

ORDINANCE No. 1010.3

ORDINANCE REPEALING ORDINANCE NUMBER 1010.1 RELATING OT THE REGULATION OF NUISANCES IN SIMPSON COUNTY PURSUANT TO THE AUTHORITY IN KRS 381.770, AND ENACTING A NEW ORDINANCE ENTITLED "PROPERTY MAINTENANCE CODE ENFORCEMENT" WHICH CREATES A NEW CODE OF ORDINANCES THAT PROVIDE MINIMUM STANDARDS FOR THE MAINTENANCE OF ALL PROPERTY WITHIN THE COUNTY OF SIMPSON THAT WILL BE ADMINISTERED AND ENFORCED BY THE COMMUNITY DEVELOPMENT DEPARTMENT THROUGH DESIGNATED CODE ENFORCEMENT OFFICERS AUTHORIZED TO ISSUE NOTICES OF VIOLATIONS AND CITATIONS TO THE OWNER OR OCCUPANTS OF PROPERTY IN VIOLATION THEREOF; AND FURTHER ESTABLISHING A DUE PROCESS BY WHICH PROPERTYOWNERS ARE GIVEN NOTICE AND AN OPPORTUNITY TO CORRECT VIOLATIONS, OR IF CONTESTED, TO APPEAL A CITATION ISSUED TO A THREE-MEMBER BOARD APPOINTEDBY THE FISCAL COURT, EACH MEMBER OF WHICH SHALL SERVE A THREE-YEAR TERM; AND AUTHORIZING AND DIRECTING SAID BOARD TO CONDUCT AN IMPARTIAL HEARING AND RENDER A DECISION WITH REGARD TO ANY APPEALS BROUGHT BEFORE IT; AND FURTHER AUTHORIZING AND DIRECTING THE CODE ENFORCEMENT OFFICER, AND THE BOARD TO IMPOSE FINES, PENALTIES, CHARGES AND ADMINISTRATIVE FEES, IF A VIOLATION IS ESTABLISHED; AND FURTHER PROVIDING THAT ANY JUDGMENT OR DECISION OF THE BOARD THAT MAY BE APPEALED TO SIMPSON DISTRICT COURT WITHIN SEVEN (7) DAYS OF THE BOARD'S DECISION. THIS ORDINANCE ALSO ADOPTS BY REFERENCE NUMEROUS SECTIONS OF THE CURRENT BOCA INTERNATIONAL PROPERTY MAINTENANCE CODE, WHICH PROVISIONS AUTHORIZE CODE ENFORCEMENT OFFICERS TO CITE AND ABATE, IF NECESSARY, UNSAFE STRUCTURES, JUNKED VEHICLES AND APPLIANCES, TALL WEEDS AND GRASS, FIXTURES, RUBBISH AND OTHER CONDITIONS OR PROPERTY DEEMED TO BE PUBLIC NUISANCES.

WHEREAS, it is the intent of KRS 381.770 to protect, promote, and improve the health, safety, and welfare of the citizens residing within the County of Simpson 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, effective, and inexpensive method of ensuring compliance with the Property Maintenance ordinances enacted and in force within the County; and

WHEREAS, the Fiscal Court of the County of Simpson desires to increase the population of the County by the redevelopment of blighted areas and elimination of nuisances through aggressive Code enforcement.

WHEREAS, the Fiscal Court of the County of Simpson desires to protect the existing housing inventory in the County through the adoption of ordinances, which promote and protect residential neighborhoods and reduce and or abate nuisance properties that tend to diminish neighboring property values and contribute to an increase in crime and loss of aesthetic value.

WHEREAS, the Fiscal Court of the County of Simpson, Kentucky, deems it reasonable and necessary to exercise the authority granted to it in KRS 381.770 and does hereby establish a new County of Simpson Property Maintenance Code with rights, regulations, authority and penalties set forth herein.

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

SECTION 1. Title of Ordinance. This Ordinance shall be known and may be cited as the “Property Maintenance 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:

Abandoned shall mean property or any improvements thereon that is unoccupied, not in use, neglected, and/or not serviced by public utilities.

Agricultural Operation means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land used for the production of livestock, livestock products, poultry, poultry products, milk, milk products, or silviculture products, or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, small grains, fruit and vegetables; or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government. .

Code Official shall mean Property Maintenance Code Enforcement Officer(s), the Community Development Director or their duly authorized representatives, all of whom are charged with the administration and enforcement of this Ordinance.

Demolition shall be defined as the act of demolishing or razing of a building, structure or part thereof to the ground level.

