

MEADE COUNTY FISCAL COURT
ORDINANCE NO. 2023-02

SUMMARY VERSION

AN ORDINANCE OF THE COUNTY OF MEADE, KENTUCKY, ESTABLISHING A CODE ENFORCEMENT BOARD.

This is a summary version of an ordinance to create an administrative board with authority to issue remedial orders and impose fines. Bestowing this authority upon the board will ensure compliance with the ordinances in force within Meade County. This board will have three members with two alternates. This board will have the power to adopt by-laws, conduct hearings, subpoena those who have violated and those who have evidence or knowledge of violations, take testimony, make findings of fact and issue necessary orders to remedy violations, and impose civil fines. A code field representative or a planning and zoning administrator may issue a citation. An appeal from the code enforcement board shall be made to the Meade County District Court. This ordinance includes a fine schedule and outlines when a lien may be filed on property where a violation has occurred.

The full version of this ordinance can be obtained in the Meade County Judge Executive's office at the Meade County Courthouse, 516 Hillcrest Drive, Brandenburg, KY 40108.

Given First Reading on January 10th, 2023, and approved by at least a majority of the fiscal court members.

This ordinance will be read again, considered again, and possibly adopted by the Meade County Fiscal Court in the courtroom of the Meade County Courthouse, 516 Hillcrest Drive, Brandenburg, KY on the 14th day of February, 2023, at 7:00 p.m. EST.

COUNTY OF MEADE
ORDINANCE NO. 202302

AN ORDINANCE OF THE COUNTY OF MEADE, KENTUCKY ESTABLISHING
A CODE ENFORCEMENT BOARD.

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 County 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 County; and

WHEREAS, it is the desire of the Fiscal Court of the County of Meade, Kentucky to utilize the authority granted in KRS 65.8801 to 65.8839 by creating a County of Meade Code Enforcement Board.

NOW THEREFORE be it ordained by the Fiscal Court of the County of Meade as follows:

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 a county'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 county 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 Field Representative"** means a safety officer, citation 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 following a hearing in accordance with Section 9(e) of this ordinance;
2. Created because a violator neither paid nor contested the citation within seven (7) days as provided in Section 8(f) of this ordinance; or
3. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in Section 9(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.

(f) **"Ordinance"** means an official action of the 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.

(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 within the county pursuant to KRS 65.8801 to KRS 65.8839, a code enforcement board which shall be composed of three members, with two alternates. All primary members and alternates shall be residents of the county for a period of at least one (1) year prior to their appointment and shall reside there throughout the term in office.

Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to primary board members. The Alternates are to serve as voting member of the board in the absence of an existing member or vacancy on the board. All members including alternates are expected to attend all meetings.

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 county 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 Meade County Fiscal Court.
- (b) The initial appointment of primary members shall be as follows:
 - 1. One-third (1/3) of the of the board shall be appointed for a term of one (1) year;
 - 2. One-third (1/3) of the board shall be appointed for a term of two (2) years; and
 - 3. One-third (1/3) of the board shall be appointed for a term of three (3) years.
- (c) All subsequent appointments (alternates) shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the legislative body.
- (d) Any vacancy on the board shall be filled by the Meade County Fiscal Court, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining code enforcement board members, in conjunction with the Planning and Zoning Administrator, shall fill the vacancy. A vacancy of a primary member shall be filled by an alternate for the remainder of the unexpired term.

- (f) A board member may be removed by the Meade County Fiscal Court following the recommendation by the Planning and Zoning Administrator and/or the Chairman of the Code Enforcement Board. Removal from the board shall be based on misconduct, inefficiency, or willful neglect of duty. The Meade County Fiscal Court shall submit a written statement to the member setting forth the reasons for removal. The member so removed shall have the right of appeal to the 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 shall be reimbursed for actual expenses and compensated in the amount of \$100 per month.
- (i) No member of the code enforcement board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the county.

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) Regular meetings of the code enforcement board shall be held on the Third Thursday of every month. 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) 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 (primary members) 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 any member on any issue decided by the board shall be recorded in the minutes.

SECTION 6. 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, shall disqualify himself/herself from voting on the matter in which he/she has an interest, and shall not be counted for purposes of establishing a quorum.

SECTION 7. Powers of the code enforcement board.

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

- (a) To adopt by-laws (rules and regulations) to govern its operations and the conduct of its hearings consistent with this ordinance.
- (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 field representative.
- (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 county 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.

SECTION 8. Enforcement proceedings.

