

CITY OF STRATHMOOR VILLAGE, KENTUCKY

ORDINANCE NO. 4, SERIES 2016

**AN ORDINANCE OF THE CITY OF STRATHMOOR VILLAGE, KENTUCKY,
KENTUCKY ESTABLISHING A CODE ENFORCEMENT BOARD, FINES, LIENS,
PROCEDURES AND APPEALS.**

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 the City 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 the City; and

WHEREAS, it is the desire of the City Commission of the City of Strathmoor Village, Kentucky to utilize the authority granted in KRS 65.8801 to 65.8839 by creating a City of Strathmoor Village Code Enforcement Board.

NOW THEREFORE be it ordained by the City Commission of the City of Strathmoor Village as follows:

PART ONE:

SECTION 01: CODE ENFORCEMENT BOARD

(A) DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE ENFORCEMENT BOARD. An administrative body created and acting under the authority of the Local Government Code Enforcement Board Act.

CODE ENFORCEMENT OFFICER. A city police officer, safety officer, citation officer, or other public law enforcement officer with the authority to issue a citation.

ORDINANCE. An official action of a 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.

SECTION 02 CREATION AND MEMBERSHIP.

There is hereby created, pursuant to KRS 65.8801 through 65.8839, within the city a Code Enforcement Board which shall be composed of 5 members, all of whom shall be at least 21 years of age and a resident of the city for a period of at least 1 year prior to the creation of the Board and shall reside there throughout the term in office.

SECTION 03 AUTHORITY.

The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method enforcing city ordinances when a violation of the ordinance has been classified as a civil offense. The Code Enforcement Board shall not have the authority to enforce any ordinance the violation of which constitutes an offense under any provision of the Kentucky Revised Statutes, including, specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense. Administration

SECTION 04 MEMBERS; APPOINTMENTS, TERMS, REMOVALS, AND OATH.

(A) Members of the Code Enforcement Board shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

(B) (1) The initial appointment to a 5-member Code Enforcement Board shall be as follows:

- (a) One member appointed to a 1-year term;
- (b) Two members appointed to a 2-year term; and
- (c) Two members appointed to a 3-year term.

(2) All subsequent appointments shall be for a term of 3 years. A member may be reappointed, subject to the approval of the legislative body.

(C) The executive authority may appoint, subject to the approval of the legislative body, 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.

(D) Any vacancy on the Board shall be filled by the executive authority, subject to approval of the legislative body, within 60 days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Board members shall fill the vacancy.

(E) (1) A Code Board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty.

(2) The executive authority must submit a written statement to the member and the legislative body setting forth the reasons for removal.

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

(G) Members of the Code Enforcement Board shall serve without compensation.

(H) No member of the Code Enforcement Board may hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

SECTION 05 BOARD ORGANIZATION; MEETINGS AND QUORUM; ALTERNATE MEMBERS.

(A) The Board shall annually elect a Chair from among its members. The Chairperson shall be the presiding officer and a full voting member of the Board.

(B) Regular meetings of the Code Enforcement Board shall be held on the second Tuesday of each month. Meetings other than those regularly scheduled shall be special 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 held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

(D) 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 06 CONFLICT OF INTEREST.

Any member of the 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 and shall disqualify himself or herself from voting on the matter in which he or she has an interest and shall not be counted for purposes of establishing quorum; the member shall be recused prior to any discussion of the matter.

SECTION 07 JURISDICTION.

The Code Enforcement Board shall have jurisdiction to enforce and shall enforce any city ordinances and code provisions.

SECTION 08 POWERS AND DUTIES.

The City of Strathmoor Village 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;
- (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 Chairperson 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 city ordinance or code provision which the Board is authorized to enforce; and
- (F) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the Board has jurisdiction.

SECTION 09 ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Board.

- (A) Enforcement proceedings before the Code Enforcement Board shall only be initiated by the issuance of a citation by a Code Enforcement Officer.
- (B) (1) Except as provided in division (C) below, if a Code Enforcement Officer believes, based on his or her personal observation or investigation, that a person has violated a city ordinance, he or she shall issue a verbal warning requiring immediate remediation, or issue a notice of violation to the offender allowing the offender a specified period of time to remedy the violation without fine.
- (2) If the offender fails or refuses to remedy the violations within the time specified, the Code Enforcement Officer is authorized to issue a citation.
- (C) Nothing in this chapter shall prohibit the city from taking immediate action to remedy a violation of its 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.
- (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 date and time the offense was committed;
- (4) The facts constituting the offense;
- (5) The section of the code or the number of the ordinance violated;
- (6) The name of the Code Enforcement Officer;
- (7) The civil fine that will be imposed for the violation if the person does not contest the citation;
- (8) 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 to contest the citation and that the determination that the violation was committed shall be final.

