

SUMMARY OF ORDINANCE NO. 1551

The following is a summary of Ordinance No. 1551 relating to the City of Cynthiana Code Enforcement Ordinance. This summary is prepared in accordance with the provisions of KRS 83A.060(9).

AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF CYNTHIANA, KENTUCKY RELATING TO CODE ENFORCEMENT IN ACCORDANCE WITH THE PROVISIONS OF HOUSE BILL 422.

This Ordinance is known and commonly referred to as the City of Cynthiana Code Enforcement Ordinance. During the 2016 legislative session, the Kentucky Legislature passed and adopted House Bill 422 in order to assist cities in dealing with issues associated with blighted property and with the goal of eliminating the deterrence to a successful code enforcement system for local governments. In order to bring the Code Enforcement Ordinance of the City of Cynthiana into compliance with the requirements of House Bill 422, it is necessary to adopt certain amendments to the current Ordinance.

The Ordinance, as amended, sets out definitions of terms including definitions for abatement costs, code enforcement board, code enforcement officer, final order, eminent danger, ordinance, owner and premises. The Ordinance sets out the composition and enforcement powers of the Code Enforcement Board, provides for appointment of members, terms of office, removal from office, oath and compensation and further provides for the organization of the board setting out the time of board meetings which will occur quarterly on the 2nd Thursday in January, April, July and October of each year at 7:00 p.m. at the City Hall Commissioner's Room. All meetings are to be held in accordance with the requirements of the Kentucky Open Meetings Act. The Ordinance further sets out the powers of the Code Enforcement Board and the means by which enforcement proceedings shall take place.

The Ordinance sets out that generally a code enforcement officer may issue a notice of violation to an offender allowing the offender a specified period of time to

remedy the violation without a 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. The Ordinance sets out the contents of the citation and provides a means for the alleged violator to request a hearing. The Ordinance provides that the citation as issued shall be deemed a final order determining that the violation was committed and imposing a civil fine in the event a hearing is not requested within the specified time. The Ordinance contains provisions regarding the conduct of hearings, the presentation of cases, and provides for appeals from a final order of the Code Enforcement Board to the Harrison District Court within thirty days of the date the order is issued. The Ordinance provides the following fine schedule set in full below:

Sec. 2-192. 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 unless the ordinance being enforced clearly provides another civil penalty or fine:

a) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the civil penalties set forth in this subsection shall apply; however, the board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the board determines that such waiver will promote compliance with the ordinance in issue.

<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
\$25.00	\$50.00	\$100.00

b) If the citation is contested and a hearing before the code board is required, the following civil penalties may be imposed at the discretion of the code enforcement board:

<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
\$50.00 up to the maximum of \$250.00	\$100.00 up to the maximum of \$500.00	\$200.00 up the maximum of \$1,000.00

c) Each section of a code or ordinance violated shall be considered a separate finable offense. If two or more sections of a code or ordinance are violated, the fines shall be cumulative and may be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation or issuance of a citation which recites the specific days the violation continued to occur.

The Ordinance provides that the City shall possess a lien on property owned by the person found by a final, non-appealable order or by a judgment of the Court to have committed a violation in accordance with Section 2-193 which is set out in full below:

Sec. 2-193. Lien; 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,~~] as defined in Sec. 2-181 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, including administrative hearing costs at \$75.00 per hearing requested or held and all abatement costs and attorney's fees. An affidavit of the code enforcement officer shall constitute prima fascia evidence of the amount of the lien and the 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 the legal judgment rate 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 subsection (a), the person found to have committed the violation shall be personally responsible for the amount of all fines and costs assessed for the violation and for all charges, costs and fees incurred by the city in connection with the enforcement of the ordinance and including abatement costs and

reasonable attorney's fees. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

Sec. 2-193-A Lienholder notification system.

The City shall obtain and maintain priority over previously filed liens as provided in Section 2-193 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 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.

Sec. 2-193-B Liens:

a) A lienholder of record who has registered pursuant to Section 2-193A of this ordinance may, within forty-five (45) days from the date of the issuance of notification under Sec. 2-193-A 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 2-194 of this ordinance.

c) The lien provided by Section 2-193 of this ordinance shall not take precedence over previously recorded liens if:

1. The city failed to comply with the requirements of Section 2-193-A 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 2-193A and 2-194B 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 or violator.

Nothing in the Ordinance prohibits the City from taking immediate action to remedy a violation of its ordinance when there is reason to believe a violation presents a serious threat to the public health, safety and welfare or if in the absence of immediate action, the effect of the violation will be irreparable or irreversible. The Ordinance further adopts all terms, conditions and procedures of KRS 65.8801 to 65.8839.

A full, true and complete copy of the City of Cynthiana Code Enforcement Ordinance No. 1551 with all amendments being clearly shown is on file and available for public inspection at the Office of the City Clerk, City Hall, Pleasant Street, Cynthiana, Kentucky during regular business hours.