COUNTY OF PENDLETON, KENTUCKY

ORDINANCE NO. 1011.0

Nuisance

AN ORDINANCE DESIGNATING AS UNLAWFUL AND A PUBLIC NUISANCE AND AN ENVIRONMENTAL NUISANCE THE ACCUMULATION OF FILTH, TRASH, MOTOR VEHICLES AND/OR PARTS, DILAPIDATED DWELLINGS, OR OTHER SIMILAR ORGANIC OR NON-ORGANIC MATERIALS WITHIN THE COUNTY OF PENDLETON, KENTUCKY; PROVIDING FOR NOTIFICATION TO THE OWNER AND/OR OCCUPANT OF THE SITE THEREOF OF THEIR DUTY TO REMEDY SAID PUBLIC AND/OR ENVIRONMENTAL NUISANCE; PROVIDING FOR THE ACCRUAL OF LIENS FOR THE COST OF SUCH ABATEMENT IN FAVOR OF THE COUNTY OF PENDLETON, KENTUCKY AFTER FAILURE TO COMPLY WITH NOTIFICATION; AND, PROVIDING FOR A FINE FOR VIOLATION THEREOF

BE IT ORDAINED BY THE FISCAL COURT, COUNTY OF PENDLETON, as follows:

Section 1. Definitions.

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Motor Vehicles". Any agency for the transportation of persons or property which is or was designed to be propelled otherwise than by muscular power.

"Approved Fence". A barrier constructed of: earthen (minimum 2 ½ to 1 slope), rock, concrete, evergreen vegetation, painted wood, or painted metal, of such consistency and height that a person of six feet in height and having 20/20 vision cannot view the content therein while standing on the surface of any public passway.

"Automobile or Motor Vehicle Parts". Any portion or parts of any motor vehicle as detached from the vehicle as a whole.

"Business". An economic activity involving the buying, selling or trading of goods or services, as evidenced by a Federal Tax Identification or social security number and the filing of a tangible or intangible State tax form and by inclusion in the Pendleton County tax rolls as such business.

"Dwelling". Any part of any structure or its premises used or intended to be used as a place of residence, habitation, or for sleeping by any person.

"Inoperative Condition". Refers to a motor vehicle which cannot be operated on a public highway under its own power due to defective, inoperative, or missing parts, and which has remained in such condition for a period of not less than ninety (90) consecutive days, or a motor vehicle which does not have a valid license plate and/or registration as required by state law.

"Public Nuisance". Any act, thing, occupation, condition or use of property, which shall continue for such a length of time as to:

(1) Substantially injure, endanger, or detract from the comfort or health, of the public;

(2) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any public roadway, street, alley, highway, sidewalk, stream, ditch or drain; or

(3) Essentially tend to depreciate the value of property of others.

"Salvage Materials or Vehicles". Damaged, discarded, or dismantled material or vehicles which are stored for potential further use.

"Scrap Metal". Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

"Unfit For Further Use". Description of any material which is in a dangerous condition, has defective or missing parts; or is in such a condition generally as to be unfit for further use as a conveyance on or off a public highway.

"Unfit for Human Habitation". Description of any material which is dangerous or detrimental to life or health due to: want of repair; defects in the drainage, plumbing, lighting, or ventilation systems, or in construction itself; infection with contagious disease; or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling or other persons who may come into contact with same.

Section 2. Common Law and Statutory Nuisances.

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

Section 3. Certain Conditions Declared A Nuisance.

It shall be unlawful for the owner, occupant, or person having control or management of any land within Pendleton County to permit a public nuisance to develop thereon, or to suffer the continued existence of any public nuisance which shall have developed or been created, in whole or in part. The following conditions are declared to be public nuisances:

(a) Dwellings. Dwellings being used as a residence, determined to be unfit for human habitation as determined by official action or designation of the local health inspector or County building inspector.

