such enforcement while preserving all current rights and process; and

Whereas, the fundamental constitutional rights and protections guaranteed to all citizens shall be protected the Boyd County Fiscal Court; and

Whereas, minimum, basic guidelines and standards are needed to ensure maintenance, sanitary upkeep and safety of structures and property in the community.

BOYD COUNTY CODE ENFORCEMENT BOARD ORDINANCE

Section 1 – Title

The provisions of this Ordinance shall be known as the Boyd County Code Enforcement Ordinance

Section 2 – 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:

Code Enforcement Board (A/K/A “Board”, “Code Board”) shall mean an administrative body in Boyd County, Kentucky, created and acting under the authority of the Local Government Code Enforcement Board Act of Kentucky , KRS 65.8801 et seq.

Code Official (A/D/A “Official”) shall mean the Boyd County Sheriff and deputies, Code Enforcement Officer or Building Inspector or any other person appointed or assigned to enforce the provisions hereof but shall not include the Code Enforcement Board members.

County Judge-Executive shall mean the chief executive officer of Boyd County, Kentucky, as prescribed in KRS Chapter 65.

Ordinance/Regulation shall mean an official action of the Boyd County Fiscal Court, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of the Code or Ordinances adopted by the Boyd County Fiscal Court, which may be enacted by Order, Resolution or Ordinance.

Section 3 – Appointment of Members, Terms of Office, Removal, Compensation

A. There is hereby created a Code Enforcement Board consisting of three (3) members who shall be appointed by the County Judge Executive and approved by the Boyd County Fiscal Court. The initial appointment of the members shall be as follows:

- a) One (1) member appointed for a term of one (1) year;
- b) One member appointed for a term of two (2) years; and
- c) One member appointed for a term of three (3) years each

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

B. A member may be reappointed, subject to appointment by the Judge Executive and the approval of the Fiscal Court.

C. Any vacancy on the Board shall be filled by the Judge Executive subject to Fiscal Court approval within sixty (60) days of the vacancy. If the vacancy is not filled within sixty (60) days, the remaining members shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

D. A member of the Code Enforcement Board may be removed from office by the Judge Executive for misconduct, inefficiency or willful neglect of duty. The Judge Executive must submit a written statement to the member and to the Fiscal Court setting forth the reasons for removal. The member so removed shall have the right to appeal to the Boyd Circuit Court.

E. Member of the Code Enforcement Board shall not receive any remuneration for service, however, may be reimbursed for actual expenses, subject to prior approval, upon presentation of receipts or other proper documentation to the Boyd County Treasurer.

Section 4 – Board Members Requirements; Oath

A. 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.

B. All members of the Board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky

C. No member of the Board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the Boyd County Fiscal Court or any of its agencies, boards or commissions.

Section 5 – Responsibilities/Authority/Training/Conflicts of Interest

A. The Board shall initially, and annually thereafter, elect in January a chair from among its members who shall serve as the presiding officer and a full voting member of the board and vice-chair who shall serve as chair in the absence of the chair.

B. The Board shall meet periodically to conduct business, but in no event meet less than quarterly. At least two (2) members shall be present and voting to constitute a quorum; all official actions of the board shall require the affirmative vote of two (2) members. Absence from three (3) or more meetings in any twelve (12) month period shall be grounds for removal.

C. 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. Any member of the Board who is disqualified more than two (2) times during said member's term shall be deemed inefficient and subject to removal. All members shall be subject to the Boyd County Code of Ethics.

D. The Board shall keep written or recorded minutes of all proceedings and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

E. All meetings and hearings of the Board shall be held according to the provision of KRS 61.800 et seq. (Open Meetings)

F. The Fiscal Court of Boyd County shall provide clerical and administrative personnel as reasonably required by the board for the proper conduct of its duties.

G. Unless previously announced otherwise meetings of the Boyd County Code Enforcement Board shall be held at the Boyd County Courthouse at 2800 Louisa Street, Catlettsburg, KY 41129.

H. The Boyd County Code Enforcement Board shall conduct all administrative hearings in accordance with procedures set out herein and as required to provide due process under the Constitutions of the United States of America and the Commonwealth of Kentucky. The provisions of KRS 13B.080 regarding conduct of hearings is incorporated herein as a guide.

Section 6 – Jurisdiction

A. The Code Enforcement Board shall have jurisdiction to determine violations of the following county ordinances and regulations which specifically provide for the imposition of remedial and/or civil penalties and were previously adopted by the Fiscal Court.

1. Discarded items and/or Junk Vehicle Ordinances
2. Boyd County Property Maintenance Code;
3. Boyd County Parking and Motor Vehicle related ordinances.