Heat Supply Days As used in Section 14 and the International Property Maintenance Code 602.3 & 602.4 of this Ordinance shall be the period from September 1st to May 30th.

Offenses: **1st Offense** shall mean a citation issued on a specific parcel of property on one occasion within a twelve-month period.

2nd Offense shall mean a citation issued on a specific parcel of property on two occasions within a twelve-month period.

3rd + Offense shall mean a citation issued on a specific parcel of property on three or more occasions within a twelve-month period.

Person shall mean any individual, firm, business, partnership, association, corporation, company or organization of any kind.

Property Maintenance Code shall mean the “Nuisance Code” as that term is defined in KRS 381.770. It shall consist of all of the provisions set forth herein and any and all other ordinances hereafter adopted by the Fiscal Court pursuant to KRS 381.770, as may be amended from time to time.

Property Maintenance Code Enforcement Board shall mean the administrative body created and acting under the authority of the KRS 381.770.

Property Maintenance Code Enforcement Officer shall mean and include P&Z Code Enforcement Officer and Electrical Inspector, Fire Chief, and Sheriff.

Public Nuisance shall include, but is not limited to, the following:

- a) The physical condition or occupancy of any property regarded as a public nuisance at common law;
- b) Any physical condition or occupancy of any property or appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, or swimming pools, shafts, basements, excavations and unsafe fences or structures;
- c) Any property that has unsanitary sewerage or plumbing facilities;
- d) Any property that is unsafe for human habitation;
- e) Any property that is in imminent danger of becoming a fire or other hazard, or is manifestly unsafe or unsecure, so as to pose an imminent threat or danger to life, limb or property;
- f) Any property from which the plumbing, electrical, heating or other facilities required by this Code have been removed or from which utilities have been disconnected, destroyed, removed or rendered ineffective or the required precautions against trespassers have not been provided;
- g) Any property that is unsanitary, littered with rubbish or garbage or has uncontrolled weeds growing on it;
- h) Any residence, building, outbuilding or other structure that is in a state of dilapidation, disrepair, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent that it is uninhabitable, in danger of collapse or failure or dangerous to anyone on or near the property.
- i) Any residence, building, outbuilding or other structure that has been abandoned for a minimum continuous period of six (6) months, thereby creating an attractive nuisance to children and/or which tends to diminish the value of adjacent properties.

Remedy shall mean the action taken to abate any nuisance, in order to bring the property determined to be in violation, into compliance with the requirements of this Property Maintenance Code.

Ventilation Days As used in Section 14 and International Property Maintenance Code 304.14 of this Ordinance shall be the period from May 1st to October 31st.

SECTION 3. Jurisdiction. The Property Maintenance Code Enforcement Officer and Property
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Maintenance Code Enforcement Board shall have jurisdiction over and shall enforce this Property Maintenance Code and all other ordinances hereafter adopted which specifically provide for the enforcement by the Code Enforcement Officer(s) or Board, in the manner set forth herein.

SECTION 4. Powers and Responsibilities of the Property Maintenance Code Enforcement Officer(s); Notice of Violation; Issuance of Citation and Procedure; Appeal process; Abatement of Nuisance; Right of Entry; Liability; Modifications. The following provisions shall govern all enforcement powers, responsibilities and procedures administered by the Property Maintenance Code Enforcement Officer(s):

- a) **Notice of Violation:** Except as provided in subsection (b) below, if a Property Maintenance Code Enforcement Officer believes, based on the Officer's personal observation or investigation, that a person has violated the Property Maintenance Code, the Officer shall issue a Notice of Violation to the property owner, resident, tenant, occupant or other violator, allowing that person a specified and reasonable number of days to abate the violation. The violator may upon request, be allowed a reasonable extension of time to abate the violation without imposition of any charges, costs, penalties, and fees, in the sole discretion of the Property Maintenance Code Enforcement Officer. If the violator fails to abate the violation within the time prescribed therein, a new and separate Notice of Violation may be issued for subsequent and separate violations of the Property Maintenance Code. In the event that the resident, tenant, occupant or other violator is issued a Notice of Violation, the property owner of record will receive a copy of said notice.

