

**ORDINANCE No. 2023-001**

**AN ORDINANCE RELATING TO CERTAIN TYPES OF PROPERTY NUISANCES  
EXISTING AND LOCATED ON PROPERTY WHICH IS WITHIN  
THE CITY OF EUBANK, KENTUCKY**

BE IT ORDAINED BY THE EUBANK CITY COUNCIL:

**SECTION I: OTHER ORDINANCES.** All other Ordinances currently in effect pertaining to the Building Code and Enforcement, Planning and Zoning, Land Usage, and Nuisances, Environment, and Sanitation, are included in this chapter by reference, and shall be construed consistently insofar as is possible with this chapter. If any of said Ordinance(s) are in conflict with this present Ordinance, the more specific and strict shall have precedence over the lesser.

**SECTION II: NUISANCE(S).**

**A. Definition.** “Nuisance” shall mean, for purposes of this Ordinance: a problem structure, any condition or use of public or private property or premises, or of building exteriors which substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public which is detrimental to the property of others, or which causes or tends to cause substantial diminution in the value of the other property in the neighborhood in which such premises are located, or which creates a stench or odor noxious and offensive to those in the neighborhood or passers-by on the public streets or ways.

**B. 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 in the statutes of the Commonwealth of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this Ordinance or in accordance with any other provisions of law.

**C. Duty of Maintenance of Private Property.** No person and/or entity owning, leasing, occupying, or having care, custody, and/or control of any property or premises shall maintain or keep any nuisance thereon, nor shall any such person and/or entity keep or maintain such property or premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such property or premises are located. For the purposes of this Ordinance, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or persons having care, custody, and/or control, or management of the property or premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware.

**D. Duty of Maintenance of Streets, Sidewalks, Drainage Areas and Public Ways.**

No person and/or entity shall place, throw, deposit, or allow to accumulate or grow or cause to be erected or placed on any street, alley, sidewalk, gutter, storm sewer, public or private drainage ditch or drainage structure or any other public right-of-way, easement, or property, any rubbish, garbage, construction or demolition debris, landscaping debris, furniture, signs, large rocks or boulders, fences, posts, stakes, weeds, inoperative or unlicensed motor vehicles, junk or scrap metal as hereinabove declared to be a public nuisance, or any other obstruction or encroachment of any nature, except for premises authorized by the City for such purposes. The presence of such liquids or substances in or upon any street, alley, sidewalk, gutter, storm sewer, public or private drainage ditch or any public right-of-way or easement or property shall constitute a nuisance and is a violation of this Ordinance. Every person and/or entity owning, occupying, or having care, custody, and/or control or management of any building or lot in the City shall also keep the sidewalk adjacent to such building or lot open and free from all ice, snow, or other obstructions, barriers, and impediments of every description. In addition to any other remedies in this Ordinance, any materials in violation of this Ordinance found on City streets, sidewalks, public ways, public or private drainage areas or other public property may be removed immediately by the City with or without notice to the property owner. Notwithstanding the above provisions, temporary signs advertising sale or lease of real estate shall be allowed in City rights-of-way.

**E. Certain Conditions Declared a Nuisance.** It shall be unlawful for the owner, occupant or person having care, custody, and/or control or management of any public or private land within the City to permit a public nuisance to develop thereon. Public nuisances include, but are not limited to, the following conditions:

**1. Junk; scrap metal.** The storage of junk motor vehicles, motor vehicle parts, including tires, storage tanks, dumpsters, refuse/trash containers not being served by the City's Garbage/Sanitation Department, junk machinery, machinery parts, abandoned, discarded or unused appliances, objects or equipment, or scrap metal (whether recyclable or unrecyclable) within the City limits, except on premises authorized by the City for such purposes.