B. The Code Enforcement Board Shall not have the authority to determine violations of any ordinance or regulation the violation of which constitutes a criminal offense under the provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code or any moving motor vehicle offense,

C. Criminal penalties set out in any of the aforesaid ordinances are repealed in consideration of the civil penalties and remedies set out herein.

D. In consideration of the Property Maintenance Code set out hereafter, the following ordinances are repealed only to the extent inconsistent herewith: 2003-1, 01-07, 4-05.

Section 7 – Powers & Duties of the Board

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

A. Adopt procedures to govern its operation and the conduct of its hearing that are consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, state laws and ordinances/regulations enacted the Boyd County Fiscal Court.

B. Conduct hearings to determine whether there has been a violation of any Boyd County ordinances or regulation that is under the jurisdiction of the Board.

C. Subpoena witnesses and evidence to its hearings. A subpoena issued by the Board may be served by any person not less than eighteen (18) years of age. Proof of service of any such subpoena shall be governed by the Kentucky Rules of Civil Procedure 45.03.

D. Take testimony under oath. The chairman or vice-chairman of the Board shall have the authority to administer oaths to witnesses prior to their testimony before the Board on any matter.

E. Impose remedial orders that are necessary to remedy a violation of a Boyd County ordinance or regulation that is under the jurisdiction of the Board.

F. Impose civil fines as authorized by ordinance or regulation against any person found to have violated any ordinance or regulation that is under the jurisdiction of the Board.

G. Impose charges and fees incurred by Boyd County for remediation of violations of ordinances and regulations under the jurisdiction of the Board. These charges and fees include but are not limited to reasonable labor and material costs.

H. Make an annual report to the Fiscal Court that shall include, but not limited to, number of citations issued, number of appeals filed and amount of fines, charges and fees assessed and/or collected. Said report shall be filed not later than April 1st of each year beginning in 2022 and annually thereafter.

Section 8 – Enforcement Proceedings

All enforcement proceedings before the Board shall be initiated by the issuance of a citation by a Code Official

A. The Code Official may issue a citation to an alleged offender when the Code Official has reasonable cause to believe that a person has committed a violation of a Boyd County ordinance or regulation that is under the jurisdiction of the Board. For alleged violation of the Boyd County Property Maintenance Code, the Code Official may, in lieu of immediately issuing a citation, issue a Notice of Violation and require the violation to be remedied within a specified period of time. The notice shall include a statement that if the violation is not remedied, a Code Official may issue a citation. If the violation is not remedied within the time specified, the Code Official may issue a citation.

B. A Notice of Violation, when issued by a Code Official, shall contain the following information:

1. The date and time of issuance.

2. The name and address of the person to whom the notice is issued.
3. The approximate date and time the violation was committed.
4. The facts constituting the violation and actions needed to remediate it;
5. The section of the code, regulation or ordinance number being violated.
6. The name of the Code Official and badge number (if any).
7. Date by which the violation must be remediated.
8. Statement that if not remediated by the date required, a citation may be issued.

C. Notice of a Notice of Violation shall be made as follows:

1. The Code Official Shall notify the alleged violator by:

- a. Personally delivering a copy of the Notice of Violation service to the alleged violator; and/or;
- b. Leaving a copy of the Notice of Violation with any person eighteen (18) years of age and/or older who is on the relevant premises if the alleged violator is not on the premises at the time the Notice of Violation is issued; and/or
- c. Posting a copy of the Notice of Violation in a conspicuous place on the relevant premises and mailing a copy of the Notice of Violation by regular first class mail of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the Notice of Violation is issued.

D. A citation issued by the Code Official shall contain the following information.

1. The date and time of the issuance.
2. The name and address of the person to whom the citation is issued.
3. The approximate date and time the violation was committed.
4. The facts constituting the violation;
5. The section of the code, regulation or ordinance number being violated.
6. The name of the Code Official and badge number (if any)
7. The procedure of the person to follow in order to pay the civil fine/provide proof of remediation or to contest the citations.
8. The civil fine that may be imposed for the violation and remedial action required if the citation is not contested;
9. The maximum civil fine that may be imposed if the alleged violator elects to contest the citation and is found in violation by the Board.
10. A statement that if alleged violator fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the alleged violator shall be deemed to have waived the right to a hearing before the Code Enforcement Board and the Board may enter a final order finding the alleged violator committed the violation and imposing civil fines, charges, fees and remedial orders.