- b) **Notice of Violation Procedure:** Notices of Violation issued by Code Enforcement Officer for violations of the Code shall contain the following information:
 - 1) The address, location or description of the property found to be in violation of the Code;
 - 2) The date and time of inspection;
 - 3) The name and address of the person to whom the Notice is issued;
 - 4) The date the Notice is issued;
 - 5) The facts constituting the offense;
 - 6) The section of the Code violated;
 - 7) The name of the Property Maintenance Code Enforcement Officer;
 - 8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if it is not abated in the manner required by the Property Maintenance Code Enforcement Officer;
 - 9) The maximum fine that may be imposed under this ordinance for the violation in question;

- 10) The procedure for the violator to follow in order to appeal the Notice;
 - 11) A statement that if the violator fails appeal the citation within the time allowed, the violator shall be deemed to have waived his or her right to a hearing before the Code Enforcement Board to appeal the Notice and the Code Enforcement Officers determination that the violation occurred shall be final;
 - 12) Notice that a lien may be filed against the property on which the violation occurred if it is not abated in the manner required by the Property Maintenance Code Enforcement Officer and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.
- c) **Type and Delivery of Notice:** The Notice of Violation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. It may be hand-delivered to the property owner, resident, tenant, occupant or other violator or may be served or sent by first class mail addressed to the last known property owner of record as listed in the Simpson County Property Valuation office. If the Notice cannot be delivered to the owner, resident, tenant, occupant or other violator in person or Notice sent by first class mail is returned by the US Postal Service because said Notice is undeliverable, marked return to sender or the owner has left no forwarding address Notice shall be given by placing it on the door of the most visible entrance to the property with dwellings or structures located thereon, or by posting a sign, at least 8 ½ inches by 11 inches in dimension in a conspicuous location on the property.
- d) **Issuance of Citation:** If the property owner, resident, tenant, occupant or other violator fails or refuses to abate the violation within the time and manner required by the Code Enforcement Officer, the Officer is authorized to issue a citation. The citation shall represent a determination by the Code Enforcement Officer that a violation has been committed and that determination shall be final unless it is appealed by the alleged violator to the Property Maintenance Code Enforcement Board in the manner prescribed herein.
- e) **Citation Procedure:** Citations issued by Code Enforcement Officer for violations of the Code shall contain the following information:
- 1) The address, location or description of the property found to be in violation of the Code;
 - 2) The date and time of inspection;
 - 3) The name and address of the person to whom the citation is issued;
 - 4) The date the citation is issued;
 - 5) The facts constituting the offense;
 - 6) The section of the Code violated;

- 7) The name of the Property Maintenance Code Enforcement Officer;
 - 8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if the citation is not appealed in the manner prescribed within this ordinance;
 - 9) The maximum fine that may be imposed under this ordinance for the violation in question;
 - 10) The procedure for the violator to follow in order to pay the fine or to appeal the citation; and
 - 11) A statement that if the violator fails to pay the fine set forth in the citation or appeal the citation within the time allowed, the violator shall be deemed to have waived his/her right to a hearing before the Code Enforcement Board to appeal the citation and the Code Enforcement Officer's determination that the violation occurred shall be final; and
 - 12) Notice that a lien may be filed against the property on which the violation occurred and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.
- f) **Type and Delivery of Citation:** The Citation shall be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. It shall be hand-delivered to the property owner, resident, tenant, occupant or other violator or may be served or sent by first class mail addressed to the last known property owner of record as listed in the Simpson County Property Valuation office. If the Notice cannot be delivered to the owner in person or Notice sent by first class mail is returned by the US Postal Service because said Notice is undeliverable, marked return to sender or the owner has left no forwarding address Notice shall be given by placing it on the door of the most visible entrance to the property with dwellings or structures located thereon, or by posting a sign, at least 8 ½ inches by 11 inches in dimension in a conspicuous location on the property
- g) **Abatement of Nuisance:** If the violator does not appeal the citation within the time prescribed, the Code Enforcement Officer issuing the citation shall enter a final order finding and determining that the violation was committed and no appeal was timely filed. The Code Enforcement Officer may thereafter cause the nuisance to be abated by any and all means reasonable and necessary. A copy of the final order shall be served on the property owner, resident, tenant, occupant or other violator found to be in violation of this Code.
- h) **Emergency Abatement:** Nothing in Section (g) above shall prohibit the County from taking immediate action to abate any violation of this ordinance without prior notice to the property owner, resident, tenant, or other occupant when an Enforcement Officer, upon inspection of the property has reason to believe that a violation presents a serious and imminent threat to any person, the public's health, safety, or welfare, or if in the absence of immediate remedial action, the effects or consequences of a violation will within reasonable probability, cause irreparable or irreversible harm and/or property

damage.

