

ORDINANCE NO. 200 , SERIES 2016

AN ORDINANCE REPEALING CHAPTERS 32.400, ET SEQ., AND 32.275, ET SEQ., AND AMENDING CHAPTER 156 AND ESTABLISHING A CODE ENFORCEMENT BOARD. (AMENDED BY SUBSTITUTION)(AS AMENDED)

SPONSORED BY: Council Member Flood

**WHEREAS**, it is the intent of KRS 65.8801 to 65.8839 to protect, promote, and improve the health, safety, and welfare of the citizens residing within Metro Louisville by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with the ordinances in force within Louisville Metro; and

**WHEREAS**, it is the desire of Louisville Metro Council to utilize the authority granted in KRS 65.8801 to 65.8839 by establishing the unified Code Enforcement Board as the sole body to administer all Metro Code violations with the exception of zoning.

**NOW THEREFORE BE IT ORDAINED BY THE LOUISVILLE METRO COUNCIL AS FOLLOWS:**

**SECTION I: LMCO 32.400 – 32.410 is hereby repealed in its entirety.**

**SECTION II: LMCO 32.275 – 32.291 is hereby repealed and replaced by the following:**

**SECTION 1. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **"Abatement Costs"** means Louisville Metro'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 action 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 Louisville Metro ordinance.

(b) **"Code Enforcement Board"** means an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to 65.8839.

(c) **"Code Enforcement Officer"** means a police officer, safety officer, citation officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation.

(d) **"Final Order"** means any order:

1. Issued by the Code Enforcement Board in accordance with Section 10(e) of this ordinance;
2. Issued by an assigned hearing officer in accordance with Section 10(e) of this ordinance;
3. Created because a violator neither paid nor contested the citation within seven (7) days as provided in Section 9(f) of this ordinance; or
4. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in Section 10(c) of this ordinance.

(e) **"Imminent Danger"** means a condition which is likely to cause serious or life-threatening injury or death at any time.

(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 2. Creation and membership.**

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 within Metro, a Code Enforcement Board which shall be composed of no fewer than ~~three~~ five members, all of whom shall be residents of Louisville Metro for a period of at least one (1) year prior to the creation of the board and shall reside there throughout the term in office.

**SECTION 3. Enforcement powers.**

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

(b) The Code Enforcement Board shall not have the authority to enforce any ordinance regulating conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

**SECTION 4. Appointment of members; term of office; removal from office; oath; compensation.**

(a) Members of the Code Enforcement Board shall be appointed by the Louisville Metro Mayor, subject to the approval of Louisville Metro Council.

(b) The initial appointment to the Code Enforcement Board shall be as follows:

1. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;

2. One-third (1/3) of the membership or one-third (1/3) of the membership and ~~one~~ two (2) members of the board shall be appointed for term of two (2) years; and

3. One-third (1/3) of the membership or one-third (1/3) of the membership and ~~one~~ two (2) members of the board shall be appointed for a term of three (3) years.

(c) All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of Louisville Metro Council.

(d) The Louisville Metro Mayor may appoint, subject to the approval of the legislative body, two (2) alternate members to serve on the Code Enforcement Board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Code Enforcement Board.

(e) Any vacancy on the board shall be filled by the Louisville Metro Mayor, subject to approval of the legislative body, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Enforcement Board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(f) A board member may be removed from office by the Louisville Metro Mayor for misconduct, inefficiency, or willful neglect of duty. The Louisville Metro Mayor shall submit a written statement to the member and the legislative body setting forth the reasons for removal. The member so removed shall have the right of appeal to Jefferson Circuit Court.

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

(h) Members of the Code Enforcement Board may be reimbursed for actual expenses and compensated in the amount of \$100 per meeting.

(i) No member of the Code Enforcement Board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with Louisville Metro.

#### **SECTION 5. Organization of board; meetings; quorum.**

(a) The Code Enforcement Board shall annually elect a chair from among its members. The chair shall be the presiding officer and a full voting member of the board. In the absence of the chair, the remaining members of the board shall select a member to preside in place of and exercise the powers of the chair.

(b) The Code Enforcement Board shall meet no less than once a month and as many times a month as may be necessary to conduct the business of the board. The Code Enforcement Board may conduct special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

(c) All meetings and hearings of the Code Enforcement Board shall be public meetings held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

(d) The presence of at least a majority of the board's entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

(e) 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.