(E) After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the City Clerk/Treasurer.

(F) The person to whom the citation is issued shall respond to the citation within 7 days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. If the person fails to respond to the citation within 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.

(G) If the alleged violator does not contest the citation within the time prescribed, the Code Enforcement Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

SECTION 10 HEARING; NOTICE; FINAL ORDER.

(A) When a hearing has been requested, the Code Enforcement Board shall schedule a hearing. The hearing shall be conducted at the next regularly scheduled meeting of the Code Enforcement Board unless the Board and the party agree to a different time.

(B) Not less than 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 first class mail; by 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 notice.

(C) Any person requesting a hearing before the Code Enforcement Board 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. The Code Enforcement Board shall enter a final order determining the violation as committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served upon the person guilty of the violation.

(D) All testimony shall be taken under oath and recorded. 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.

(E) The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it determines that no violation was committed, an order dismissing the citation shall be entered. If it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized by this or other ordinance, or requiring the offender to remedy a continuing violation, or both.

(F) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth in division (B) above.

SECTION 11 LEGAL COUNSEL.

(A) Each case before the Code Enforcement Board shall be presented by an attorney selected by the city or by a Code Enforcement Officer for the city.

(B) The City Attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but in no case serve in both capacities.

SECTION 12 APPEALS; FINAL JUDGMENT.

(A) (1) An appeal from any final order of the Code Enforcement Board may be taken to the Louisville Metro District Court within 30 days of the date the order is issued.

(2) The appeal shall be initiated by the filing of a complaint and a copy of the Code Enforcement Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) If no appeal from a final order of the Code Enforcement Board is filed within the time period set in division (A) above, the Code Enforcement Board's order shall be deemed final for all purposes.

SECTION 13 ORDINANCE FINE SCHEDULE.

Violations of ordinances that are enforced by the City Code Enforcement Board shall be subject to the following schedule of civil fines.

(A) (1) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this division (A) shall apply.

(2) However, the Board may waive all or any portion of a penalty for an uncontested violation, if in its discretion the Board determines that the waiver will promote compliance with the ordinance in issue.

Violation First Offense

Second Offense

All Others

Animals \$25 \$50 \$100

Building Codes

\$100 \$125 \$150

Nuisance \$10 \$25 \$50

Licensing \$50 \$75 \$100

Signage \$10 \$25 \$50

Littering \$10 \$25 \$50

Parking \$10 \$25 \$50

Streets and Sidewalks \$10 \$25 \$50

(B) If the citation is contested and a hearing before the Code Board is required, the following maximum penalties may be imposed at the discretion of the Code Board.

Violation First Offense

Second Offense

All Others

Animals \$100 \$200 \$300

Building Codes \$500 \$750 \$1,000

Nuisance \$75 \$150 \$250

Licensing \$500 \$750 \$1,000

Signage \$50 \$100 \$700

Littering \$50 \$100 \$200

Parking \$50 \$100 \$200

Streets and Sidewalks \$50 \$100 \$200

SECTION 14 LIENS; FINES, CHARGES, AND FEES.

(A) The city shall possess a lien on property owned by the person found by a final, nonappealable order of the Code Enforcement Board, or by a final judgment of the court, to have committed a violation of a city ordinance for all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance.

(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 until paid.

(C) 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.

(D) In addition to the remedy prescribed in division (A) 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 the ordinance. 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 15. LIENHOLDER NOTIFICATION SYSTEM.

The city shall obtain and maintain priority over previously filed liens, as provided in Section 13 of this ordinance, in accordance with the following provisions:

(a) Individuals and entities, including but 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 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 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) Once per 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 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 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 Web site.

(g) The city 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 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 16 of this ordinance.

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

1. The city 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, 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 satisfaction.

(f) Failure of the city 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 the city has against the property of the violator.

PART TWO:

This Ordinance shall become effective immediately upon passage and publication as required by law.

INTRODUCED AND READ AT A CITY COMMISSION MEETING OF THE CITY OF STRATHMOOR VILLAGE, KENTUCKY, HELD ON THE 8th DAY OF NOVEMBER, 2016.

READ, PASSED AND APPROVED BY THE CITY COMMISSION OF THE CITY OF STRATHMOOR VILLAGE, KENTUCKY, AT A MEETING HELD ON THE _____ DAY OF _____, 2016.

VETOED:

APPROVED:

JAY BOWMAN, MAYOR

JAY BOWMAN, MAYOR

DATE: _____

DATE: _____

ATTEST:

CITY CLERK