- i) **Right of Entry:** Enforcement Officer(s), and their duly authorized agents, assistants, employees, or contractors, after first having obtained the consent of the property owner, resident, tenant, or other occupant may enter upon private or public property to conduct inspections. If the property owner, resident, tenant, or other occupant does not give the Enforcement Officer(s) consent to enter upon and inspect the property, an on-site inspection of the property shall not occur until it is authorized by a court of competent jurisdiction.

- j) **Liability:** The Code Enforcement Officer(s), charged with the enforcement of this Ordinance, while acting within the course and scope of their duties under this Ordinance, shall not thereby be rendered liable personally and are hereby relieved from any and all personal liability for injury's and damage to persons or property. Any suit instituted against any Code Enforcement Officer or employee because of a lawful act performed by that Officer or employee in the discharge of duties imposed under the provisions of this Ordinance, shall be defended by the County until final adjudication of any proceedings.

- k) **Discretionary Modifications:** The Enforcement Officer shall have the discretion to modify a Notice of Violation, provided the Officer shall first find that special circumstances that makes strict compliance with this Ordinance impractical and the modification is in compliance with the intent and purpose of this Ordinance and that such modification does not vitiate health, life and fire safety requirements. The details of actions granting modifications shall be recorded and entered in the Community Development Department files.

SECTION 5. Appeal Process; Appeal of Notice of Violation; Appeal of Citation. The following details the appeal process:

- a) **Appeal of Notice of Violation:** Any property owner, resident, tenant, occupant or other violator served with a Notice of Violation or on whose property a Notice of Violation is posted, shall no later than ten (10) days after the issuance of the Notice of Violation or posting thereof on the property, may file an appeal in writing with the Community Development Department of the County of Simpson, Kentucky requesting a hearing before the Property Maintenance Code Enforcement Board to appeal said Notice of Violation. If the violator fails to appeal the citation within ten (10) days as provided herein, the person shall be deemed to have waived his/her right to a hearing before the Property Maintenance Code Enforcement Board and the Code Enforcement Officer's determination that a violation was committed, shall be considered final and enforceable.

- b) **Appeal of Citation:** Upon receipt of a citation, the property owner, resident, tenant, occupant or other violator shall respond to it not later than ten (10) days following the issuance or posting on the property the Notice of Violation by either paying the fines, charges, costs, penalties and/or fees, including administrative fees assessed therein, or by filing an appeal in writing with the Community Development Department of the County of Simpson, Kentucky, in writing, requesting a hearing before the Property Maintenance Code Enforcement Board. Payment of assessed fines, charges, administrative fees and penalties shall not relieve the property owner, resident, tenant, occupant, or other violator from his or her obligation to bring the property on which the violation occurred into

compliance with this Code within a reasonable time thereafter, as solely determined by the Property Maintenance Code Enforcement Officer.

SECTION 6. Appointment of Members; Term of Office; Removal of Board Members from Office; Liability. There is hereby created pursuant to KRS 381.770, a County of Simpson Property Maintenance Code Enforcement Board (hereafter the "Board"), which shall be composed of three (3) members.

- a) **Qualifications:** Members of the Board shall own property within the County for a period of at least one (1) year prior to appointment to the Board and shall maintain legal ownership interest in at least one (1) parcel of real property within the County throughout the term in office.
- b) Members shall be appointed by the County Judge Executive of the County of Simpson with the approval of the Fiscal Court of Simpson County.
- c) The initial appointments to the three (3) member Board shall be as follows: One (1) member shall be appointed to a one (1) year term. One (1) member appointed to a two (2) year term. One (1) member appointed to a three (3) year term. All subsequent Board appointments shall be for a term of three (3) years.
- d) If a vacancy on the Board occurs, the County Judge Executive with approval of the Fiscal Court, shall within sixty (60) days of the vacancy, appoint a new member or members. If the vacancy is not filled within the prescribed time period, the Fiscal Court shall appoint a member to fill the vacancy.
- e) Members of the Board shall only be removed therefrom by the Fiscal Court for misconduct, inefficiency or willful neglect of duty. Prior to removal, the County Judge Executive or member(s) of the Fiscal Court requesting same, shall submit in writing to the member in question and the Fiscal Court, the reasons for it.
- f) **Liability:** Members of the Board charged with the enforcement of this Ordinance, while acting on behalf of the County and within their official duties and capacity, shall not thereby be rendered liable personally, and are hereby relieved individually and collectively from all personal liability for any injury and or damages to persons or property as a result of the discharge of official duties imposed herein. Any suit instituted against any Board Member because of an act performed by that Board Member in the lawful discharge of duties and under the provisions of this Ordinance shall be defended by the legal representative of the County until the final determination of the proceedings.