#### **SECTION 6. Conflict of interest.**

Any member of the Louisville Metro 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, disqualify himself from voting on the matter in which he has an interest, and shall not be counted for purposes of establishing a quorum.

## **SECTION 7. Powers of the Code Enforcement Board.**

The Code Enforcement Board shall have the following powers and duties:

- (a) To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with this ordinance, which shall be posted on its website.
- (b) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.
- (c) 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.
- (d) To take testimony under oath. The chairman shall have the authority to administer oaths for the purpose of taking testimony.
- (e) To make findings of fact and issue orders necessary to remedy any violation of a Louisville Metro code of ordinances or code provision which the board is authorized to enforce.
- (f) To impose civil fines and administrative costs, as authorized, on any person found to have violated an ordinance over which the board has jurisdiction.
- (g) To assign a hearing officer to conduct hearings in accordance with Section 8 of this ordinance.

## **SECTION 8. Hearing officers.**

- (a) Eligibility.
  - 1.—The Code Enforcement Board may assign any of its members, including the chair, to be a hearing officer.
  - ~~2.—The board may assign an individual who is not a member of the board to be a hearing officer as long as the individual does not hold any elected or appointed office or position of employment with Louisville Metro.~~
- (b) Experience and training.
  - 1. A person assigned to be a hearing officer by the Code Enforcement Board shall have experience or shall have received training in the code enforcement process and basic procedural due process. At a minimum, the



experience or training shall include acquired knowledge regarding a party's fundamental due process right to:

- a. Be accompanied and advised by counsel at the hearing;
- b. Present evidence and witnesses on his or her behalf at the hearing;
- c. Examine the evidence opposing the party; and
- d. Confront and cross-examine the witnesses opposing the party.

2. The Code Enforcement Board may establish additional standards in writing, including but not limited to examples of qualifying experience and training, and minimum amounts of experience or training required.

3. Before assigning a person as a hearing officer, the Code Enforcement Board shall require the person to submit a written, signed affidavit describing and verifying the experience or training received. The affidavit shall be provided on a form prescribed by the Code Enforcement Board.

4. The Code Enforcement Board shall determine whether the affidavit satisfies the experience or training requirements as set forth in this paragraph and any additional standards established in writing by the board. The board shall not assign a person as a hearing officer unless it has determined that the affidavit satisfies the experience or training requirements.

(c) Hearing powers and procedures.

1. An assigned hearing officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses, and evidence.

2. Any hearing conducted by a hearing officer shall conform to the procedural requirements in Section 10 of this ordinance.

3. A hearing officer shall have the powers set forth in Sections 7(b) through (f).

(d) Final order.

1. Following a hearing, the assigned hearing officer shall make written findings of facts and conclusions of law, and enter a final order in accordance with Section 10(e) of this ordinance.

2. Within twenty-four (24) hours of entry, these findings, conclusions, and final order shall be forwarded to the alleged violator, and to the Code

Enforcement Board. The findings, conclusions, and recommended order may be delivered to the alleged 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 delivery.

(e) Appeal from final order. An alleged violator may appeal a final order issued by a hearing officer directly to Jefferson District Court, in accordance with Section 12 of this ordinance.

## **SECTION 9. Enforcement proceedings.**

The following requirements shall govern all enforcement proceedings before the Code Enforcement Board or hearing officer:

(a) Enforcement proceedings shall only be initiated by the issuance of a citation by a Code Enforcement Officer.

(b) If a Code Enforcement Officer believes, based on his or her personal observation or investigation, that a person has violated a Metro ordinance, he or she is authorized to issue a citation to the offender. When authorized, a Code Enforcement Officer, in lieu of immediately issuing a citation, may issue a Notice of Violation allowing the alleged violator a specified period of time to remedy the violation without incurring a fine. If the alleged violator fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

(c) The Code Enforcement Officer shall issue the 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) 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 physical address of the premises where the violation occurred;
4. The date and time the offense was committed;
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 may be imposed for the violation, including, if applicable:
  - a. The civil fine that will be imposed if the person does not contest the citation; and
  - b. The maximum civil fine that may be imposed if the person elects to contest the citation.
9. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
10. 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 or hearing officer to contest the citation; the determination that the violation was committed shall be 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 Jefferson District Court.