(b) Dangerous buildings adjoining public ways. Any building, house or structure that poses a threat of a fire hazard or poses serious threat to the life, limb, or property of persons upon the public streets materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(c) Dangerous trees or stacks adjoining public ways. Any tree, stack or other object standing in such a condition that it poses a serious threat of endangering the life, limb, or property of, or causing hurt, damage, or injury to persons or property upon public streets or public ways adjacent thereto, by the falling thereof or the falling of parts thereof.

(d) Dilapidated or Vacant Building. Any building, house or structure which is so out of repair and dilapidated that it poses a serious threat of a fire hazard or which due to lack of adequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property; or which is vacant, abandoned, and open to vagrants or passersby.

(e) Accumulation of rubbish. An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which poses a serious threat of danger to the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents, or insects, or its facilitating the blowing of trash onto public or other private property.

(f) Noxious odor or smoke. Odor, dust, smoke or other matter which unreasonably interferes with the ordinary health and general welfare of other citizens in the vicinity of the source of same; this subsection shall not apply to any such emissions related to business activities which are regulated by State or Federal authorities and when the emissions are within guidelines or limits prescribed by the same.

(g) Noxious Noise. Noise which unreasonably detracts from the enjoyment by persons of their personal or real property in the vicinity of the source of same; this subsection shall not apply to any noise emissions related to business activities which is regulated by State or Federal authorities and when the noise emission is within guidelines or limits prescribed by the same.

(h) Open wells. Open, uncovered, or insecurely covered cisterns, cellars, wells, vaults and similar openings or cavities situated upon any open or unfenced privately owned property.

(i) Junk; scrap metals; motor vehicles. An unlicensed or unregistered motor vehicle or vehicles in an inoperative condition, motor vehicle or vehicles unfit for further use, automobile parts, junk, or scrap metals that are less than 500 feet from a public pass-way unless said junk, scrap metal, or motor vehicle or motor vehicles are stored in a structure or behind an approved fence so as to prevent the viewing of said material from the public pass-way by persons other than the owner.

(j) Existing Businesses Engaging In: Junk, Scrap Metal, Salvage, Material Recycling, Auto Salvage, Motor Vehicle Repair.

(1) Any junk, auto salvage, salvage, material recycling or scrap metal business which stores junk or scrap metal less that 200 ft. from a public pass-way unless said junk, salvage material or scrap metal is stored in a structure or behind an approved fence, so as to prevent the viewing of said nuisance by persons other that the owner.

(2) A motor vehicle repair business which stores inoperative vehicle parts, scrap vehicle parts, or vehicle or vehicles in an inoperative condition (stored for a period of more than 90 days that do not have a valid license) that are less than 200 ft. from a public pass-way; unless said vehicle or vehicles are stored in a structure or behind an approved fence so as to prevent the viewing of said nuisance by persons other than the owner.

(k) New Businesses Assuming a New Location After Adoption of This Ordinance Engaging In: Junk, Scrap Metal, Salvage, Material Recycling Auto Salvage, Motor Vehicle Repair.

(1) Any junk, auto salvage, salvage, material recycling or scrap metal business which stores junk or scrap metal meeting either of the following criteria; (a) less than 500 feet from a public pass-way, or (b) not behind an approved fence or stored in a structure so as to prevent the viewing of said nuisance by persons other than the owner.

(2) A motor vehicle repair business which stores inoperative vehicle parts, scrap vehicle parts, or vehicle or vehicles in an inoperative condition (stored for a period of more than 90 days that do not have a valid license) that are less than 500 ft. from a public pass-way, and are not behind an approved fence or stored in a structure so as to prevent the viewing of said nuisance by persons other than the owner.

(m) Storage of Explosives: The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

(n) Criminal Activity. Any building or premises where law enforcement officers have, on one or more occasion in the preceding 12-month period, cited or arrested persons for crimes, or executed court-issued search warrants for crimes involving the following:

(1) Prostitution;
(2) Trafficking and/or possession of controlled substances (excluding marijuana);
(3) Disorderly Conduct; or
(4) Outdoor gambling.

(o) Weeds and grass: The excessive growth of weeds, grass, or other vegetation around businesses and residential housing. Unless otherwise provided, "excessive" shall mean growth to a height of six inches or more.