SECTION 7. General Powers of the Board.

- a) The Board is authorized and directed to conduct evidentiary hearings, issue decisions and abatement orders and impose fines, charges, costs, penalties, and/or fees, including administrative fees in the final adjudication of appeals brought before it.
- b) To adopt any and all policies, rules and regulations, reasonably required to implement, administer and conduct its business and hearings brought before it.

- c) Authorize Enforcement Officer(s) to file liens against properties found to be in violation of the Code to secure the collection of fines, penalties, fees, charges and or cost, including administrative fees.

SECTION 8. Organization of Board; Conduct of Meetings and Board Members; Quorum.

- a) The Board shall annually elect a chairperson from among its members. The chairperson shall be the presiding officer and a full voting member of the Board.
- b) The Board shall hold regular monthly meetings on a date, and during times to be established by the Board. Regular and special meetings shall be scheduled and held in accordance with requirements of the Kentucky Open Meetings Act. Regular and special meetings may be cancelled if there are no appeals or other business to be considered by the Board.
- c) All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 381.770 *et seq.*, Roberts Rules of Order, the Kentucky Open Meetings Act, and the Kentucky Open Records Act.
- d) For the purpose of conducting all business and hearings brought before it, two (2) Members of the Board, shall, if present, constitute a quorum.
- e) Minutes, records and/or transcripts of all proceedings and action taken shall be kept by the Board and the vote of each member on any issue decided by them shall be recorded therein.

SECTION 9. Board Hearing; Notice; and Final Order.

- a) When an appeal has been properly filed and a hearing has been requested, the Board shall convene for the purposes of conducting a hearing not later than sixty (60) days after the appeal has been filed with the Community Development Department. Otherwise the Board may convene for the purpose of conducting any other business brought before it or a majority of the membership of the Board.
- b) Not less than ten (10) days before any requested hearing, the Board shall notify the appellant of the date, time, and place of the hearing. Notice shall be given by certified mail, return receipt requested at his or her last known address; or by personal delivery.
- c) Any person requesting a hearing before the 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 on an appeal a notice of violation or citation and a determination that a violation was committed shall be entered and become final. The Board shall enter a final order confirming the violation and shall direct the nuisance to be abated and/or impose the fines, charges, costs, penalties, and/or fees, including administrative fees assessed in the citation. If the violator has not abated the nuisance conditions on the notice of violation or citation within the time provided, the County may promptly abate the nuisance and/or issues another violation which may be a new and separate offence in accordance with section 4(a). A copy of the final order shall be served upon the violator/appellant.

- d) When a hearing is held under this section, the Board shall elicit testimony from witnesses and allow relative demonstrative evidence. All testimony shall be recorded by audio, video, or stenographic means. The Chairperson or any Board member shall have authority to administer the following oath. "Do you solemnly swear and affirm to tell the truth, the whole truth and nothing but the truth". Testimony shall be taken from the Property Maintenance Code Enforcement Officer, the alleged violator and any witnesses to the violation offered by the Property Maintenance Code Enforcement Officer or alleged violator and any witnesses with relevant personal knowledge of the violation or citation on appeal. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- e) In making its determination, the Board shall, based solely on the evidence, adduced during the hearing determine by a preponderance of the evidence whether or not a violation has been committed. If at the conclusion of the hearing, the Board determines that a violation has been committed, an order shall be issued upholding the notice of violation or citation and the Board shall authorize the Community Development Department to abate the nuisance condition on appeal and impose reasonable and necessary fines, charges, costs, penalties, and/or fees, including administrative fees imposed therein, or a combination of the forgoing remedies. Provided however, the final order of the Board shall provide the violator with reasonable time, not to exceed thirty (30) days, to abate the violation. If the violator does not abate in the manner required and within the time provided in the final order, another Notice of Violation may be issued in accordance with section 4(a), for another violation of the Property Maintenance Code.
- f) Findings of fact, conclusions of law and decisions of the Board shall be reduced to writing and signed and dated by the majority of the Board the date the order was entered. A copy of the Findings of Fact, conclusions of Law and decisions of the Board shall be furnished to the appellant named in the citation at his or per last known address.
- g) The Property Maintenance Code Enforcement Officer, may abate the violation in order to bring the property into compliance with the Property Maintenance Code if a final order upholding the citation is entered by the Board or any court of competent jurisdiction.

SECTION 10. Appeal to District Court; Final Judgment.