E. Notice of a citation shall be made as follows:

1. The Code Official shall notify the Code Enforcement Board of the issuance of a citation by delivering one copy of the citation to the Finance Department of the Boyd County Fiscal Court.
2. The Code Official shall notify the alleged violator by:
 - a) Personally delivered a copy of the citation to the alleged violator; and/or

- b) Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the relevant premises if the alleged violator is not on the premises at the time the citation is issued; and/or
- c) Posting a copy of the citation in a conspicuous place on the relevant premises and mailing a copy of the citation by regular first class mail of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the citation issued.
- d) For alleged violation of any Boyd County parking ordinances or motor vehicle related ordinance, the Boyd County Sheriff or the Boyd County Sheriff Deputies are authorized to issue a citation by: 1. Personal service to alleged violator; or 2. Posting a copy of the citation in a conspicuous place on the relevant vehicle and causing a copy of the citation to be mailed by regular, first class mail of the United States Postal Service to the owner of record of the relevant vehicle if the personal service of the citation is not effectuated when the citation issued.

F. The alleged violator to whom the citation is issued shall respond to the citation within fourteen (14) days of the date the citation is issued by either paying the civil fine set forth and remedying the violation in the citation or requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. The request for a hearing shall be delivered by any class mail of the United States Postal Service or by personal delivered to the Judge Executive's office or Boyd County Fiscal Court at P.O. Box 423, 2800 Louisa Street, Catlettsburg, KY 41129. The request shall include the name and address of the alleged violator requesting the hearing. If the alleged violator fails to respond to the citation within fourteen (14) calendar days by paying the civil penalty or properly requesting a hearing, the alleged violator shall be deemed to have waived the right to a hearing and the Code Enforcement Board may enter a final order against the alleged violator finding that the violation was committed and imposing civil fines, charges, fees and/or remedial orders.

Section 9 – Hearing, Notice, Final Order

The following procedures shall be followed when a hearing has been requested by the alleged violator.

A. When a hearing has been requested, the Code Enforcement Board shall conduct a hearing within sixty (60) days of the request, unless the parties agree to a continuance not to exceed thirty (30) days from the initial sixty (60) days.

B. Not less than seven (7) days before the date set for the hearing, the Code Enforcement Board shall provide notice to the alleged violator of the hearing date, time, and place. The notice may be given by certified mail, return receipt requested, by personal delivery, or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. However, if the whereabouts of the alleged violator is unknown and cannot be ascertained by a Code Official in the exercise of reasonable diligence or if certified mail is not claimed within ten (10) days of mailing, the notice is properly served if two (2) copies of the notice are posted in a conspicuous place on the premises in which an alleged violation has occurred.

C. Any alleged violator requesting a hearing before the Code Enforcement Board 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 Code Enforcement Board may enter a final order against the violator determining that the violation was committed and imposing civil fines, charges, fees and/or remedial orders.

D. Each case before the board shall be presented by a Code Official or other person designated by the County Judge Executive.

E. All testimony shall be under oath and shall be recorded. The Board shall take testimony from the code Official or person designated by the Judge Executive, the alleged violator, if said individual desires to testify, and any witnesses as to the alleged violation offered by the Code Official or the alleged violator formal rules of evidence shall not apply.

F. At the hearing, the Board shall determine, based on a preponderance of the evidence presented whether a violation was committed by the individual charged in the citation. If the Board determines that no violation was committed, an order dismissing the citation shall be entered. If the Board determines that a violation has been committed by the individual charged, the Board shall issue a final order which shall include the finding and conclusions of the Board along with any allowable civil fines, charges, fees and/or remedial orders the Board deems appropriate.

G. Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If that person is not present at the time a final order of the board is issued, the order shall be delivered to that person by 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 or by posting the final order upon the subject premises.

Section 10 - Appeals

An appeal from any final order issued by the Code Enforcement Board must be made to the Boyd 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 conduct a de novo review. If no appeal from a final order of a Code Enforcement Board is filed within the time period set forth in this section, the Code Enforcement board's order shall be deemed final for all purposes. Time for filing an appeal shall not be extended without consent of the Board.

Section 11 – Civil Fine Schedule

Violations of ordinances and regulations that are enforced by the Code Enforcement Board are civil offenses and shall be subject to the following schedule of civil fines unless otherwise specifically stated in the ordinance or regulation violated.

A. If a citation for a violation of an ordinance or regulation is not contested by the person charged with the violation, the civil fines set forth in this subsection shall apply if paid within fourteen (14) days of the date the citation was entered; however, the board may waive all or any portion of the penalty for an uncontested violation, if in its discretion, the Board determines that such a waiver will promote compliance with the ordinance or regulation in issue;

<u>Violation</u>	<u>Civil Fine</u>
Property Maintenance Code	\$150
Parking or Motor Vehicle Related	\$150

All other violations

\$150 for first and \$300 second violation/ \$600 and/or community service additional violation with 365 day period.