**2. Accumulation of construction, demolition or landscaping debris.** All exterior property and premises shall be free from any accumulation of combustible and noncombustible waste materials, including any material resulting from maintenance, demolition, repair, alteration, or construction of buildings, structures, or grounds, or landscaping or natural damage of grounds, including, but not limited to, fallen trees, tree branches, brush, and yard trimmings;

**3. Exterior use or storage of indoor furniture.** The use or storage of furniture which is upholstered or not designed for outdoor use in an uncovered or exposed area in which it is likely to decay, decompose, or retain moisture causing a health hazard or diminution in the value of neighboring properties;

**4. Compost piles.** Any compost pile which is of such a nature as to spread or harbor disease, emit unreasonable, unpleasant odors or harmful gas, or attract rodents, vermin, or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;

**5. Noxious substances and odors.** The permitting of any offal, manure, rubbish, or filth, decaying animal or vegetable matter, excessive animal excrement or any foul or noxious substances, or noxious or offensive odor to be emitted or to be discharged out of or flow from the premises;

**6. Storing Gasoline or Other Flammable, Explosive, or Hazardous Materials.** Storing Gasoline or Other Flammable, Explosive, or Hazardous Materials within 500 feet of any building, wall or other neighboring structures or otherwise in a manner which is a danger to the safety of the public or otherwise in violation of any Ordinance, or applicable state or federal law;

**7. Parking Tankers, or Other Transport Trucks, within the City Limits.** Parking tankers, or other transport trucks, containing Gasoline or Other Flammable, Explosive, or Hazardous Materials within the City Limits, except for purposes of loading and unloading, or otherwise in a manner which is a danger to the safety of the public or otherwise in violation of any Ordinance, or applicable state or federal law;

**8. Dangerous trees or stacks adjoining streets.** The permitting of any tree, shrubbery, hedge, or other object adjoining public rights-of-way to grow or stand in such a condition that it interferes with the use, construction, or maintenance of streets or sidewalks, that could cause injury to streets or sidewalks, or that causes an obstruction to drainage or poses a danger to life, limb, or property of persons using the sidewalks or rights-of-way. No such person shall allow any dead tree adjoining public sidewalks or rights-of-way to stand more than three (3) feet in height;

**9. Obstructions to storm water and drainage facilities.** The permitting of any limbs, leaves, grass clippings or other objects to be placed in a manner that interferes with the use or maintenance of any storm water and drainage facilities;

**10. Visual obstructions of streets.** The permitting of any hedge, shrubbery, fence, or other visual obstruction on any corner lot to attain a height which prohibits proper sight distance;

**11. Dilapidated structures.** All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise and which are in a state of dilapidation, deterioration, or decay so as not to provide shelter, sufficient sewer, plumbing, electrical, or heating facilities or which are unsound or in danger of collapse or failure and which are a danger to the safety of the public or which are vacant and abandoned and open and accessible to vagrants or passerby or which are otherwise built, erected, or maintained in violation of any Ordinance;

**12. Obstructions over streets.** All hanging signs, awnings, canopies, wires and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to the City's applicable Ordinances, unless approved in writing by the City of Eubank;

**13. Stagnant water.** All stagnant water in which mosquitoes, flies, or other insects can multiply;

**14. Accumulation of refuse/trash containers.** The storing or permitting the accumulation of refuse, unless such refuse is kept separately in standard refuse/trash containers or dumpsters which can be covered by solid, tight fitting lids and which have no uncovered holes, and the storing or permitting the accumulation of refuse and trash for which removal of refuse and trash is not provided, and the storing of refuse/trash containers or dumpsters on or near streets, sidewalks, or other public ways overnight, unless such refuse/trash container or dumpster is kept covered by solid, tight fitting lids;

**15. Scattering garbage, etc.** The throwing, placing, or scattering of any garbage, rubbish, trash, or other refuse over or upon any premises, street, or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove or burn;