The following requirements shall govern all enforcement proceedings before the code enforcement board:

- (a) Enforcement proceedings shall only be initiated by the issuance of a citation by a Code Field Representative or Planning and Zoning Administrator.
- (b) Except when immediate action is necessary pursuant to Section 16 of this ordinance, if a code field representative believes, based on his personal observation or investigation, that a person has violated a county ordinance, he shall issue a Notice of Violation allowing the alleged violator a specified period of time to remedy the violation without incurring a fine. Should the alleged violator fail or refuses to remedy the violation within the time specified, the Code Field Representative or Planning and Zoning Administrator is authorized to issue a citation.
- (c) The Code Field Representative shall issue a 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 field representative 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 and contact information of the code field representative;
 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 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 District Court.
- (e) After issuing a citation to an alleged violator, the Code Field Representative shall notify the code enforcement board by delivering the citation to chairman and the Planning and Zoning Administrator.
- (f) 1. The person to whom the citation is issued shall respond to the citation within seven (7) business days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing to contest the citation. Failure to respond to the citation within seven (7) business 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 that was 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.

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.

SECTION 9. 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 (18) years of age or older and who is informed of the contents of the notice.

(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 that was 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 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. Testimony shall be taken from the Code Field Representative, the alleged violator, and any witnesses to the violation offered by the Code Field Representative 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 is determined that no violation was committed, an order dismissing the citation shall be entered in the record. If it is determined that a violation was committed, an order may be issued upholding the citation. The board 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.

2. If the person named in the citation is not present when the final order is issued, the order shall be delivered to the person 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 10. Presentation of cases.

Each case before the code enforcement board shall be presented by an attorney selected by the county, a code field representative for the county, or by the Planning and Zoning Administrator. The county 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.

SECTION 11. Appeals; final judgment.

- (a) An appeal from a final order of a code enforcement board following a hearing conducted pursuant to Section 9(e) of this ordinance may be made to the Meade 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 final 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 subsection (a) of this Section, the code enforcement board's order shall be deemed final for all purposes

SECTION 12. Ordinance fine schedule.

Violations of ordinances that are enforced by the county code enforcement board shall be subject to the following schedule of civil fines:

- (a) If a citation for a violation of an ordinance (not remedied) is not contested by the person charged with the violation, the penalties set forth in this subsection shall apply:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
<u>Unsafe & Unfit</u>			
Structure Code	\$250.00	\$275.00	\$300.00
Garbage	\$100.00	\$125.00	\$150.00
Occupational License	\$75.00	\$100.00	\$125.00
Weeds	\$25.00	\$50.00	\$75.00

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

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
<u>Unsafe & Unfit</u>			
Structure Code	\$500.00	\$750.00	\$1000.00
Garbage	\$200.00	\$225.00	\$250.00
Occupational License	\$150.00	\$175.00	\$200.00
Weeds	\$100.00	\$125.00	\$150.00

SECTION 13. Lien; fines, charges, and fees.

- (a) The county shall possess a lien on property owned by the person found by a nonappealable final order as defined by Section 1(d) of this ordinance, or by a final judgment of the court, to have committed a violation of a county ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the county in connection with the enforcement of the ordinance, including abatement costs. 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 nonappealable final order or final court judgment.

- (c) Subject to Section 15 of this ordinance, the lien shall take precedence over all other liens, except state, county, school board, and county 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 the county in connection with the enforcement of the ordinance. The county may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

SECTION 14. 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 county 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 field representative or Meade County Planning and Zoning staff:
 - 1. Name;
 - 2. Mailing address;
 - 3. Phone number; and
 - 4. Electronic mailing address.
- (c) Once a month, the county 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 be sent via electronically. The electronic notification 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 county 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 county shall update its code enforcement records to reflect the issued final order.

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

SECTION 15. Liens.

(a) A lienholder of record who has registered pursuant to Section 14(b) of this ordinance may, within forty-five (45) days from the date of issuance of notification under Section 14(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 county in connection with enforcement of the ordinance, including abatement costs.

(b) Nothing in this Section shall prohibit the county from taking immediate action if necessary under Section 16 of this ordinance.

(c) The lien provided by Section 13 of this ordinance shall not take precedence over previously recorded liens if:

1. The county failed to comply with the requirements of Section 14 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 county taxes.

(e) The county 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 county to comply with Sections 14 and 15 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 county has against the property of the violator.

SECTION 16. Immediate action.

Nothing in this ordinance shall prohibit the county 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.

SECTION 17. Effect.

This ordinance shall take effect after its passage and publication according to law.

Given first reading on the 10th day of January, 2023. Given second reading on the _____ day of _____, 2023, 7:00 pm EST at the Meade County Courthouse, 516 Hillcrest Drive, Brandenburg, Kentucky, 40108; Adopted by the Fiscal Court of Meade County, Kentucky on the _____ day of _____, 2023.

MEADE COUNTY FISCAL COURT:

BY: _____

TROY KOK

MEADE COUNTY JUDGE EXECUTIVE

ATTEST:

TAMMY GRAHAM

FISCAL COURT CLERK

APPROVED:

BY: _____

SIDNEY DURHAM

Meade County Attorney