

**CITY OF HIGHLAND HEIGHTS, KENTUCKY  
ORDINANCE #14-2019**

**AN ORDINANCE AMENDING CITY ORDINANCES IN  
COMPLIANCE WITH 2016 KENTUCKY HOUSE BILL 422  
TO INCLUDE REVISIONS RELATED TO CODE  
ENFORCEMENT AND ESTABLISHMENT OF A  
LIENHOLDER NOTIFICATION SYSTEM.**

WHEREAS, House Bill 422 (2016 Ky. Acts ch. 86) which amends KRS 65.8801 to KRS 65.8839 and other various sections of Kentucky Revised Statute, provided for comprehensive revisions to the code enforcement procedures applicable to local governments;

WHEREAS, it is the intent of KRS 65.8801 to 65.8839, as amended to protect, promote, and improve the health, safety, and welfare of the citizens residing within the City by authorizing the creation and continued use 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 Council of the City of Highland Heights, Kentucky to continue to utilize the authority granted in KRS 65.8801 to 65.8839 by utilizing a Code Enforcement Board.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY OF HIGHLAND HEIGHTS, CAMPBELL COUNTY, KENTUCKY AS FOLLOWS:**

Section I

That Sections 31.60 through 31.73 of the City of Highland Heights Code of Ordinances are rescinded in its entirety.

Section II

That the following chapter and sections shall be added to the Code of Ordinances for the City of Highland Heights:

**CHAPTER 38 – CODE ENFORCEMENT.**

**§38.10 Definitions**

The definitions set forth in KRS 65.8805 and KRS 65.8840 are incorporated as though set forth fully herein.

**§38.20 Code Enforcement Board; Establishment and Members**

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board which shall be composed of five members, all of whom shall be residents of the city 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.

### **§38.21 Enforcement Powers**

(A) The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing city 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 the violation of which constitutes a criminal offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

### **§38.22 Appointment of Members; Term of Office; Vacancies; Removal from Office; Oath; Training**

(A) **Appointment.** 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) **Term of Office.**

(1) **Initial Appointments.** The initial appointment to the Code Enforcement Board shall be as follows:

- (a) Two (2) members of the board shall be appointed for a term of one (1) year;
- (b) Two (2) members of the board shall be appointed for a term of two (2) years; and
- (c) One (1) member of the board shall be appointed for a term of three (3) years.

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

(C) **Alternate Members.** The executive authority may appoint, subject to the approval of the legislative body, two (2) alternate members to serve on the 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 Board.

(D) **Vacancies.** Any vacancy on the Code Enforcement Board shall be filled by the executive authority, 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 board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(E) **Removal from Office.** A board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority 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 the Campbell Circuit Court.

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

**(G) Members disallowed to hold other positions with City.** No member of the board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

### **§38.23 Organization of Board; Meetings; Quorum.**

**(A) Chairman.** The Code Enforcement Board shall annually elect a chair from among its members. The chairman shall be the presiding officer and a full voting member of the board. If the chairman is not present, the board shall select one of its members to preside in place of and exercise the powers of the chairman.

**(B) Meetings.** Meetings of the Board shall be held as necessary to enforce all civil offenses established by the Highland Heights Code of Ordinances. Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

**(C) Open Meetings.** All meetings and hearings of the board shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

**(D) Quorum.** The presence of at least a majority of the Code Enforcement Board's entire membership and/or alternate 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.** Minutes shall be kept for all proceedings of the board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

**(F) Clerical and Administrative Assistance.** The City shall provide clerical and administrative personnel as reasonably required by its code enforcement board for the proper conduct of its duties.

**§38.24 Conflict of Interest.** Any member of the 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 from voting on the matter in which he has an interest and shall not be counted for purposes of establishing a quorum.

### **§38.25 Powers of the 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.

**(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 city ordinance or code provision which the board is authorized to enforce.

(F) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the board has jurisdiction.

### **§38.30 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) Except as provided in subsection (c) below, if a Code Enforcement Officer reasonably believes, based on his personal observation or investigation, that a person has violated a city ordinance, he shall issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy or abate the violation without fine. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

(C) Nothing in this Ordinance 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 Code Enforcement Officer may issue the citation by:

(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;

(3) 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 (1) to (3) 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.

(E) 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: (i) the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation; (ii) the determination that a violation committed shall be final; and (iii) deemed to have waived the right to appeal the final order to the District Court.

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

(G) 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 before the board 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 or appeal 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 District Court.

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.

(H) If the alleged violator does not contest the citation within the time prescribed, the board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation, said amounts are due immediately. A copy of the final order shall be served on the person guilty of the violation.

