

ORDINANCE NO. 24-2016

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING ORDINANCE NO. 09-2003 RELATING TO THE
CODE ENFORCEMENT BOARD**

Whereas the City of Elizabethtown has adopted an ordinance pursuant to KRS 65.8801 to 65.8839 to protect, promote and improve the health, safety and welfare of the citizens of Elizabethtown through the establishment of procedures for the equitable, expeditious and effective enforcement of City ordinances, known as Ordinance No. 9-2003; and,

Whereas, the Kentucky Legislature has amended KRS 65.8801 to 65.8839 to allow cities to improve the manner in which code enforcement matters are handled; and,

Whereas, the Code Enforcement process has been effective in Elizabethtown through the operations of a Code Enforcement Board; and,

Whereas, the City of Elizabethtown wishes to utilize the methods and procedures made available to cities by the Kentucky Legislature for the development of a more effective code enforcement program.

Now, therefore, be it ordained by the City of Elizabethtown that Ordinance No. 9-2003 entitled "An ordinance of the City of Elizabethtown establishing a Code Enforcement Board" adopted on April 21, 2003 and all the subsequent amendments to that ordinance are reaffirmed.

Be it further ordained that the following amendments are made to Ordinance No. 9-2003 to assure the equitable, expeditious and effective enforcement of City ordinances:

Section 1. Definitions

- a. "Abatement Costs" means the City's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other actions with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any City ordinance.**
- b. Code Enforcement Board**
- c. Code Enforcement Officer**
- d. Final Order means any order:**
 - 1. Issued by the Code Enforcement Board following a hearing in accordance with Section 9 (e) of this ordinance;**
 - 2. Created because a violator neither paid nor contested the citation within seven (7) days as provided in Section 8(f) of this ordinance; or**
 - 3. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in Section 11 of this ordinance.**

- e. Imminent Danger means a condition which is likely to cause serious or life threatening injury or death at any time.
- f. Ordinance means an official action of the local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance.
- g. Owner means a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.
- h. Premises means a lot, plot or parcel of land, including any structures upon it.

Section 5. Appointment of Members; term of office

~~[g. Members of the Code Board shall be compensated in the amount of \$25.00 per meeting.]~~

~~[h.]~~ g.

~~[i.]~~ h.

Section 10. Enforcement Proceedings

d. The Code Enforcement Officer is not required to issue a Notice of Violation to an owner when the Board has previously issued an order for compliance relating to the violation.

e. The Code Enforcement Officer shall issue a citation by one of the following methods:

- 1. Personal service to the alleged violator;**
- 2. Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or**
- 3. Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first-class mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.**

~~[d.]~~ f. **7. The physical address of the premises where the violation occurred;**

~~[7-]~~ 8.

~~[8-]~~ 9.

~~[9-]~~ 10.

~~[10-]~~ **11. A...final; 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.**

~~[e-]~~ g.

~~f-]~~ **h.1. The person ... considered final. In this event, 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.**

h.2 Notice of a final order shall be provided to the cited violator by regular first-class mail; certified mail, return receipt requested; 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.

Section 11. Hearing; Notice; and Final Order

b. Not less ... The notice may be given by **regular first-class mail**, certified ...

c. ... in the citation, **and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.** A copy of the final order shall be ~~erved upon the person guilty of the violation~~ **provided to the cited violator by regular first-class mail, personal delivery or by posting the order on the premises.**

e. ... If it determines that no violation was committed, an order [~~shall~~]**may** ... a continuing violation **to avoid a fine**, or both.

Section 15. Liens, Fines, Charges, and Fees

b. ... paid. **The lien shall continue for ten (10) years following the date of the nonappealable final order or final court judgment.**

Section 16. Lienholder Notification System.

The city shall obtain and maintain priority over previously filed liens, as provided in Section 15 of this ordinance, in accordance with the following provisions:

- a. **Individuals and entities, including by not limited to lienholders, may register with the City 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 City 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 City website to submit the information required by subsection (b) of the Section. It shall be the responsibility of the registrant to maintain and update the required contact information with the City. The City 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. **At least once a month, the City shall send electronic mail 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 City code enforcement database located on the City website. The database shall include the following information regarding each final order:**
 1. **The name of the person charged with the 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 City 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 City 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 City website.
- g. The City shall maintain the records created under this Section for ten (10) years following their issuance.

Section 17. Liens

- a. A lienholder of record who has registered pursuant to Section 16(b) of this ordinance may, within forty-five (45) days from the date of issuance of notification under Section 16(b) of this ordinance:
 1. Correct the violation, if it has not already be abated; or
 2. Pay all civil fines assessed for the violation, and all charges and fees incurred by the City in connection with enforcement of the ordinance, including abatement costs.
- b. Nothing in this Section shall prohibit the City from taking immediate action if necessary under Section 10 of this ordinance.
- c. The lien provided by Section 15 of this ordinance shall not take precedence over previously recorded liens if:
 1. The City failed to comply with the requirements of Section 16 of this ordinance for notification of the final order; or
 2. A prior lienholder complied with subsection (a) of this Section.
- d. A lien that does not take precedence over previously recorded liens under subsection (c) of this Section shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
- e. The City may record a lien before the forty-five (45) day period established in subsection (a) of this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the City shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of the satisfaction.
- f. Failure of the City to comply with Sections 16 and 17 of this ordinance, or failure of a lien to take precedence over previously filed liens as provided in subsection (c) of this Section, shall not limit or restrict any other remedies the City has against the property of the violator.

Section [~~16~~] **18**. Severability

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or designate be and she is hereby authorized and directed to take all steps necessary to perfect this Ordinance including publication of this ordinance in summary.

READ THE FIRST TIME, the 5th day of December, 2016.

READ, ADOPTED AND APPROVED, this 19th day of December, 2016.

EDNA B. BERGER, MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 24-2016

**SUMMARY OF THE ORDINANCE
AMENDING ORDINANCE NO. 09-2003 RELATING TO THE
CODE ENFORCEMENT BOARD**

The City of Elizabethtown passed Ordinance No. 24-2016 on the 19th day of December, 2016. It was read for the first time on the 5th day of December, 2016. The purpose of this ordinance is to amend Ordinance No. 09-2003 relating to the Code Enforcement Board. The *Elizabethtown Code Enforcement Board Ordinance* contains procedures for the enforcement by the City of numerous ordinances through the citation and hearing process for property within the corporate limits of Elizabethtown. The ordinance was initially adopted in April 2003 (Ordinance No. 09-2003, adopted April 21, 2003) and sections have been amended in conformance with KRS 65.

The amendments include: additional definitions of terms, revisions to the default hearing procedures, allowing methods for service of notices by regular mail, and establishing a lien notification system and lien prioritization.

A complete copy of this ordinance can be viewed on the City's website: www.elizabethtownky.org or by contacting the City Clerk's office at 270-765-6121, ext. 202.

EDNA B. BERGER, MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

CERTIFICATION

I, Deborah L. Shaw, hereby certify pursuant to KRS 83A.060 that I am an attorney licensed to practice law in the Commonwealth of Kentucky; that I prepared the foregoing Summary of Ordinance for the City of Elizabethtown, Kentucky; and the foregoing is a true and accurate summary of the contents of said Ordinance. Said Ordinance can be examined in its entirety at the Office of the City Clerk, City of Elizabethtown, 200 West Dixie Avenue, Elizabethtown, KY 42701.

Deborah L. Shaw