**16. Attractive nuisances.** The allowing of any physical condition, use, or occupancy of any property or premises to be an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, standing pools of water (except for garden pools), basements, excavations, retaining walls, unsafe fences and refrigerators, freezers, ice chests, ice boxes or similar airtight box or container which has a locking device inoperable from within, without first unhinging and removing the door or lid and detaching the locking device from the door or lid;

**17. Graffiti.** The allowing of any graffiti which is defined as any inscription, drawing, or design that is scratched, painted, sprayed, or placed on any surface of any structure that has no redeeming artistic, moral, or social value;

**18. Agricultural animals.** The keeping of agricultural animals within the City Limits on a lot size of fewer than two (2) acres;

**19. Hoarding of pet animals.** The keeping of more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners or others and without constituting a nuisance to the occupants of neighboring properties, characterized by failure to provide Minimum Care, as hereinafter defined. "Minimum Care" shall mean care sufficient to preserve the health and well-being of an animal and, except for emergencies of circumstances beyond the reasonable control of the guardian, includes, but is not limited to, the following requirements: (i) adequate food, which shall mean the provision of foodstuff that in uncontaminated, wholesome, palatable, and of sufficient quality and nutritive value to maintain the normal condition and weight of the animal. Food shall be provided at suitable intervals or at least once a day, unless restricted by a veterinarian. The diet shall be appropriate for the animal's species, age and condition. Food shall be served in a receptacle, dish or container that is physically clean and absent of agents injurious to the health of the animal; (ii) adequate water, which shall mean constant access to a supply of clean, fresh, potable water of a drinkable temperature, unless restricted by a veterinarian, which is provided in a sanitary manner; (iii) adequate shelter, which shall mean for dogs an appropriate, durable, enclosed, permanent structure, or a structure manufactured to serve primarily as an outdoor shelter for a dog, with a roof, four (4) sides and a floor constructed in a manner to protect a dog's feet and legs from injury and with dimensions appropriate for breed and size. The shelter shall provide the dog adequate protection and shelter from heat and cold and from the direct effect of wind, rain and snow. The shelter shall have a sufficient amount of clean organic bedding material, e.g., straw, hay or wood shavings, to keep the

dog warm and dry. For all other animals, “adequate shelter” means an appropriate structure that provides the animal adequate protection and shelter, as determined by the animal’s species, from heat and cold and from the direct effect of wind, rain and snow; (iv) adequate shade, which shall mean for dogs one (1) or more separate outside areas of shade, large enough to contain all dogs at one time and to protect them from the direct rays of the sun. A doghouse shall not constitute adequate shade. For all other animals that, as determined by species, require shade, “adequate shade” means one (1) or more outside areas of shade large enough to protect all the animals present from the direct rays of the sun; (v) adequate veterinary care, which shall mean an appropriate level of professional medical care and treatment by a licensed veterinarian to maintain the proper health and condition of an animal as determined by its species, breed and age; and (vi) continuous access to an area with adequate space for exercise necessary for the health of the animal, with air temperature suitable for the health of the animal, with adequate ventilation, with regular diurnal lighting cycles of either natural or artificial light, kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health. Failure to provide Minimum Care may be indicated by evidence of debility, stress, or abnormal behavior patterns of the animals or by complaints from third parties including, but not limited to, complaints of mistreated or neglected animals, stench from the property, and rodent and insect infestations;

**20. Commercial Animal Nuisance.** Failure to furnish Minimum Care, as defined in Section 16, at any Commercial Animal Establishment or upon the premises of any Animal Dealer, as hereinafter defined. “Commercial Animal Establishment” shall mean any pet shop, boarding or breeding kennel, grooming facility, auction, petting zoo, zoological park, circus, performing animal exhibit, or any person engaged in the business of breeding, buying, or selling at retail or wholesale, any species of animal for profit. “Animal Dealer” shall mean any person engaging in the business of buying and/or selling any animal or animals, including fish, for the purpose of resale to pet shops, research facilities, another animal dealer or to another person, including the sale of any animal from any roadside stand, booth, flea market, parking lot, social media, or other temporary site. Persons buying or selling animals fit and destined for human consumption and agricultural uses are not included in this definition;