- a) An appeal from any judgment, decision, or determination of the Board shall be made to the Simpson County District Court within seven (7) days of the date of the Board's judgment, decision or determination. The appeal shall be initiated by the filing of a complaint and a copy of the Board's final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.
- b) The action before the District Court shall be tried de novo and the burden shall be upon the County to establish that a violation occurred. If the court finds that a violation occurred, the property owner, resident, tenant, occupant or other violator shall be ordered to abate the violation and pay to the County all fines, charges, costs, penalties, and/or fees, including administrative fees occurring as of the date of the judgment. If the District Court finds a violation did not occur, the County shall be ordered to dismiss the Notice of Violation or Citation and the Plaintiff / Appellant shall be authorized to recover his cost. If the property owner, resident, tenant, occupant or other violator does not abate

the violation in the time provided, another Notice of Violation may be issued in accordance with section 4(a), for each subsequent and separate violation of the Property Maintenance Code.

- c) If no appeal from a final judgment, decision or order of the Board is filed within the time period set in subsection (a) above, the Board's order shall be deemed final and enforceable for all purposes provided herein.

SECTION 11. Citation Fine Schedule. Citations issued by the Property Maintenance Enforcement Officer that are not appealed or which are upheld by the Board or any court of proper jurisdiction, shall be subject to the following schedule of civil penalties for each violation:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd + Offense</u>
Property Maintenance	\$100	\$250	\$500
Junked Motor Vehicles	\$100	\$250	\$500
Junked Appliances	\$100	\$250	\$500
Other Nuisances	\$100	\$250	\$500

SECTION 12. Lien; Charges, Costs, Penalties, and Fees, including Administrative Fees.

- a) The County shall have a lien against any property or properties finally determined by the Code Enforcement Officer, the Board or court of competent jurisdiction to be in violation of the Property Maintenance Code to secure the payment and recovery of the reasonable value of labor and materials used to abate the nuisance violation, including fines, charges, costs, penalties, and/or fees, including administrative fees authorized in KRS 381.770. The lien shall be superior to and have priority over, all other liens on the property except state, county, school board and County taxes.
- b) The lien shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest, at the rate of twelve (12) percent per annum thereafter, until paid.
- c) In addition to the remedy prescribed in subsection (a), the person found to have committed the violation shall be personally responsible for the amount of all fines, charges, costs, penalties, and/or fees, including administrative fees assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the Property Maintenance Code. 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. Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a Notice of Violation, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit of structure to another until the requirements list in the Notice of Violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any Notice of Violation issued by the Property Maintenance Code Enforcement Officer and shall furnish to the Enforcement Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such Notice of Violation and fully accepting the responsibility without condition for making the necessary corrections and repairs required by such Notice of Violation.

SECTION 14. Property Maintenance Code.

- a) **Provisions of Current International Property Maintenance Code Adopted by Reference Herein.** The County of Simpson, Kentucky, hereby adopts, enacts and incorporates by reference, as if fully set forth herein, in their entirety, sections:

108	Unsafe Structures and Equipment
301	General
302	Exterior Property Areas
303	Swimming Pools, Spas and Hot Tubs
304	Exterior Structure
305	Interior Structure
306	Handrails and Guardrails
308	Extermination
401	General
402	Light
403	Ventilation
404	Occupancy limitations
501	General
502	Required Facilities
503	Toilet Rooms
504	Plumbing Systems and Fixtures
505	Water System
506	Sanitary Drainage System
601	General
602	Heating Facilities
603	Mechanical Equipment
604	Electrical Facilities
605	Electrical Equipment
606	Elevators, Escalators and Dumbwaiters
607	Duct Systems
701	General
702	Means of Egress
703	Fire-Resistance Ratings
704	Fire Protection Systems

of the most recent version of the "International Property Maintenance Code" as published by the International Code Council, Inc., as same may be amended from time to time hereafter. Violations of the provisions therein shall be deemed a nuisance enforceable by any and all provisions of this Ordinance.

- b) **Unsafe Structure: Imminent danger.** When, in the opinion of the Property Maintenance Code Enforcement Officer, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in proximity of any structure because of explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Enforcement Officer is hereby authorized and empowered to order and require occupants to vacate the premises

forthwith. The Enforcement Officer shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Property Maintenance Code Enforcement Officer." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making repairs, removing the hazardous condition or of demolishing the same.