(p) Keeping of domestic animals: The failure to keep a domestic animal confined in a pen, yard, lot, or other enclosure and in sanitary conditions free from preventable, offensive odors. Any enclosure must be maintained in such a way that the animal cannot escape.

(q) Dead animals: The carcasses of animals or fowl not disposed of with 72 hours after death.

(r) Water pollution: The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(s) Stagnant Water: Any accumulation of stagnant water permitted or maintained on any lot or piece of ground including but not limited to all pools regardless of size, hot tubs, and other objects. Excludes water used for agricultural purposes.

Section 4. Nuisance Created by Others.

For the purpose of this ordinance, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, where the nuisance was created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator may be considered reasonably responsible.

Section 5. Abatement Procedures.

(a) It shall be the duty of the Sheriff, the Solid Waste Coordinator, the Code Enforcement Officer, or other responsible officer designated by the fiscal court to serve or cause to be served a notice upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this ordinance and to demand the abatement of the nuisance within thirty (30) days unless otherwise stated in this ordinance or unless the nuisance constitutes an immediate danger to the health and well being of the community. Except as otherwise provided by the State or Federal Environmental Protection Agency Statutes or regulations, if such a danger to the health and well being of the community is present, the nuisance shall be abated within twenty-four (24) hours

of notice. Notice shall be served upon persons by hand delivery, if possible, and if not by certified mail; if the whereabouts of the persons is unknown and cannot be ascertained in the exercise of reasonable diligence, the service of notice may be made by publication in a newspaper of general circulation for two consecutive issues, and by posting such a notice in a conspicuous place on the premises affected by the notice.

(b) If the person so served does not abate the nuisance within thirty (30) days, the county may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged to and paid by the owner or occupant as a joint and several liability.

(c) Charges for nuisance abatement shall be a lien upon the premises. Whenever a bill for charges remains unpaid for ninety (90) days after it has been rendered, the County Attorney may file with the County Clerk a statement of lien to constitute an encumbrance on the title to the land. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the County claims a lien for this amount. Notice of the lien claim shall also be mailed by certified mail to the Owner or Owners of the property concerning which the nuisance was abated. The lien shall accrue interest at a rate which will be calculated by adding one (1%) percent to the interest rate the county receives on its checking accounts, adjusted on the annual anniversary of the filing of the lien. It may be enforced at any time thereafter as in the nature of a mortgage. Failure of the Clerk to record the notice of lien claimed or the failure to mail the owner a copy of the notice or publish same, or failure of the owner to receive the notice shall not affect the right to foreclose the lien for the charges as provided in Section 7.

(d) In the alternative to the abatement procedure described in this section, the Sheriff, Solid Waste Coordinator or other responsible officer designated by the County Judge Executive may issue a written warning concerning abatement of the nuisance. If the person receiving the warning does not abate the nuisance within thirty (30) days, a criminal complaint may be made or a citation may be issued citing the person to appear in the County District Court for a violation of the specified provision involved.

Section 6. **Abatement by County Government**.

If the owner or occupant so served does not abate the nuisance within thirty (30) days, the county government may proceed to abate the nuisance, keeping an account of the expense of the abatement. The expense, including an administrative cost fee, shall be charged to and paid by the owner or occupant. The thirty (30) day period provided for in this section shall be deemed to commence as follows:

(a) Where notice is personally served, on the day following the notice;
(b) Where notice is by mail, on the third day following its mailing; or
(c) Where notice is by publication and/or posting, on the third day following the initial publication or posting.

Section 7. **Property to be Sold.**

Property subject to a lien for unpaid nuisance abatement charges shall be sold nonpayment of same, and the proceeds of the same shall be applied to pay the charges after deducting costs as is the case in the foreclosure of statutory liens. The foregoing shall be in equity in the name of the county government. *Sale of the property shall be had by the Master Commissioner following proper Order of the Circuit Court.*

Section 8. **Court Proceedings.**

The County Attorney is hereby authorized and directed to institute the proceedings, in the name of the county government, in any court having jurisdiction over the matter, against any property for which the bill has remained unpaid sixty (60) days after it has been rendered.