**21. Hoarding of materials.** The accumulation of combustible materials, trash, food, newspapers, magazines, old clothes and other items that create a serious fire and health hazard that can cause disease, contribute to vermin and/or insect infestations, affect the occupants of the building, neighbors, public safety personnel, and the general public, or violate any other City safety Ordinance; and

**22. Unkempt Growth or Ground Cover.** Weeds and/or grass cover which is in excess of twelve (12) inches in height is considered a nuisance under this Ordinance, with exception to (i) parcels being used for agricultural purposes; (ii) parcels which were previously cleared but which have become reforested prior to the enactment of this Ordinance; and (iii) parcels which, in the discretion of the Code Enforcement Officer, it would otherwise be a hardship to maintain in compliance with the requirements of this Ordinance.

**F. Criminal Activity as a Nuisance.**

**1.** Any building or premises where law enforcement officers have on more than one occasion in the preceding twelve (12) month period criminally cited or arrested persons for crimes involving prostitution, controlled substances, or gambling on the premises, or executed a court-issued search warrant for violations of the laws governing prostitution, controlled substances, or gambling on the premises are hereby declared a nuisance, included in this provision are premises upon which a methamphetamine contamination notice has been posted as provided in KRS 224.1-410, the provisions of which are hereby incorporated by reference herein as if fully set out herein.

**2.** The Eubank Police Department shall notify the appropriate Department Head and/or the Mayor after criminally citing or arresting persons for crimes involving prostitution, controlled substances, or gambling on the premises, or after executing court-issued search warrants for the same offenses by providing in writing the specific violation, or after a methamphetamine contamination notice has been posted as provided in KRS 224.1-410, the address of the property on or in which the violations, warrants, search warrants, or posting occurred, and the circumstances of the violation, warrants, or posting to the extent permissible under law. The City of Eubank shall then notify the property owner by first class mail of this violation.

**3.** If the City of Eubank receives information that criminal citations or arrests involving prostitution, controlled substances, or gambling have occurred, or that court-issued search warrants were executed for the same offenses at the same location within twelve (12) months of the previous incidents, or that a methamphetamine contamination notice has been posted as provided in KRS 224.1-410, it shall send a Notice of Violation to the property owners describing the nuisance and requesting that the nuisance be abated within a specified time. If a property owner or tenant reports such criminal activity, such citations or arrests will not be considered a criminal activity nuisance.

**4.** Should the criminal activity not be abated, a citation may be issued pursuant to the procedures hereinbelow.

**5.** In addition to other remedies set out in this Ordinance, upon failure of the property owner to request a hearing before a hearing office, designated by the City of Eubank, or the failure of the property owner to abate the nuisance pursuant to any orders of the Code Enforcement Officer and/or the City, the City of Eubank, and/or their designee, is hereby authorized to order the closing and vacating of the premises or portions thereof to abate the criminal activity nuisance. Such closing and vacating shall be for a period of time as the City of Eubank reasonably may direct, but in no event may the closing and vacating be for a period of more than one (1) year from the date of closing. If the premises consist of multi-unit dwellings, or mixed uses, and the criminal activity nuisance has occurred solely within a unit or units, the authority to close and vacate is restricted to the unit or units in which the criminal activity nuisance has occurred and does not extend to any other unit in the premises. Upon the failure of the property owner to comply with an order to close and vacate, the City of Eubank may, at their discretion, prohibit the furnishing of utility services to the premises, and may use any other legal remedy available. In the case of premises upon which a methamphetamine contamination notice has been posted as provided in KRS 224.1-410, the City

of Eubank may, pursuant to KRS 224.1-410, proceed with the abatement or decontamination of said premises in accordance with applicable state law.