B. If a citation is contested or a citation not contested is not paid in full within fourteen (14) days, the following civil fines may be imposed by the Code Enforcement Board. Civil fines for multiple violations may be applied when the same violation is committed again within a twelve-month period; however, the Board may waive all or any portion of the fine for a violation if in its discretion, the Board determines that such a waiver will promote compliance with the ordinance or regulation in issue.

<u>Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>All Others</u>
Property Maintenance Code	\$150	\$300	\$600 and/or community service
Parking or Motor Vehicle Related	\$150	\$300	\$600 and/or community service
All other violations	\$150	\$300	\$600 and/or community service

For violations of the Property Maintenance Code, each day the violation exists may be deemed to be a separate violation up to a maximum of \$1,000 after which a new citation must be issued.

Payment of a civil fine or penalty shall not excuse the failure to remedy a violation. Enforcement may continue and additional fines levied or remedies pursued until the violation is cured.

SECTION 12- LIENS

A. For violations of the Property Maintenance related ordinances Boyd County shall, in accordance with KRS§65.8835, possess a lien on the relevant real property owned by the person found by a final nonappealable order of the Code Enforcement Board, or by a final nonappealable judgment of a court of law, to have committed a violation of a Boyd County ordinance or regulation which is under the jurisdiction of the Board for all assessed civil fines and for all assessed charges and fees incurred in connection with the enforcement of the ordinance/regulation and remediation of the violation.

B. The lien shall be recorded in the Office of the County Clerk. The lien shall be notice of all persons from the time of its recording and shall bear interest at twelve (12%) percent per annum until paid.

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

D. The person found to have committed the violation shall be personally responsible for the amount of all assessed civil fines and for all assessed charges and fees incurred by Boyd County in connection with the enforcement of the ordinance/regulation and remediation of the violation Boyd County may initiate any appropriate civil action to collect said fines, charges and fees.

Section 13 – Immediate Action to Remedy Violation of Ordinances

Nothing contained in this ordinance shall prohibit the Code Official from taking immediate action to remedy a violation of an ordinance or regulation under the jurisdiction of the Code Enforcement Board when there is reason to believe that the existence of the violation presents a threat or danger to the public health, safety, and welfare if in the absence of immediate action the effects of the violation will be irreparable or irreversible. A citation may also be issued for the violation.

BOYD COUNTY PROPERTY MAINTENANCE CODE
ARTICLE I
GENERAL PROVISIONS

Section I – Scope and Administration

A. Title. The Provisions of this Ordinance shall be known as the Boyd County Property Maintenance Code hereinafter referred to as the “the Code” or “BCPMC”.

B. Scope. The provisions of the Boyd County Property Maintenance Code shall apply to the unincorporated areas of Boyd County, Kentucky.

C. Limitations. Recognizing that the Kentucky General Assembly has enacted KRS 413,072, a “Right to Farm” statute, **NO PROVISION OF THE BCPMC SHALL BE CONSTRUED TO PROHIBIT, DETER OR ADVERSELY EFFECT ANY AGRICULTURE OR SILVICULTURE OPERATIONS AND ACTIVITIES.**

D. Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

E. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standard code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

F. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be performed in accordance with the procedures and provisions of the currently adopted *Kentucky Building Code, NFPA 54- National Fuel Gas Code, International Mechanical Code, Kentucky Residential Code and Kentucky Plumbing Code.*

G. Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer’s instructions.

H. Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

I. Effect. This Ordinance shall take effect and be in full force when passed, published and recorded according to law.

Section 2 – Definitions

Anchored. Secured in a manner that provides positive connection,

Approved. Acceptable to the code official.

Bulky Rubbish. Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely or conveniently loaded in solid waste transportation vehicles by solid waste collectors, with the equipment available therefore.

Code Official. Code Official shall mean a County Sheriff or Deputy Sheriff, Code Enforcement Officer, Building Inspector, or Zoning Enforcement Officer but shall not include the Code Enforcement Board members.

Collection. Removal of solid waste from the designated pick-up location to the transportation vehicle.

Condemn. To adjudge unfit for occupancy.

County. Boyd County, Kentucky

Court. Boyd County Fiscal Court

Demolition and Construction Waste. Waste materials from the construction or destruction of residential, industrial or commercial structures.

