

ORDINANCE NO. _____, SERIES 2018

AN ORDINANCE AMENDING LOUISVILLE/JEFFERSON COUNTY CODE OF ORDINANCES (“LMCO”) SECTION 32.283 REGARDING THE POSTING AND MAILING OF CODE ENFORCEMENT NOTICES.

SPONSORED BY: COUNCIL MEMBER PAT MULVIHILL

WHEREAS, the Kentucky General Assembly amended state law relating to a Code Enforcement Officer’s issuance of citations, the Louisville Metro Government’s responsibility to electronically post final orders of the Code Enforcement Board, and other non-related procedural matters contained in Kentucky Revised Statute Chapter 65; and

WHEREAS, Metro Government amends Louisville Metro Code of Ordinances (“LMCO”) Chapter 32 to update its ordinances according to these changes in state law.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: LMCO § 32.283 is amended as follows:

§ 32.283 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 18 years of age or older who is on the premises and informed of the contents of the delivery, 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. Mailing a copy of the citation by regular first-class mail to the last known recorded mailing address of the alleged violator; or~~

(4) If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (a) to (c) of this subsection is not possible, then the citation is properly served by posting a copy of the citation in a conspicuous place on the premises.

(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) ~~(4)~~ The person to whom the citation is issued shall respond to the citation within seven 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

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 18 years of age or older and who is informed of the contents of the delivery.~~

SECTION II: LMCO § 32.289 is amended as follows:

§ 32.289 LIENHOLDER NOTIFICATION SYSTEM.

Louisville Metro shall obtain and maintain priority over previously filed liens, as provided in § 32.288, 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 subchapter.

(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 the Louisville Metro

website 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 subchapter since the last date of notification to each party registered pursuant to this section. The notification shall provide an electronic link to the Code Enforcement Database located on the Louisville Metro website. 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 if, in the exercise of reasonable diligence, it is ascertainable;
- (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 subchapter.

(E) If an appeal is filed on a final order pursuant to this subchapter, Louisville Metro shall send electronic mail notification to all registrants.

(F) ~~Within ten days of the issuance of a final order pursuant to this subchapter,~~
At the same time the electronic notification required under paragraph (D) of this subsection is sent, 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 the Louisville Metro website.

(G) Louisville Metro shall maintain the records created under this section for ten years following their issuance.

SECTION III: This ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____