Section 9. **Code Enforcement Board.**

(a) Creation and membership. There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 within the County, a Code Enforcement Board which shall be composed of three (3) members, all of whom shall be residents of the County for a period of at least one (1) year prior to appointment and shall reside there throughout the term in office.

(b) Enforcement powers.

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

(2) The Code Enforcement Board shall not have the authority to enforce any provision of the Kentucky Penal Code or any moving motor vehicle offense.

(3) The Code Enforcement Board shall have jurisdiction to enforce and shall enforce those County ordinances and code provisions which provide for code board enforcement.

(c) Appointment of members; term of office; removal from office; oath; and compensation.

(1) Members of the code enforcement board shall be appointed by the Judge/Executive and approved by the Fiscal Court.

(2) The initial appointments to the Code Enforcement Board shall be as follows: 1. One (1) member appointed to a one (1) year term. 2. One (1) member appointed to a two (2) year term. 3. One (1) member appointed to a three (3) year term. All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the Fiscal Court. The Judge/Executive may appoint up to two (2) alternate members to serve in the absence of a regular member, subject to the same qualifications as regular members and subject to approval by the Fiscal Court. An alternate member shall serve for a term of three (3) years.

(3) Any vacancy on the board shall be filled by the Judge/Executive, subject to approval of the Fiscal Court, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining code board members shall fill the vacancy.

(4) A code board member 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 the Fiscal Court setting forth the reasons for removal.

(5) All members of the Code Enforcement Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

(6) Board members shall not receive salary or compensation but may be reimbursed for any actual expenses incurred in the performance of their duties.

(7) No member of the Code Enforcement Board may hold any elected or nonelected office, paid or unpaid, or any position of employment with the County.

(d) Organization of board; meetings; and quorum.

(1) The board shall annually elect a chair and vice-chair from among its members. The chairman shall be the presiding officer and a full voting member of the board. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

(2) Regular meetings of the Code Enforcement Board shall be held monthly at a time and date to be established by the Board and posted at the Pendleton County Courthouse, the Office of the Judge/Executive, and published in a newspaper of local publication. Meetings other than those regularly scheduled shall be special meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

(3) All meetings and hearings of the code enforcement board shall be held in accordance with the requirements of KRS 65.8845(5) and the Kentucky Open Meetings Act.

(4) The presence of two (2) or more members or alternate members shall constitute a quorum necessary for any official action to be taken.

(5) The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

(6) Minutes shall be kept for all proceedings of the code enforcement board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

(e) Conflict of interest. Any member of the code enforcement board who has any direct or indirect financial or personal interest in any matter to be decided, shall disclose

the nature of the interest and shall disqualify himself or herself from voting on the matter in which (s)he has an interest and shall not be counted for purposes of establishing a quorum.

(f) Powers of the code enforcement board. The Pendleton County Code Enforcement Board shall have the following powers and duties:

(1) To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with this ordinance.

(2) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.

(3) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any Code Enforcement Officer.

(4) To take testimony under oath. The chairman shall have the authority to administer oaths for the purpose of taking testimony.

(5) To make findings of fact and issue orders necessary to remedy any violation of a city ordinance of code provision which the board is authorized to enforce.

(6) To impose civil fines, as authorized, on any person found to have violated any ordinance over which the board has jurisdiction.

(f) Enforcement proceedings. The following requirements shall govern all enforcement proceedings before the board:

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

(2) Except as provided in subsection (3) below, if a code enforcement officer believes, based on his personal observation or investigation, that a person has violated a County ordinance over which the board has jurisdiction, (s)he shall issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy the violation without a fine. If the offender fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.