Discarded Item. This term includes, but is not limited to, items for or used in recycling, motor vehicles, auto body parts, tires, boats, home appliances, solid waste and furniture in a dilapidated or apparently inoperable condition and left in open storage or discarded on private property for more than three (3) consecutive days. This definition shall not apply to the following: (1) Any discarded item or part thereof which is enclosed within a building, such as a garage or other fully enclosed accessory building. (2) any discarded item not visible from an adjacent or abutting property owner, street, road, or public park. (3) Any discarded item stored on private property in a lawful manner in connection with the licensed business of auto body, auto repair, dismantler, vehicle dealer, and junk or salvage yard, provided that outside storage of discarded items be within a privacy fence or dumpster area and not on the grass or yard. (4) The preceding exceptions shall not authorized the maintenance of a public or private nuisance as defined by law.

Disposable Solid Waste Container. Disposable plastic or paper sacks with a capacity of 20 to 35 gallons specifically designed for the storage of solid waste.

Dwelling Unit. Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living sleeping, cooking and eating.

Exterior Property. The open space on the premise and on adjoining property under the control of owners or occupants of such premises.

Good Repair. State of repair that will satisfy a reasonable person using the premises for ordinary uses.

Guard. A building component or a system of building components located at or near the open sides of elevated walking surface to a lower level.

Historic Building. Any building or structure that is one of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

Infectious Waste. The following categories shall be considered infectious wastes:

1. Blood and blood products. Human blood, blood products (such as serum, plasma and other blood components) and body fluids (to which universal precautions apply).
2. All discarded sharps. Includes needles, syringes, scalpels, and glass vials.

3. Waste derived from animals (excluding bedding) shall be considered infectious. If derived from animals affected with zoonotic diseases or with agents infective to humans.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any person, who alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, wither, as owner or as tenant.

Owner. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, or a tenant in possession or other person regularly found upon or occupying premises.

Permitted Residential Solid Waste Collector. A collector of residential solid waste, permitted for the purpose by the county or its designee.

Person. Any individual, partnership, corporation, association, joint stock company, trust, estate, political subdivision, or organization of any kind or their legal representative, agent or assigns.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Solid Waste. Any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid or contained gaseous material generated by and/or resulting from, but not limited to, industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), and agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges. Solid Waste includes, but is not limited to:

1. *Commercial Solid Waste.* Solid waste generated by and/or resulting from but not limited to the operation of any commercial, industrial or agricultural establishment.

2. *Residential Solid Waste.* Solid waste generated by and/or resulting from but not limited to the maintenance and operation of dwelling units.

3. *Infectious Waste* which has been properly treated (rendered non-hazardous and non-infectious) as outlined in this chapter, the Bloodborne Pathogen Standard 1910.1030 and/or KAR 20:016, is considered solid waste and may be safely landfilled in a contained or sanitary landfill.

Storage. Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

Structural Member. Any element in a building that supports the dead and live loads of the building and ultimately helps transmit it to the ground including, but not limited to, beams, columns, joists, rafters, trusses, bearing walls and footings.

Structure. That which is built or constructed or a portion thereof.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Workmanlike. Executed in a skilled manner; e.g. generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard. An open space on the same lot with a structure.

Section 3- Duties and Powers of the Code Official

A. General. Code Officials are hereby authorized and directed to enforce the provision of this Code. Code Officials are authorized with approval of the County Judge-Executive to engage such expert opinions are deemed necessary to report on technical issues required to administer the Code.

B. Ability to Inspect. A code official shall not have the right to enter upon the real property of another except as allowed under the Constitutions of the United States of America and Commonwealth of Kentucky.

C. Identification. Code Officials shall carry proper identification while in the performance of duties under this code.

D. Notices and Orders. Code Officials shall issue all necessary notices of violation or citations to ensure compliance with this code.

E. Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

F. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided the code official shall first find that the reason makes the provision of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

G. Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved by a code official.

ARTICLE II VIOLATIONS

Section 4 – Designation of Offenses

A. Violation designated as civil offense. Violations of this code are hereby designated as civil offenses.

B. Abatement of violation. The imposition of the penalties for violations of the BCPMC shall not preclude the Boyd County Fiscal Court from instituting appropriate legal action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

Section 5 – Notice Requirements

Whenever a code official determines there to be a violation of the Boyd County Property Maintenance Code, notice of the violation shall be given consistent with section 8 of the Boyd County Code Enforcement Board Ordinance.

Section 6 – Unsafe Structures.

A. Unsafe structures. A Code official may determine a structure is unsafe for human habitation, occupancy or use if it is found to be dangerous to the life, health, property or safety of the public, adjacent structure or the occupants of the structure. For the purposes of this code a structure is unsafe when it is so damaged, decayed, unstable, dilapidated, and/or structurally deficient that partial or complete collapse of the structure is possible in the opinion of the code official.