**6.** With the exception of premises upon which a methamphetamine contamination notice has been posted as provided in KRS 224.1-410, it shall be a defense to a violation of this subsection that the owner has instituted an eviction proceeding against the offending tenant or occupants of the offending premises within thirty (30) days of the date of the Notice of Violation and the owner completes the eviction within sixty (60) days of the date of commencement of the action or as soon thereafter as court procedures allow.

### **SECTION III. ABATEMENT.**

#### **A. Issuance of Notice of Violation or Citation.**

**1.** Enforcement proceedings for this Ordinance shall be initiated by the issuance of a Notice of Violation by a Code Enforcement Officer, or a Citation by a Police Officer.

**2.** Except as provided below, if a Code Enforcement Officer and/or Police Officer believes, based on his/her personal observation or investigation, that a person has violated this Ordinance, he/she is authorized to issue a Citation to the violator. In lieu of a Citation, the Code Enforcement Officer and/or the Police Officer may give the violator a Notice of Violation stating that a violation has occurred, and allow the violator a specified period of time to remedy the violation without assessing a fine. The time allowed by the City shall depend on the nature of the violation and time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer and/or a Police Officer are authorized to issue a Citation. Informal settlement/mediation of matters under this Ordinance is encouraged.

**3.** The Notice of Violation or Citation shall be delivered to the violator at his/her last known address as it appears from the current tax assessment roll. Such Notice of Violation or Citation shall be deemed to be properly served if 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. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy shall also be posted in a conspicuous place in or about the structure or premises affected by such Notice of Violation or Citation. When the violation involves a fire damaged structure, a copy of the Notice of Violation or Citation shall also be delivered to any mortgage company and any insurance company with verified interest in the property. Every reasonable attempt shall be made to determine all verified interest through the City Attorney.

**4.** Notices of Violation or Citations involving streets, sidewalks, and public ways shall be sent to the property owner or other person having control or management of the premises or property adjacent to or fronting the street, sidewalk, or public way.

**5.** Notices of Violation or Citations involving motor vehicles shall be sent to the property owner or other person having control or management of the premises or property, and the

motor vehicle owner if known. Upon failure of the violator to comply with the directives of the Citation or of any orders of the Code Enforcement Officer, the appropriate City official is authorized to send employees or authorized agents of the City upon the property to remedy the situation and to abate the nuisance by removing the vehicle. The vehicle must be reclaimed by the vehicle owner or authorized representative within thirty (30) days upon furnishing proof of ownership, payment of any civil penalty assessed, towing and storage charges, and an acceptable statement of vehicle disposal or relocation that would immediately comply with the laws of the Commonwealth and Ordinances of the City. If the vehicle is not reclaimed within thirty (30) days following the date on which it was taken up, it is deemed abandoned and shall escheat to the City.

**6.** Any Notices of Violation and/or Citations issued by the proper City official shall contain the following information:

- a.** A description of the real estate sufficient for identification;
- b.** The name and address of the person to whom the Notice/Citation is issued;
- c.** The date and time the violation was observed and the date and time of issuance of the Notice/Citation;
- d.** The facts constituting the violation;
- e.** The section of the Ordinance or other Code violated;
- f.** The name of the code official and/or officer issuing the Notice/Citation;
- g.** The procedure for the person to follow in order to pay the civil fine or to contest the Notice/Citation;
- h.** A notice that the civil fine may be imposed per day for the violation if the person does not contest the Notice/Citation;
- i.** The maximum civil fine that may be imposed per day for the violation if the person elects to contest the Notice/Citation; and
- j.** A statement that if the person fails to pay the civil fine set forth in the Notice/Citation, or to contest the Notice/Citation within the time allowed, the person shall be deemed as having waived the right to an appeals hearing before a hearing officer as designated by the City, and the determination that a violation was committed shall be final.