(3) Nothing in this ordinance shall prohibit the city from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

(4) The citation issued by the code enforcement officer shall contain the following information:

1. The date and time of issuance;
2. The name and address of the person to whom the citation is issued;
3. The date and time the offense was committed or discovered;
4. The physical address of the premises where the violation occurred;
5. The facts constituting the offense;
6. The section of the code or the number of the ordinance violated;
7. The name of the code enforcement officer;
8. The civil fine that will be imposed for the violation if the person does not contest the citation;
9. The maximum civil fine that may be imposed if the person elects to contest the citation;
10. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
11. A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the code enforcement board to contest the citation and that the determination that the violation was committed shall be final; and that the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation; and that the person shall be deemed to have waived the right to appeal the final order to the District Court.

(5) After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering a copy of the citation to the Judge/Executive, with a copy to the Chairman or Vice-Chairman.

(6) The person to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing before the code enforcement board to contest the citation. The request for a hearing shall be delivered to the Judge/Executive's Office. The request shall include the name and address of the person requesting the hearing and must be signed. If the person fails to respond to the citation within seven (7) days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final.

(7) If the alleged violator does not contest the citation within the time prescribed, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.

(8) Notice of a final order shall be provided to the violator by regular first class mail or by certified mail, return receipt requested or 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 or order.

(g) Hearing; notice; and final order

(1) When a hearing has been requested, the code enforcement board shall schedule a hearing.

(2) Not less than seven (7) days before the date of the hearing, the code enforcement board shall notify the requester of the date, time, and place of the hearing. The notice may be given by regular first class mail, certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(3) Any person 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 the determination that a violation was committed shall be final. In this event, the citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court. Notice and a copy of the final order shall be served upon the violator in the manner set out in subsection (2) above.

(4) All testimony shall be taken under oath and recorded. Testimony shall be taken from the Code Enforcement officer, the alleged violator, and any witnesses to the violation offered by the code enforcement officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(5) The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized by this or other ordinance or requiring the offender to remedy a continuing violation, or both.

(6) Every final order of the Code Enforcement Board shall be reduced to writing which shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth in subsection (2) above. 106.10 Presentation of cases: Each case before the code enforcement board shall be presented by a code enforcement officer for the city. The city attorney may act as counsel to the code enforcement board but shall not present cases before the code enforcement board. The city attorney may represent the board in any appeal before the District or Circuit Court. In complicated cases, if the code enforcement officer needs assistance in the presentation of his case to the board, he may ask the City Commission to select and pay an attorney to provide such assistance on a case by case basis.

(h) Appeals; final judgment.

(1) An appeal from any final order of the Code Enforcement Board may be made to the Pendleton County District Court within (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 code enforcement board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The Code Enforcement Board shall be named as a party to any appeal.

(2) If no appeal from a final order of the Code Enforcement Board is filed within the time period set in subsection (1) above, the Code Enforcement Board's order shall be deemed final for all purposes.

Section 9. <u>Lienholder notification system</u>.

The County shall obtain and maintain priority over previously filed liens as provided in Section 5(c) of this ordinance, in accordance with the following provisions:

(a) Individuals and entities, including but not limited to lienholders, may register with the County to receive electronic notification of final orders entered pursuant to this ordinance.

(b) In order to receive the notification, the registrant shall submit the following information to the Fiscal Court Clerk:

1. Name;
2. Mailing address;
3. Phone number; and
4. Electronic mailing address

(c) A registrant may use the electronic form provided on the County Web site to submit the information required by subsection (b) of this Section. It shall be the responsibility of the registrant to maintain and update the required contact information with the County. The County shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

d) Once per month, the County shall send electronic notification of all final orders entered pursuant to this ordinance since the last date of notification to each party registered pursuant to this Section. The notification shall provide an electronic link to the County code enforcement database located on the County Web site. The database shall include the following information regarding each final order:

1. The name of the person charged with a violation;
2. The physical address of the premises where the violation occurred;
3. The last known mailing address for the owner of the premises where the violation occurred;
4. A copy of the full citation;
5. A copy of the full final order; and
6. The status of the final order regarding its ability to be appealed pursuant to this ordinance.

(e) If an appeal is filed on a final order pursuant to this ordinance, the County shall send electronic mail notification to all registrants.