1. Notice of Violation/Citation. If a code official determines a structure is unsafe, before any additional action authorized in this Section may be taken, the code official shall issue a citation as authorized in this Boyd County Code Enforcement Ordinance.

2. Placarding/Posting. If a structure is determined to be unsafe by a code official and a citation has been issued, the official shall post a placard of condemnation of the premises and order the structure closed up. If the owner or owner's authorized agent fails to close up the structure within the time

specified in the order, the code official shall cause the structure to be closed and secured through Boyd County or by contract or arrangement by private persons or corporations.

a. **Placarding.** The placarding/posting shall be attached on the main entrance to the structure, or as near thereto as possible if unable to be attached to the main entrance, and shall state as follows: "CONDEMNED. This structure is unsafe and not fit for human habitation, occupancy or use. The use or occupancy of this structure for human habitation is prohibited and unlawful".

b. **Placard removal.** The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. No person may deface or remove a condemnation placard without the approval of the code official.

3. **Repair/Demolition.** After proper notice and opportunity for hearing, all as required by the Boyd County Code Enforcement Board Ordinance, the Board may issue a remedial order requiring repair of the unsafe structure. The owner may demolish the structure if the owner so chooses and said demolition shall satisfy the Board's remedial order of repair. If the owner of the structure fails to comply with a final remedial order of repair within a minimum of six (6) months, the Board may issue a show cause order setting a hearing date before the Board. Said show cause order shall be personally delivered to the owner or delivered by certified mail, return receipt requested. After such proper notice and hearing the board may issue a remedial order of demolition. Issuing a remedial order of repair or a remedial order of demolition does not preclude the Board from assessing civil fines, charges and fees as allowed by the Boyd County Code Enforcement Board Ordinance.

a. **Failure to comply.** If the owner of a structure fails to appeal a final order requiring demolition to the District Court or comply with a final order requiring demolition within thirty (30) days, the code official shall notify the County Judge-Executive who shall determine whether demolition shall be achieved either through Boyd County or by contract or arrangement with private persons or corporations. Boyd County shall, in accordance with provisions of the Boyd County Code Enforcement Board Ordinance, possess a lien on the relevant real property for all assessed civil fines and for all assessed charges and fees.

b. **Salvage materials.** When any structure has been ordered demolished and removed and the demolition is performed or contracted by the County, Boyd County shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amount deducted, to the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

Section 7 – Means to Contest

A citation under the Boyd County Property Maintenance code may be contested to the Boyd County Code Enforcement Board following the procedures set forth in Section 8 of the Boyd County Code Enforcement Ordinance.

Section 8 – Stop Work Order

A. **Authority,** whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

B. **Issuance.** A stop work order shall be in writing and notice shall be given in the same manner as required for a citation in the Boyd County Code Enforcement Board Ordinance. Upon issuance of a

stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

C. Failure to comply. No person may continue any work after a stop work order has been properly issued, except such work as that person is directed to perform to remove a violation or unsafe condition.

SECTION 9- EXTERIOR PROPERTY AREAS

A. Sanitation. Owners of exterior property and premises shall maintain such property in a clean, safe and sanitary condition.

B. Discarded items on person's own property. Property owners shall not allow discarded items to remain on their property.

C. Discarding items in property of another. No person shall place, leave, deposit or otherwise undertake to dispose of any discarded item upon any private property or upon any public property or right-of-way.

1. Removal of discarded items. After proper notice and opportunity for hearing, all as required by the Boyd County Code Enforcement Board Ordinance, the Board may issue a remedial order requiring removal of any and/or all of the discarded items. Issuing a remedial order of removal of discarded items does not preclude the Board from assessing civil fines, charges and fees as allowed by the Boyd County Code Enforcement Board Ordinance.

2. Failure to comply. If the owner of property fails to appeal a final order of remediation requiring removal of any and/or all discarded items to the District Court or comply with a final order of remediation requiring removal of any and/or all discarded items within thirty (30) days, the code official shall notify the County Judge-Executive who shall determine whether removal of the discarded items shall be achieved either through Boyd County or by contract or arraignment with private persons or corporations. Boyd County shall, in accordance with provisions of the Boyd County Code Enforcement Board Ordinance, possess a lien on the relevant real property for all assessed civil fines and for all assessed charges and fees.

D. Grading and drainage. Premises shall be graded and maintained to prevent the erosion of soil onto an adjacent property owner's property and to prevent the accumulation of stagnant water thereon.