(e) After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation as set forth in the Board's regulations.

- (f) 1. 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 to contest the citation. 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. 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 Jefferson District Court.

2. Notice of the final order shall be delivered 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 delivery.

#### **SECTION 10. Hearing; notice; and final order.**

(a) When a hearing has been requested, the Code Enforcement Board or its administrative staff shall schedule a hearing.

(b) 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; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen years (18) of age or older and who is informed of the contents of the notice and in accordance with Section 15.6 herein.

(c) 1. Any person requesting a hearing 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 Jefferson District Court.

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.

(d) All testimony at the hearing shall be taken under oath and recorded ~~by video~~ and retained for ten (10) years. 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. Pre-conferenced cases shall be called by the hearing officer so any witnesses present may have an opportunity to testify prior to adoption of any recommendation from the code enforcement officer.

(e) The Code Enforcement Board or assigned hearing officer shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The board or hearing officer may impose a fine up to the maximum authorized by ordinance or require the offender to remedy a continuing violation to avoid a fine, or both.

(f) 1. Every final order following a hearing shall be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy shall be furnished to the person named in the citation within twenty-four (24) hours of the entry.

2. If the person named in the citation is not present when the final order is issued, the order shall be delivered 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. Presentation of cases.**

Each case before the Code Enforcement Board or assigned hearing officer shall be presented by an attorney selected by Louisville Metro, a Code Enforcement Officer for Metro, or by a member of Louisville Metro's administrative staff. The Jefferson County Attorney's Office may either be counsel to the Code Enforcement Board or hearing officer, or may present cases before the board or hearing officer, but shall in no case serve in both capacities.

#### **SECTION 12. Appeals; final judgment.**

An appeal from a final order of a Code Enforcement Board or assigned hearing officer following a hearing conducted pursuant to Section 10(e) of this ordinance may be made to the Jefferson District Court within thirty (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 final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The Jefferson District Court shall review the Final Order *de novo*.

If no appeal from a final order following a hearing is filed within the time period set in subsection (a) above, the order shall be deemed final for all purposes.

#### **SECTION 13. Ordinance fine schedule.**

Violations of ordinances that are enforced by Code Enforcement Board or an assigned hearing officer shall be subject to civil fines. If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in

~~LMCO 156.999~~ the ordinance establishing the violation shall apply. If no penalty is set forth, the penalties in LMCO 156.999 shall apply.

**SECTION 14. Lien; fines, charges, and fees.**

- (a) Louisville Metro shall possess a lien on property owned by the person found by a nonappealable final order as defined by Section 1(d), or by a final judgment of the court, to have committed a violation of a Louisville Metro ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by Louisville Metro in connection with the enforcement of the ordinance, including abatement costs and administrative cost of 15% of the above. An affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.
- (b) The lien shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at 18% per annum until paid. The lien shall continue for ten (10) years following the date of the nonappealable final order or final court judgment.
- (c) Subject to Section 16 of this ordinance, the lien shall take precedence over all other liens, except state, county, school board, and Louisville Metro taxes, and may be enforced by judicial proceedings, including a foreclosure action.
- (d) In addition to the remedy prescribed in subsection (a) of this Section, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by Louisville Metro in connection with the enforcement of the ordinance. Louisville Metro may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

**SECTION 15. Lienholder Notification System.**

Louisville Metro shall obtain and maintain priority over previously filed liens, as provided in Section 14 of this ordinance, in accordance with the following provisions:

- (a) Individuals and entities, including but not limited to lienholders, (hereafter referred to as “registrants”) may register with Louisville Metro 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 Code Enforcement Board:
  - 1. Name;
  - 2. Mailing address;

3. Phone number; and
4. Electronic mailing address.

(c) A registrant may use the electronic form provided on Louisville Metro 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 Louisville Metro. Louisville Metro 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) Not less than once per month nor more than once per week, Louisville Metro 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 Louisville Metro code enforcement database located on Louisville Metro 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 specific description of the citation leading to the final order, including the citation detail set forth in KRS 65.8825(4)(a) to (h);
5. The findings of the final order, including the penalty or penalties imposed by the 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, Louisville Metro shall send electronic mail notification to all registrants.

(f) Within ten (10) days of the issuance of a final order pursuant to this ordinance, Louisville Metro 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 Louisville Metro Web site.