(f) Within ten (10) days of the issuance of a final order pursuant to this ordinance, the County shall update its code enforcement database to reflect the issued final order, and shall post the notification required by subsection (d) of this Section containing an updated link to the code enforcement database on the County Web site.

(g) The County shall maintain the records created under this Section for ten (10) years following their issuance.

Section 10. **Penalty.**

Any person who violates any part of this Ordinance shall be assessed a civil fine not less than One Hundred ($100.00) Dollars nor more than Five Hundred ($500.00) Dollars; each day that a violation continues after the date of an initial conviction hereunder shall constitute a separate offense. Any offender who has been adjudicated and fined for a violation under this Ordinance on a previous occasion shall be fined in an amount that is double the amount previously fined, with the maximum amount not to exceed Five Hundred ($500.00) Dollars.

Should this Ordinance be enforced by the County Attorney through the District Court as a criminal penalty, the same fines shall apply, and shall be in addition to the Liens and charges as set forth in the Abatement procedures set forth in Section 6 above.

Section 11. **Severability.**

The provisions of this ordinance are severable. If any provision, paragraph, sentence, clause, section or part of this ordinance or the application thereof to any particular case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, paragraphs, sentences, clauses, sections or parts of this ordinance, it being the legislative intent of this body to ordain and enact such provision, paragraph, sentence, clause, section, or part hereof separately and independently of such other provision.

Section 12. This ordinance supersedes Ordinances No. 1010 and 1010.1 and repeals those ordinances and any other ordinance provisions to the extent that the same may be in conflict with this ordinance.

Section 13. This ordinance shall take effect upon its passage and publication according to law.

Ordinance Codified: September 15, 2020

DAVID S. FIELDS
Pendleton County Judge-Executive

ATTEST:

Marianne Roseberry
Pendleton Court Clerk

Ordinance # 1011.0
First reading: August 11, 2020
Second reading: September 8, 2020
Passage: September 8, 2020
Publication: Sept 15, 2020

SUMMARY OF ORDINANCE – 1011.0

The proposed ordinance 1011.0 is a revision of previous ordinance 1010.0 and 1010.1. This ordinance provides for both a general definition of a nuisance and establishes *per se* conditions which are considered nuisances. The new ordinance retains the definitions and examples contained in the old ordinance and adds new per se conditions which are deemed to be nuisances.

The new ordinance provides for a civil enforcement mechanism for the nuisance ordinance, which will be available in addition to the criminal enforcement method which existed in the prior ordinance. A Code Enforcement Officer, as well as any other peace officer, shall be authorized to issue citations for violations of the ordinance to owners/occupiers of a property deemed to be a nuisance and shall require the owner/occupier to "cure" or abate the condition within thirty (30) days of the citation. Failure to abate the condition can result in the imposition of a fine between $100 and $500 per violation of the ordinance. A Code Enforcement Board (hereinafter, the "Board"); is established to hear and decide whether a violation of the nuisance ordinance has occurred for owners/occupiers who wish to contest the citation. The Board shall consist of three County residents who shall be appointed and approved by the Fiscal Court for a three (3) year term. Owners/occupiers who disagree with the decisions of the Board shall have the right to appeal their decision to the Pendleton District Court.

The Ordinance further provides that the County may abate the nuisance if the property owner/occupier fails to do so, and that any such costs to the County shall be a lien upon the property until paid. The County is also authorized to foreclose on any unpaid nuisance abatement lien and to sell the property at foreclosure sale in order to recoup its costs.

Finally, the Ordinance establishes an electronic Lien-holder Registration System whereby any person, including Lien-holders, may register to be notified electronically of any decision of the Code Enforcement Board.

A copy of the full text of the Ordinance is available for public inspection in the Pendleton Co. Judge Executive's office at the previous mentioned address during ordinary business hours.

This ordinance will become effective upon first and second reading, passage, and final publication.

This ordinance shall be read and published by summary.

David S. Fields
Pendleton County Judge-Executive

ATTEST: Marianne Roseberry
Marianne Roseberry
Fiscal Court Clerk

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