- c) **Temporary Safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the Property Maintenance Code Enforcement Officer, there is imminent danger due to an unsafe condition, the Enforcement Officer shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Enforcement Officer deems necessary to meet such emergency.
- d) **Closing Streets.** When necessary for public safety, the Property Maintenance Code Enforcement Officer shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit same from being utilized.
- e) **Emergency Repairs.** For the purpose of this purpose of this section, the Enforcement Officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Cost incurred in the performance of emergency work shall be the responsibility of the property owner.
- f) **Demolition General.** The Property Maintenance Code Enforcement Officer shall order the owner of any premises upon which is located any structure, which in the Officer's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove the structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.
- g) **Junked Motor Vehicles and Appliances.**
 - 1) **Definitions for Junked Motor Vehicles and Appliances.** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The definitions of junked vehicles shall not be applicable on property where agricultural operations, as defined in this ordinance, are taking place.
 - (a) **Junked Appliances** Shall mean any unit, or part thereof, of machinery, furniture, or equipment, whether functional or ornamental, and whether mechanical or powered by some source of energy or not, including, but not limited to, stoves, refrigerators, television sets, beds, lamps, tools, objects of art, and the like, the condition of which upon inspection, are found to be in one or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded;

(b) **Junked motor vehicles** Shall mean any vehicle, device or other contrivance, or parts thereof, propelled by human or mechanical power that if operational, would be used for transportation of persons or property on public streets and highways, which upon inspection, are found to be in one or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded;

2) **Declaration Junked Motor Vehicles and Appliances; exceptions.**

(a) The presence of any junked motor vehicle or appliance on public property or on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the County shall be deemed a public nuisance, and shall further be considered rubbish or refuse, and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle or appliance on the real property of another or to suffer, permit or allow a junked motor vehicle or appliance to be parked, left or maintained on his own real property, provided that this provision shall not apply with regard to:

- (1) Any motor vehicle or appliance in an enclosed building;
- (2) Any motor vehicle or appliance on the property of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or
- (3) Any motor vehicle or appliance on property occupied and used for repair, reconditioning and remodeling of motor vehicles or appliances in conformance with the Zoning Code of the County.

3) **Liability for damages to removed vehicle.** Neither the owner or occupant of the property from which any aforesaid junked motor vehicles shall be removed, their servants or agents, or any department of the County, or its

agents, shall be liable for any loss or damage to the junked motor vehicle while being removed or as a result of any subsequent sale or other disposition.

4) **Compliance by removal of vehicle.** The removal of a junked motor vehicle from the property within the number of days required in the Notice of Violation issued by the Property Maintenance Enforcement Officer, shall be deemed to be in compliance with the provisions of this article and no further action shall be taken against the owner of the junked motor vehicle or appliance or the owner or occupant of the property.

5) **Right of entry.** In the enforcement of this article, a Property Maintenance Code Enforcement Officer, and his duly authorized agents, assistants, employees, or contractors with the prior consent of the owner, tenant or occupant, or by order of a court of competent jurisdiction may enter upon private or public property to examine a junked motor vehicle or appliance, or obtain information as to the identity of a junked motor vehicle or appliance and of the owner thereof, and to remove or cause removal of a junked motor vehicle or appliance declared to be a nuisance pursuant to this article.

6) **Article supplemental to other regulations.**

(a). The provisions of this article are supplemental and in addition to all other regulatory Codes, statutes and ordinances heretofore enacted by the County, state or any other legal entity or agency having jurisdiction.

(b). The provisions of this article shall be deemed cumulative of the provisions and regulations contained in the Code of Ordinances, County of Simpson, Kentucky, save and except that, where the provisions of this article and the sections hereunder are in conflict with the provisions elsewhere in this Code, then the provisions contained herein shall prevail. Any and all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

h) **Other Miscellaneous Nuisances.** It shall be unlawful for the owner, occupant or person having control or management of any real property within the County to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

1) **Accumulation of rubbish.** An accumulation on any property of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

2) **Storage of explosives.** The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

- 3) **Weeds and grass.** The excessive growth of weeds, grass, or other vegetation, except flowers or other ornamental vegetation, which are properly maintained. Unless otherwise provided, “excessive” shall mean growth to a height of ten (10) inches or more. This shall not be applicable to property where agricultural operations, as defined in this ordinance, are taking place.
- 4) **Open wells.** The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private property in any open or unfenced lot or place. This section shall not be applicable to naturally formed sinkholes or caves.