### **§38.31 Hearing; Notice; and Final Order.**

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

**(B) Notice.** Not less than seven (7) days before the date of the hearing, the board shall notify the requester of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by 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.

**(C) Failure to Appear at Hearing.** 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 as non-contested and not paid within the seven day deadline, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

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) Testimony.** 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) Findings of Fact and Final Determination.** The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If the Board determines that no violation was committed, an order dismissing the citation shall be entered. If the board determines that a violation was committed, the Board shall issue an order upholding the citation and either imposing a fine up to the maximum authorized by this or another ordinance, or requiring the offender to remedy a continuing violation within a specified time, or both

#### **(F) Final Orders to be Written.**

(1) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the findings and conclusions of the board and 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 to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order 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 order.

**§38.32 Presentation of Cases.**

Each case before The Code Enforcement Board shall be presented by an attorney selected by the city, a Code Enforcement Officer for the city, or by a member of the city's administrative staff. The city attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but shall in no case serve in both capacities.

**§38.33 Appeals; Final Judgment.**

**(A) Appeal.** An appeal from any final order of the Code Enforcement Board may be made to the Campbell County 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 board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The appeal shall be tried de novo. A judgment of the district court may be appealed to the Campbell Circuit Court in accordance with the Kentucky Rules of Civil Procedure.

**(B) Final Judgment.** If no appeal from a final order of the board is filed within the time period set in subsection (a) above, the board's order shall be deemed final for all purposes.

**§38.34 Civil Fine Schedule.**

Violation of ordinances that are enforced by the City Board shall be subject to the following schedule of civil fines unless the specific ordinance declares a different penalty:

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

<b>Violation</b>	<b>Civil Fine (if uncontested and paid within 7 days)</b>	<b>Civil Fine (if not paid within 7 days)</b>
First Offense in one-year period	\$25.00	\$50.00
Second Offense in one-year period	\$100.00	\$200.00
Third or Greater Offense in one-year period	\$250.00	\$500.00

**(B)** If a citation is contested and hearing before the Board is conducted, the following minimum to maximum penalties may be imposed at the discretion of the Board:

<b>Violation</b>	<b>Civil Fine</b>
First Offense in one-year period	\$25.00 to \$100.00
Second Offense in one-year period	\$100.00 to \$250.00
Third or Greater Offense in one-year period	\$250.00 to \$500.00

### **§38.35 Lien; Fines, Charges and Fees**

(A) The city shall possess a lien on property owned by the person found by a non-appealable final order, or by a final judgment of the court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance, including abatement costs and attorney's fees. 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 until paid. The lien shall continue for ten (10) years following the date of the non-appealable final order or final court judgment.

(C) The lien shall take precedence over all other liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

(D) In addition to the remedy prescribed in subsection (A) 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, attorney's fees, and abatement costs 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.

### **§38.50 Lienholder Notification System**

The city shall obtain and maintain priority over previously filed liens 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;

(B) 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 form provided on the City web site to submit the information required in subsection (B). 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 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 specific description of the citation leading to the final order, including the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be satisfied by including a copy of the full citation;
- (5) The findings of the final order, including the penalty or penalties imposed by the final order, which may be satisfied by providing a copy of the full final order; and
- (6) The status of the final order in regards to its ability to be appealed

(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 CD) 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.

#### §38.51 Liens

(A) A lienholder of record who has registered pursuant to § 38.50 may, within forty-five (45) days from the date of issuance of notification under § 38.50 may:

- (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 attorney's fees and abatement costs.

(B) Nothing in this Section shall prohibit the city from taking immediate action if necessary under § 31.68 of this ordinance.

(C) The lien shall not take precedence over previously recorded liens if:

- (1) The city failed to comply with the requirements of § 38.50 for notification of the final order;  
or
- (2) A prior lienholder completed the actions listed in subsection (A).

(D) A lien that does not take precedence over previously recorded liens under subsection (C) 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) 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 § 38.50 or this Section, 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.

**§38.60 Immediate Action Remedy Violation of Ordinance**

Nothing contained in this Chapter shall prohibit a local government from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the existence of the violation presents imminent danger, 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 XVII

This Ordinance shall not be interpreted or otherwise construed to affect the status, priority, or enforcement of any lien that was created and existed pursuant to the provisions of KRS 82.725 or KRS 381.770 prior to January 1, 2017.

Section XVIII

This ordinance shall be in full force and effect from and after its adoption, approval and publication as is required by law.

**PASSED** by City Council of the City of Highland Heights, Campbell County, Kentucky assembled in regular session.

First Reading: October 1, 2019

Second Reading: November 5, 2019

  
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MAYOR GREGORY MEYERS

ATTEST:

  
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JEANNE PETTIT  
CITY CLERK/TREASURER