

ORDINANCE NO. 86- 10

AN ORDINANCE PROVIDING FOR THE ADOPTION, BY REFERENCE, OF THE BOCA BASIC PROPERTY MAINTENANCE CODE, 1981 EDITION, TOGETHER WITH ALL AMENDMENTS THERETO AND REGULATIONS OF SAME; PROVIDING FOR THE AMENDMENT OF THE BASIC CODE CONCERNING RESTRAINING ACTIONS; PROVIDING FOR AN APPEALS BOARD; PROVIDING FOR THE AMENDMENT OF THE BASIC CODE CONCERNING THE APPEAL OF ADVERSE ACTION; INCLUSION OF OTHER ORDINANCES; EXCLUSION OF SPECIFIC PROVISIONS; PROVIDING FOR A SEVERABILITY AND REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY THAT:

SECTION I. SCOPE. This ordinance shall apply to every building or structure or appurtenances connected or attached to such buildings or structures.

SECTION II. ADOPTION.

a. The City hereby adopts and incorporates by reference as if produced herein in full, the BOCA Basic Property Maintenance Code, 1981 Edition, as published by Building Officials and Code Administrators (BOCA) International, Inc., and all amendments thereto and regulations promulgated thereby except as specifically excluded by provisions herein. A copy of the Code is filed in the office of the City Clerk. The Code shall govern and control the housing standards and conditions that warrant finding of unfitness and unsafeness of all buildings and structures in the City.

b. Penalties. Any person who shall violate any provision of this Code or any directive or order issued pursuant thereto shall, upon conviction thereof, be subject to a fine of not less than fifty (\$50.00) dollars nor more than three

hundred (\$300.00) dollars or imprisonment for a term not to exceed ninety (90) days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

### SECTION III. PROVISION CONCERNING RESTRAINING ACTIONS.

Section PM-111.4 of the BOCA Basic Property Maintenance Code is amended to provide that appeals shall be permitted to the Logan Circuit Court within thirty (30) days after service of the order described therein, so that the section shall henceforth read as follows:

PM-111.4. Restraining actions. Anyone affected by any such order shall, within thirty (30) days after service of such order, apply to a court of record for an order restraining the code official from razing and removing such structure or parts thereof. The court shall determine whether the order of the code official is reasonable; and if found reasonable, the court shall dissolve the restraining order; and if found not reasonable, the court shall continue the restraining order or modify it as the circumstances may require.

### SECTION IV. APPEALS BOARD.

a. The Property Maintenance Code Appeals Board is hereby created and established pursuant to Section PM-110 of the BOCA Property Maintenance Code/1981, and the Board shall

therefore have all the authority, powers, duties and obligations as set forth therein.

b. The Board shall consist of five (5) residents and electors of the City appointed by the Mayor including: One person skilled in real estate and property management for at least two (2) years; one general contractor for at least three (3) years; one registered architect or registered engineer or other professional person for at least three (3) years; one citizen who is a renter for at least two (2) years; and one citizen who is a homeowner for at least two (2) years. An alternate member shall be appointed to serve one year in addition to the five (5) members who shall act with full power only when a member of the Board refuses to vote because of interest or when a member is absent. Thereafter all appointments shall be for two (2) years.

c. The Mayor shall appoint one member to act as chairman who will serve one year. Each member shall have been a resident of Russellville for at least one year prior to appointment. The renter member and homeowner member will be asked to resign if their status as renter or homeowner is changed. Each member shall serve until his successor has been appointed.

#### SECTION V. APPEAL OF ADVERSE ACTION.

The BOCA Basic Property Maintenance Code shall be amended by adding Section PM 110.4, which shall read as follows:

Any person affected by an order which has been upheld in full or in part by the Property Maintenance Code Appeals Board may, within thirty (30) days after service of the order, petition the circuit court for an injunction or seek to have the order reviewed according to law.

SECTION VI. INCLUSION OF OTHER ORDINANCES.

All other ordinances of the City which regulate the safety and sanitation of property within the City, including but not limited to Ordinance No. 85-15 dated October 22, 1985 entitled "An Ordinance Defining, and Providing for the Control of Garbage, Refuse, and Litter; Providing for Prima Facie Evidence of Violations of Provisions of this Ordinance in Certain Situations; Providing for Action by City at Expense of Owner, Tenant, or Person in Control of Premises, After Failure to Comply with the Provisions of this Ordinance With A Penalty Clause, A Repealer Clause, and A Severability Clause", an Ordinance dated October 2, 1962 entitled "Use of Vacant Lots" as codified as No. 1010.1, and an Ordinance dated July 20, 1965 entitled "An Ordinance prohibiting and making it unlawful to drop garbage, trash, waste, junk, grass, leaves, bottles, tree limbs, paper, and any other obnoxious items in the city creek" as codified as No. 1020.1, are hereby incorporated into this Ordinance. Any violations of these Ordinances shall be deemed to be a violation of this Ordinance, and the penalty provisions of this Ordinance shall apply. In the

event there are conflicting provisions in these Ordinances, the more stringent shall control.

SECTION VII. EXCLUSION OF SPECIFIC PROVISIONS.

The following sections or portions of the BOCA Basic Property Maintenance Code, 1981 Edition are hereby excluded for the purposes of this Ordinance and are not adopted by the City:

PM 302.4.1 - PM 302.4.7, PM 303.3.1 and PM 303.4 and PM 303.7, PM 303.8.2., PM 401.2, PM 402.1 - PM 402.5, PM 403.1 - PM 403.3, PM 502.2 and PM 502.3, PM 601.4.1, PM 701.2 and first sentence PM 701.3 and PM 801.9.

Any future amendments of this Code which affect these particular sections shall also not be considered as adopted.

SECTION VIII. REPEALER CLAUSE. All portions of any section of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.

SECTION IX. SEVERABILITY CLAUSE. In the event any provision of this Ordinance is invalid for any reason, such invalidity shall not affect the validity of any other provision.

SECTION X. EFFECTIVE DATE. This Ordinance shall be effective after its passage and publication according to law.

FIRST READING conducted this the 19th day of August, 1986.

SECOND READING CONDUCTED AND PASSAGE by roll call vote this the 2nd day of September, 1986.

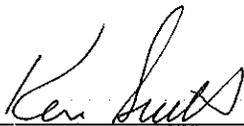
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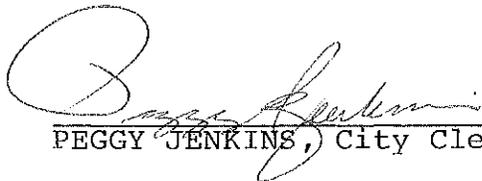
ABSENT:

ABSTAINING:

<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Gary Hancock</u>	<u></u>	<u></u>	<u></u>
<u>Russell Jones</u>	<u></u>	<u></u>	<u></u>
<u>Mark Bennett</u>	<u></u>	<u></u>	<u></u>
<u>Jean Hankins</u>	<u></u>	<u></u>	<u></u>
<u>Everett Daniel</u>	<u></u>	<u></u>	<u></u>

  
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KEN SMITH, Mayor

ATTEST:

  
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PEGGY JENKINS, City Clerk