SECTION 15. Demolition Permit Required; Demolition Permit Fees; Double Fee; Demolition or Alteration of Common or Fire Wall; Liability insurance; Time Limit; Standards; Inspections (see attached KRC R101.2 ‘Scope’);

- a) **Demolition Permit Required;** It shall be unlawful to demolish any building, structure or part thereof without filing a written application for a Demolition Permit with the Community Development Department.
- b) **Demolition Permit Fees:** For the demolition of any building, structure or part thereof, the permit fee shall be:
 - 1) Seventy-five dollars (\$75.00) for all residential or any small commercial that is one (1) story and less than three thousand (3,000) square feet.
 - 2) Ten dollars (\$10.00) for any private, residential accessory structure (garages and storage sheds over 150 square feet).
 - 3) One hundred and fifty dollars (\$150.00) for any commercial and industrial structures and all others exceeding three thousand (3,000) square feet.
- c) **Double Fee:** Where work for which a permit is required by this ordinance is started or proceeded with prior to obtaining the required permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this ordinance in the execution of the work nor from any other penalties prescribed herein.
- d) **Demolition or Alteration of Common or Fire Wall:** When demolition of any structure involves alterations to a common, party wall or a fire wall or fire separation wall, the owner or contractor is (1) required to submit detailed plans to the building official detailing scope of work to correct any defects in the remaining wall(s) and (2) post a bond with the Community Development Department in an amount not less than twenty thousand dollars (\$20,000.00) to insure proper completion of the exposed, remaining wall to building code standards.
- e) **Liability insurance:** Proof of liability insurance is required to be submitted to Community Development Department by the contractor prior to issuance of demolition permit for protection of adjoining properties and public right-of-way improvements

- f) **Time Limit:** The Property Maintenance Code Enforcement Officer may impose a time limit as an additional condition of a permit for completion of demolition work once such work shall have commenced, provided that for cause one (1) or more extensions of time, for periods not exceeding thirty (30) days each, may be allowed in writing by the Enforcement Officer.

- g) **Standards:** The following standards shall apply to demolition:
 - 1) Demolition work, having commenced, shall be pursued diligently and without unreasonable interruption with due regard to safety. It is the intent of this Ordinance to limit the existence of an unsafe condition or nuisance on the premises during the period of demolition operations.

 - 2) Any surface holes or irregularities, wells, septic tanks, basements, cellars, sidewalk vaults, or coal chutes remaining after demolition of any building or structure shall be filled with material as approved by the Enforcement Officer, and shall be graded in such manner that will provide effective surface drainage. Any surface irregularities resulting from the demolition process shall be leveled to match surrounding grade.

 - 3) All debris and accumulation of material resulting from demolition of any building or structure shall be removed from all premises

 - 4) All building sewers shall be effectively plugged with concrete at the property line, or as may be required by the Regional Water Resource Agency (RWRA).

- h) **Inspections:** The Property Maintenance Code Enforcement Officer shall make the following inspections upon notification from the permit holder or his agent:
 - 1) Initial inspection is to be made after all utility connections have been disconnected and secured in such manner that no unsafe or unsanitary conditions shall exist during or remain after demolition operations

 - 2) Final inspection is to be made after all demolition work is completed.

SECTION 16. Severability: Other Legal Authority.

The provisions of this article are supplemental and in addition to all other federal and state regulatory codes and statutes, and ordinances adopted by the County of Simpson. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise declared invalid, the validity of the remaining sections, subsections, and clauses shall not be affected and shall remain in full force and effect.

SECTION 17. Validity of Existing Liens Previously Filed.

The adoption of this Ordinance by the Fiscal Court of the County of Simpson shall not constitute a release, satisfaction or discharge of any lien filed of record in the office of the Simpson County Clerk which affects the rights, title and interest of any parcel of real property cited for violation of the Property Maintenance Code in effect prior to the effective date of this Ordinance; it being hereby declared and established that such liens created hereunder shall remain in full force and effect until adjudicated or released.

SECTION 18. Effective Date.

This ordinance shall be effective upon adoption and publication in the manner required by law.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

June 21, 2011

FIRST READING

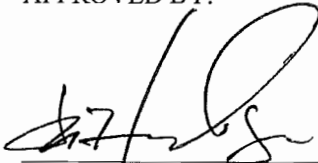
July 19, 2011

SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Kentucky, held on July 19, 2011, on motion made by Kelly Banton and seconded by Larry Randolph, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>Yes</u>	K. BANTON
<u>Yes</u>	M. CHANDLER
<u>Yes</u>	B. TARPLEY
<u>Yes</u>	L. RANDOLPH
<u>Yes</u>	JIM HENDERSON, COUNTY JUDGE EXECUTIVE

APPROVED BY:



JIM HENDERSON
COUNTY JUDGE EXECUTIVE

ATTEST:

Pam Rohrs

FISCAL COURT CLERK
COUNTY OF SIMPSON, KENTUCKY