**7. Emergencies; Safety and/or Welfare of the Public Determined to be an Imminent Danger.** Nothing in this Section shall prohibit the City from correcting a violation through self-help, or taking immediate action to remedy a violation of 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. The City may file liens on the property to recover the City's costs of labor and material, civil fines, and other expenses including reasonable attorney's fees. In such cases, after issuing a Notice/Citation, the Code Enforcement Officer shall deliver a copy of the Notice/Citation to the City Attorney and the violator. Upon receipt of a said Notice/Citation, the violator shall respond to the Citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before an approved mediator, or other qualified contract attorney, hereinafter referred to as the "hearing officer" as appointed by the City of Eubank, in order for the violator to contest the Citation before a neutral third party. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to

request a hearing within the designated time, the City is authorized to issue another Citation and to remedy the violation. After determining that compliance has been achieved in the allowed correction time, the Code Enforcement Officer shall report such to the City Attorney and/or the Mayor.

**B. Permit to Repair Does Not Extend Compliance Time.** When abatement of a violation by repair requires approval to be obtained from the City of Eubank, the completion time shall correspond to the time allowed in the Notice of Violation issued by the City of Eubank, or the correction time established by this Ordinance. It shall be the duty of the violator to notify the City of Eubank that additional time is needed and to provide justification why the completion time is inadequate. The City may extend the completion time if it is determined that the completion time is not reasonable given the facts of a particular violation. Any cessation of the normal construction or repairs may cause the permitted extension of time to be revoked.

**C. Required Permit to Demolish Does Not Extend Compliance Time.** When abatement of a violation is achieved through demolition, permission shall be obtained from the City of Eubank by and through the Code Enforcement Officer. The completion time shall correspond to the correction time allowed in the Notice of Violation issued by the City, or the correction time established by this Ordinance. Any cessation of the demolition may cause the permitted extension of time to be revoked.

**D. City May Correct Violation.** If the violation does not request a hearing before a hearing officer as defined herein, and the property is not brought into compliance, or if the Code Enforcement Officer orders the property to be brought into compliance and the violator refuses, failure to so comply shall constitute permission to an official, employee, or other authorized agent of the City to enter upon the property to remedy the situation and to abate the violation.

**E. Lien, Fines, Charges and Fees.**

**1.** The City shall possess a lien on property owned by the person found by a final appealable order of a hearing officer as defined herein, or by a final judgment of a court of competent jurisdiction, to have committed a violation of a City Ordinance for all fines assessed for the violation and for all charges, fees, and costs incurred by the City in connection with the enforcement of the Ordinance, including court costs and reasonable attorney's fees.

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

**3.** 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 as permitted under the laws of the Commonwealth of Kentucky.

**4.** In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this

Ordinance, including court costs and reasonable attorney’s fees. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

**SECTION IV: PENALTIES.**

Violations of this Ordinance shall be subject to the following schedule of civil fines:

**1.** If a Citation for a violation of this Ordinance is not contested by the person charged with the violation, the maximum penalties below shall apply; however, the City may waive any or all of a penalty for an uncontested violation, if in its discretion, the City determines that such waiver will promote compliance with this Ordinance. The penalties listed below are for each day a violation continues, beginning on the first day after the ending date of the correction period given in the Citation. A second offense is an offense that occurs within five (5) years of the determination by the City, and/or upon a determination through an Appeal of a violation under this Ordinance, that there was qualifying prior offense(s). All others are those that occur within five (5) years of the determination by the City, and/or upon a determination through an Appeal of a violation under this Ordinance, that there were two (2) or more qualifying prior offenses.

| Property Maintenance and Nuisance Violations | 1 <sup>st</sup> Offense | 2 <sup>nd</sup> Offense | All Others |
|--|-------------------------|-------------------------|------------|
| Structural Violation                         | \$75.00                 | \$150.00                | \$300.00   |
| Non-Structural Violation                     | \$50.00                 | \$100.00                | \$200.00   |