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

## **SECTION 16. Liens.**

(a) A lienholder of record who has registered pursuant to Section 15(b) of this ordinance may, within forty-five (45) days from the date of issuance of notification under Section 15(d) of this ordinance:

1. Correct the violation, if it has not already been abated; or
2. Pay all civil fines assessed for the violation, and all charges and fees incurred by Louisville Metro in connection with enforcement of the ordinance, including abatement costs.

(b) Nothing in this Section shall prohibit Louisville Metro from taking immediate action if necessary under Section 17 of this ordinance.

(c) The lien provided by Section 14 of this ordinance shall not take precedence over previously recorded liens if:

1. Louisville Metro failed to comply with the requirements of Section 15 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, take precedence over all other subsequent liens except liens for state, county, school board and Louisville Metro taxes.

(e) Louisville Metro 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, Louisville Metro shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.

(f) Failure of Louisville Metro to comply with Sections 15 and 16 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 Louisville Metro has against the property of the violator.

## **Section 17. Additional Jurisdiction of the Code Enforcement Board.**

(A) The Code Enforcement Board shall also have jurisdiction to hear appeals from booking fees imposed by Metro Government Corrections pursuant to KRS 441.265. When exercising this jurisdiction, the Code Enforcement Board is the final decision maker. The Board does not have subpoena power and it may not impose administrative costs on an appellant. The only issue before the Board will be whether the fee was appropriately imposed on the appellant.



(B) The Code Enforcement Board may adopt rules, procedures and appellate time frames to address this additional responsibility.

### **SECTION 18. Immediate action.**

Nothing in this ordinance shall prohibit Louisville Metro from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents imminent danger or 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.

### **SECTION III: The following sections of LMCO 156 are amended as follows:**

#### § 156.001 TITLE.

This chapter shall be known as the Property Maintenance ~~Nuisance Code~~ of the Louisville Metro Government, hereinafter referred to as the existing structures code or "this code." This chapter shall also be known as the Property Maintenance/Nuisance Code of the Louisville Metro Government. This chapter is enacted pursuant to KRS 67.083(3)(a), (j) and (k) and 65.8801 et seq.

#### § 156.005 DEFINITIONS.

**ABATEMENT COSTS.** Louisville Metro Government's 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 action with regard to a structure or premises to maintain and preserve public health, safety, and welfare in accordance with the portion of Louisville Metro Government's nuisance code pertaining to the condition of and maintenance of structures or premises, adopted pursuant to KRS 65.8801 et seq.

#### § 156.052(J)(5) EXTERIOR PROPERTY AREAS.

(5) Violations and citations. Any violation of the provisions of this § 156.052(J) or any order of the Director or a Code Official are subject to citation and the civil penalties set forth in § 156.999(D). Any such citation and resulting penalty may be appealed to the Code Enforcement Property Maintenance/Nuisance Code Hearing Board in the manner provided by **(Section 10)**.

#### § 156.057 A(5)(d) and (e) PUBLIC NUISANCE.

(d) Any person or owner directly affected by an order of the Code Official may appeal to the Code Enforcement Property Maintenance/Nuisance Code Hearing Board in accordance with ~~§§ 32.400 et seq~~ (Section 9(f)).

(e) Pursuant to the provisions of KRS 65.8801 et seq. and in accordance with § 32.409(**Section 14**), the Louisville Metro Government shall possess a lien against the property for all fines, penalties, charges, abatement costs, and fees imposed to abate the public nuisance.

§ 156.057 A(7) PUBLIC NUISANCE.

(7) Other defenses. The Code Enforcement Property Maintenance/Nuisance Code Hearing Board may consider evidence presented by any person or owner directly affected by a citation, notice of violation, or order regarding whether the owner knew or should have known of the violations and whether reasonable steps were taken to abate the violations by removing the offender, notifying police of the violation(s), and/or securing vacant property.

§ 156.800(D) DEPARTMENT OF PROPERTY MAINTENANCE.

(D) Restriction of employees. An official or employee connected with the enforcement of this chapter, except one whose only connection is that of a member of the Code Enforcement Property Maintenance/Nuisance Code Hearing Board, as set forth in ~~§§ 32.400 et seq.~~(**Section 4**), as the case may be, shall not be engaged in, or directly connected with, the furnishing of labor, materials or appliances for the construction, alteration, or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

§ 156.804(A) NOTICES; ORDERS.