Exception: Approved retention/detention areas and reservoirs

E. Walkways and driveways. Walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

F. Unsightly vegetation prohibited. Except for Agricultural or silvicultural purposes, owners of exterior property and premises shall not permit non-ornamental grass and/or weeds to exceed eight (8) inches in height.

1. Cutting vegetation. After proper notice and hearing, all as required by the Boyd County Code Enforcement Board Ordinance, the Board may issue a remedial order requiring the vegetation be cut and removed. Issuing a remedial order to cut and remove vegetation does not preclude the Board from assessing civil fines, charges and fees as allowed by the Boyd County Code Enforcement Board Ordinance.

2. Failure to comply. If the owner of property fails to appeal a final order requiring cutting and removing vegetation to the District Court or comply with a final order requiring cutting and

removing vegetation within thirty (30) days, the code enforcement officer shall notify the County Administrator who shall determine whether cutting and removing the vegetation shall be achieved either through Boyd County or by contract or arraignment with private persons or corporations. Boyd County shall, in accordance with the provisions of the Boyd County Code Enforcement Board Ordinance, possess a lien on the relevant real property for all assessed civil fines and for all assessed charges and fees.

G. Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not intentionally discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

H. Mowing discharge. No person shall mow, cut, clip, blow or otherwise discharge grass clippings, vegetation debris or any other yard or similar waste upon, onto or so as to result in discharge upon any road, street or highway. No person shall mow in any manner which may result in discharge upon or within ten (10) feet of any road, street or highway. For a first offense violation of this (Sec. 9H) provision the violator shall be given a written or verbal warning either of which shall be reported, in writing, to the County Judge Executive.

SECTION 10- SWIMMING POOLS, SPAS AND HOT TUBS

A. Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition and in *good repair*.

B. Enclosures. Private swimming pools, hot tubs and spas, capable of containing water more than 24 inches (610 mm) in depth and located closer than fifty feet from any property line of another shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 11- EXTERIOR OF STRUCTURES

A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

1. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the currently adopted *Kentucky Building Code and Kentucky Residential Code* as required for existing buildings:

a. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

b. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

c. Structures or components thereof that have reached their limits of their structural capacity; and

d. Foundation systems that are not firmly supported by footings are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

B. Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good repair. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

C. Foundation walls. Foundation walls shall be maintained in good repair.

D. Exterior walls. Exterior walls shall be properly anchored and maintained in good repair.

E. Roofs and drainage. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance or unsafe condition.

F. Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

G. Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be properly anchored and maintained in good repair and be properly anchored so as to be kept in a sound condition.

H. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

I. Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, properly anchored and in good repair.

J. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good repair.

K. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in good repair.

L. Insect screens. Existing insect screens shall be maintained in good repair.

M. Doors. Exterior doors, door assemblies, operator systems (if provided) and hardware shall be maintained in good repair.

N. Gates. Exterior gates, gate assemblies, operator systems (if provided) and hardware shall be maintained in good repair. Latches at all entrances shall tightly secure the gates.

O. Storm drainage. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance, an unsafe condition or in a manner that negatively impacts (erosion, flooding impact to use and enjoyment) adjacent property.

1. **Discharge of Stormwater and Other Unpolluted Drainage.** All uncontaminated discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage, or other waters not required to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for discharges, except as otherwise authorized by federal, state or local law. Any connection, drain, or arrangement that will permit waters to enter any other wastewater sewer shall be deemed a violation of this section and chapter.

SECTION 12- SOLID WASTE

A. Accumulation of solid waste. Exterior property and premises shall be free from any accumulation of solid waste. This shall not apply to composting or disposal of ashes from burning of wood, if done in a manner that does not create excessive blight or odors.

B. Storage containers required. The occupant or owner of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the limits of

the county, shall provide sufficient and adequate containers for the storage of all solid waste to serve each dwelling unit and/or establishment, and to maintain solid waste containers at all times in good repair.

C. Manner of storage. The occupant or owner of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard or excessive.

1. Residential Rental Property: A minimum of one authorized private receptacle shall be provided by the property owner for each dwelling unit of a multi-family structure. The Solid Waste Coordinator may require the owner of residential rental property to provide more than one authorized private receptacle or a heavy use container for multi-family dwelling units if circumstances so require.
2. Infested Items: No one shall place out for solid waste collection any mattresses, box springs, carpets or other furniture items that an insect infestation of any type, including but not limited to bed bugs and fleas, unless the items has first been treated to exterminate the infestation or it is complete encapsulated (covered and securely bound) in plastic.
3. Paint: Paint may be collected only after the paint in the can is completely dried with the top of the can removed.
4. Set-outs: Set-outs are prohibited, except under the following two exceptions:
 - a. A pre-arranged special collection arrangement as approved by the County Solid Waste Coordinator and where the set-out is collected by 6:00 p.m. on the same day that the solid waste is placed for the collection. The cost of this special collection shall be paid by the private party arranging the collection.
 - b. A waste hauler permit has been obtained as required by county ordinance and all solid waste is placed in the dumpster before 6:00 p.m. on the same day that the solid waste is placed for collection.