**2.** If the Citation is contested and a hearing before a hearing officer as defined herein is required, the following maximum penalties may be imposed at the discretion of the ruling party:

| Property Maintenance and Nuisance Violations | 1 <sup>st</sup> Offense | 2 <sup>nd</sup> Offense | All Others |
|--|-------------------------|-------------------------|------------|
| Structural Violation                         | \$150.00                | \$300.00                | \$600.00   |
| Non-Structural Violation                     | \$100.00                | \$200.00                | \$400.00   |

**SECTION V: REPEAT OFFENDER.**

**A. Designation.** A person shall be classified as a repeat offender only by the recommendation and finding by the Code Enforcement Officer. The repeat offender designation shall be determined at the sole discretion of the Code Enforcement Officer. Any person designated as a repeat offender shall remain in that status until the expiration of the time period leading to the designation or the payment of outstanding fines and remedy charges, whichever is applicable.

**B. Enforcement.** In addition to all of the procedures set forth above, enforcement action shall be enhanced against designated repeat offenders. No personal contact or Notice of Violation shall be required of the Code Enforcement Officer, and the Officer may cite designated repeat offenders immediately upon confirmation of a code violation. The Code Enforcement Officer may also institute a program of regular inspections involving properties of repeat offenders without the necessity of complaints. The names of designated repeat offenders may be made public by use of the City's website or other appropriate means.

**C. Penalties.** If a designated repeat offender is cited for a violation of the provisions set out hereinabove, and the Citation is not contested, a maximum fine of Six Hundred (\$600) Dollars shall apply; however, the City may waive any and all of the fine for an uncontested violation, if in its discretion, the City determines that such waiver will promote compliance with this Ordinance. If the designated repeat offender contests the Citation and a hearing officer as defined herein is required, the City may impose a maximum fine of One Thousand Two Hundred (\$1,200.00) Dollars at the discretion of the City. The Code Enforcement Officer may also classify all such civil fines as daily fines until the violation is remedied. The Code Enforcement Officer's, and/or a hearing officer's findings, that assess civil fines and remedy charges against repeat offenders shall also be considered to authorize the City Attorney to file civil actions in the appropriate Pulaski County court against the repeat offender to collect the civil fines and remedy charges, including foreclosure actions if deemed appropriate by the City. All court costs and reasonable attorney's fees are recoverable by the City through such an action.

## **SECTION VI: GENERAL ENFORCEMENT.**

This Ordinance shall be enforced by any Code Enforcement Official and/or Code Enforcement Officer as designated by the City.

## **SECTION VII: APPEAL OF FINAL ORDERS/FINDINGS BY CODE ENFORCEMENT OFFICER/CITY OF EUBANK OF VIOLATION(S).**

Any finding that a violation has occurred, and/or other final order, officially issued by the City of Eubank, may be appealed by the alleged violator by submitting a written request to the City of Eubank asking that a hearing be held before a qualified attorney who shall serve as a hearing officer, and who shall be designated by the City of Eubank. Said qualified attorney may be the City Attorney, or at the choice of the City, may be another qualified attorney licensed to practice law in the Commonwealth of Kentucky, as determined by the City of Eubank. Any findings/orders issued by a hearing officer as set forth herein shall be deemed final and appealable orders for purposes of seeking review by a court of competent jurisdiction in Pulaski County. If the hearing officer's order/findings are upheld by the court, or any court thereafter acting in the capacity of an appeals court, then the violator may be responsible for the costs of the action, including, but not limited to, the City's reasonable attorney's fees, and any other costs and/or expenses incurred by the City as a result of the violator's appeals.

**SECTION VIII: SEVERABILITY; EFFECTIVE DATE.**

If any of this Ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance shall continue in full force and effect.

This Ordinance shall become effective upon publication. Passed this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
EDDIE HICKS, Mayor

ATTEST:

\_\_\_\_\_  
BOBBY DAWS  
City Clerk/Treasurer

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Date of Publication \_\_\_\_\_

Place of Publication: \_\_\_\_\_

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