(A)(1) Citation or notice to owner or to person or persons responsible. Whenever the Code Official, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of this code, the Code Official is authorized to issue a citation or notice of violation to the offender in accordance and as prescribed by ~~§32.405~~(**Section 9**).

(2)(c) The notice issued pursuant to this section may be appealed to the Code Enforcement Property Maintenance/Nuisance Code Hearing Board.

§ 156.807(D) DEMOLITION.

(D) Failure to comply. Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the owner of the real estate upon which the structure is located. Upon failure of the owner to effect payment of such costs, a lien to bear interest at the rate of 18% per annum, from the date of such lien until

paid, shall be placed by the Metro Government against the real estate upon which the razed or removed structure was located. In addition to the aforesaid remedy or any other remedy authorized by law, pursuant to KRS 65.8801 and in accordance with ~~§32.409~~(Section 14), the owner shall be personally liable for the amount of the lien, including all interest, civil penalties, fines, penalties, fees, abatement costs, and other charges and the Louisville Metro Government may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

#### § 156.808 APPEALS; PROCEDURE.

Any person directly affected by a decision of the Code Official or a citation, notice of violation, or order issued under this code shall have the right to appeal to the Code Enforcement Property Maintenance/Nuisance Code Hearing Board ("Board") in accordance with (Section 9(f)).

#### § 156.999(A) PENALTY.

- (A) Any person, firm or corporation who shall violate § 156.057(A)(2) shall be subject to a civil penalty in accordance with the penalty schedule as set forth in Appendix A, Exhibit A. Any person cited pursuant to this subsection (A) may pay the civil penalty within seven days from the date of issuance or request a hearing regarding such penalty to the Code Enforcement Property Maintenance/Nuisance Code Hearing Board ("Board") in accordance with ~~§§156.808~~(Section 10). If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be final. Each day that a violation continues after a citation has been issued or notice has been served shall be deemed a separate offense.
- (B) Any person, firm or corporation who shall violate § 156.057(A)(2)(a) or (b) shall be subject to a civil penalty in accordance with the penalty schedule as set forth in Appendix A, Exhibit B. Any person cited pursuant to this subsection (B) may pay the civil penalty within seven days from the date of issuance or request a hearing regarding such penalty to the Board in accordance with ~~§§32.400~~Section 9(f) et seq. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be final. Each day that a violation continues after a citation has been issued shall be deemed a separate offense.
- (D) Any person, firm or corporation, who shall violate any provision of this chapter other than as set forth in subsections (A), (B) and (C), above, shall be subject to a civil penalty in accordance with the penalty schedule as set forth in Appendix A, Exhibit C. Any person cited pursuant to this subsection (D) may pay the civil penalty within seven days from the date of issuance or

request a hearing regarding such penalty to the Board in accordance with ~~§§32.400~~Section 9(f) et seq. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be final. Each day that a violation continues after a citation has been issued or notice has been served shall be deemed a separate offense.

- (E) The Metro Government shall possess a lien on property for all fines, penalties, charges, abatement costs, and fees imposed pursuant to this Code in accordance with ~~§§32.409~~Section 14. The lien shall be superior to and have priority over all other liens on the property except state, School Board and Metro Government taxes.

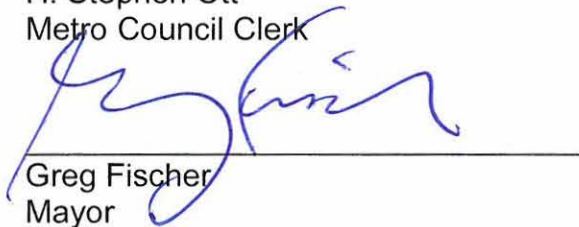
**SECTION IV:** This ordinance shall take effect upon its passage and approval on December 31, 2016.



H. Stephen Ott  
Metro Council Clerk



David Yates  
President of the Council

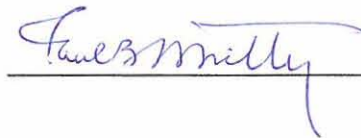


Greg Fischer  
Mayor

11/29/16  
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell  
Jefferson County Attorney

BY: 

LOUISVILLE METRO COUNCIL  
READ AND PASSED  
November 17, 2016