All costs incurred by the County of Boyd Fiscal Court or its designee, including private contractors employed by the County to collect improper set-outs will be the responsibility of the private property owner from which the solid waste originated. It will be a rebuttable presumption that the solid waste originated from the private property abutting the public place upon which the set-out was placed.

D. Standards for residential and commercial storage containers.

- (1) Residential and solid waste. Residential and solid waste shall be stored in containers as approved by a permitted residential solid waste collector or as follows in this section. Containers shall be leak-proof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. Galvanized metal containers, or rubber, fiberglass, or plastic containers which do not become brittle in cold weather, may be used. Containers must be of a type and construction that will not allow access to the waste by dogs, cats, rodents or any other animals.
- (2) Commercial solid waste. Commercial solid waste shall be stored in solid waste containers as approved by the County Solid Waste Coordinator. The containers shall be waterproof, leak-proof and shall be covered at all times except when depositing waste therein or removing the contents thereof and shall be sufficient to ensure proper containment of trash and litter.
- (3) Infectious waste. Infectious waste shall be stored in solid waste containers and disposed of as follows:
 - a. Separation and labeling of infectious waste (which may include red bagging, universal bio-hazard symbol) must be done at the point of generation.

b. All waste is to be managed such that the integrity of the packaging is preserved and that rapid microbial growth and putrefaction is inhibited; plastic bags should be tear-resistant, leak resistant and sturdy enough to withstand handling.

c. All sharps must be placed in containers. Containers must be closable, rigid, impervious, leakproof, puncture resistant and labeled or color-coded.

E. Prohibited items. Vehicle tires, lead acid batteries and oil are prohibited from being discarded as solid waste within the county. Further, no person shall leave outside any dwelling or building, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other air tight receptacle that has an air tight door without first removing the door.

F. Non-compulsory collection. Subscription to solid waste collection services as provided by the county or its contractors is not compulsory.

G. Collection points. Solid waste containers as required by this chapter for the storage of other residential solid waste shall be placed at the curb, alley, or the rear of the building for collection. Any solid waste container placed at the curb or alley for collection shall be so placed not more than 16 hours before collection and all such reusable containers shall be removed from the curb or alley not more than 16 hours after collection.

H. PROHIBITED PRACTICES. It shall be a violation for any person to:

- (1) Deposit solid waste in any solid waste container other than his/her own, without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge provided for solid waste collection and disposal.
- (2) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the Kentucky Division for Air Quality. This is not to include those practices approved by the Division of Air Quality.
- (3) Own or operate an open dump.
- (4) Dispose of solid waste at any facility or location which is not owned by the property owner or approved by the county and the Natural Resources and Environment Protection Cabinet.
- (5) Dump or permit the dumping of garbage, refuse, rubbish and debris on any property within the county not permitted by the Natural Resources and Environmental Protection Cabinet and/or the county.
- (6) Remove, without authorization, material from any dumpster, bin or recycling container.

SECTION 13- ALTERNATIVE NOTICE

In the event that for any reason Notice, as may be required herein, may not be given to any person entitled thereto such Notice may be accomplished by conspicuous posting or placard upon the subject premises and/or publication in the local newspaper of general circulation and/or electronically as permitted by the state law.

INTRODUCED, SECONDED, AND GIVEN FIRST READING APPROVAL at a duly convened meeting of the Fiscal Court of Boyd County, Kentucky, held on the 15th day of April, 2021.

ADOPTED, by the Boyd County Fiscal Court after SECOND READING at a regular meeting on the 25th day of MAY, 2021 and on the same occasion signed in open session by the County Judge-Executive as evidenced of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

Second Reading the 25th day of MAY, 2021 Yes ☒ No ☐

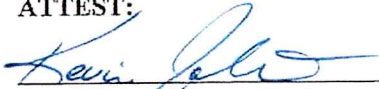
BOYD COUNTY FISCAL COURT

BOYD COUNTY FISCAL COURT



ERIC CHANEY, Judge-Executive
Boyd County Fiscal Court

ATTEST:



Boyd County Court Clerk

Date Published: _____