

SCOTT COUNTY FISCAL COURT  
ORDINANCE NO. 16-10

AN ORDINANCE RELATED TO CODE ENFORCEMENT

SUMMARY

Creates a Code Enforcement Board pursuant to KRS 65.8801 to 65.8839; establish the terms, organization, powers and jurisdiction of the Board; establish procedures for enforcement proceedings, issuance of notices of violation, citations, contesting a citation, hearings, notice, final orders, and appeals; authorizes hearing officers to conduct hearings on behalf of the Board; establish procedures for abatement, liens and fines, lienholder notification system, lien priority, due process and right of entry, stop work orders, administrative search warrants; establish a schedule of penalties applicable to violations of ordinances subject to enforcement by the Board; provides for enforcement by citation officers; provides for non-exclusivity of remedy; creates a Vacant property Review Commission pursuant to KRS 99.700 to 99.730 and assigns those duties to the Code Enforcement Board; amends the code of ordinances to adopt the most recent versions of the International and Kentucky Building and Residential Codes; amends the code of ordinances to adopt the 2012 International Property Maintenance Code with local amendments; provides for severability of provisions, repeal of inconsistent ordinances and an effective date of December 22 2016 and after passage and publication.

The full text of Ordinance 16-10 is available for examination in the Office of the County Judge Executive, Courthouse, 101 East Main Street, Georgetown, Kentucky 40324.

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INTRODUCED AND PUBLICLY READ FIRST TIME: December 13, 2016

PUBLICLY READ SECOND TIME AND PASSED: December 22, 2016

APPROVED: George Lusby  
George Lusby, County Judge Executive

ATTEST: Stacy Hamilton  
Stacy Hamilton, Scott Fiscal Court Clerk

I, Glenn M. Williams, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 198 East Washington Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 16-10 of Scott County, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.

Glenn M. Williams  
Glenn M. Williams

COUNTY OF SCOTT, KENTUCKY  
ORDINANCE NO. 16-10

AN ORDINANCE RELATED TO CODE ENFORCEMENT

WHEREAS, the Kentucky State Legislature has mandated that municipalities codify new nuisance ordinances to include certain provisions; and

WHEREAS, the County of Scott desires to comply with said mandate;

NOW THEREFORE, be it ordained by the Scott Fiscal Court as follows:

ONE

Section 860.0 of the Scott County Code of Ordinances is created to read as follows:

Code Enforcement Board and Procedures

1. Title:

This Division shall be known and may be cited as the "Scott County Code Enforcement Board Ordinance."

2. Definitions:

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

3. Code Enforcement Board created:

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 a Scott County Code Enforcement Board (hereinafter the "Code Enforcement Board") which shall be composed of five (5) members and two (2) alternates. In the event the County enters an interlocal agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint code enforcement, the number of members shall be as set forth in the Agreement

4. Jurisdiction

a. The Code Enforcement Board shall have jurisdiction over and shall enforce Scott County Code of Ordinances with respect to the Property Maintenance Code, Nuisances, and all other ordinances herein or hereafter adopted or amended which specifically provide for

enforcement by Citation Officers, Code Enforcement Officers or the Code Enforcement Board in the manner set forth in this Division.

b. Upon execution and effect of an interlocal agreement with the City, any other local government may utilize the Code Enforcement Board to enforce any ordinance of that local government.

#### 5. Powers of the Code Enforcement Board.

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 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.

c. The Code Enforcement Board shall have the power to:

i. Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with the requirements of KRS 65.8801 to 65.8839 and ordinances of the local government or local governments creating the board.

ii. Conduct hearings, or assign a hearing officer to conduct a hearing, to determine whether there has been a violation of any ordinance that the board has jurisdiction to enforce.

iii. To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Board, or by an assigned hearing officer, may be served by any code enforcement officer.

iv. To take testimony under oath. The Chairperson or assigned hearing officer shall have the authority to administer oaths for the purpose of taking testimony.

v. To make findings of fact and issue orders necessary to remedy any violation of any ordinance that the Board has jurisdiction to enforce.

vi. To impose civil fines as authorized on any person found to have violated an ordinance over which the Board has jurisdiction.

#### 6. Appointment of Members; Term of Office; Removal from Office; Oath; and Compensation.

a. Members of the Code Enforcement Board shall be appointed by the Judge Executive, subject to approval of the Fiscal Court.

b. Initial Board appointments shall be as follows:

- I. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;
- li. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and
- III. One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of three (3) years.

c. All subsequent appointments shall be made for a term of three (3) years.

d. The Judge Executive may appoint, subject to the approval of the Fiscal Court, two (2) alternate members to serve 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.

e. Any vacancy on the Board shall be filled by the Judge Executive, subject to approval of the Fiscal Court, within sixty (60) days. If a vacancy is not filled within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

f. Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government 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 Board must, before entering into office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

h. Members of the Board shall be compensated at the rate of one hundred dollars (\$100.00) per member, per meeting attended, not to exceed twelve hundred dollars \$1,200 per member per year. Alternates shall be compensated one hundred dollars (\$100) for each meeting to which they are called to attend as an alternate member and for actual expenses, but otherwise shall not be compensated.

i. No member of the Board may hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government that has created the code enforcement board.

j. In the event the County enters an Interlocal Agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code Enforcement, appointment of members and alternates, removal, and qualifications shall be governed by the terms of the Interlocal Agreement, with each participating jurisdiction appointing at least one member.

k. Each member of the Code Enforcement Board shall have resided within the boundaries of the County for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office. In the event the County enters an Interlocal Agreement (approved November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code Enforcement, Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

#### 7. Organization of Board; Quorum.

a. The Board shall, upon the initial appointment of its members, and annually thereafter, elect a Chair from among its members. The Chairperson shall be the presiding officer and a full voting member of the Board. If the chairperson is not present at a meeting, the Board shall select one of its members to preside in place of and exercise the powers of the chairperson.

b. The Board shall hold regular meetings at least monthly on a schedule to be determined by the Board. Meetings other than established regular meetings shall be special meetings held in accordance with the Kentucky Open Meetings Act.

c. All meetings and hearings of the Board shall be held in accordance with the applicable State statutes and the Kentucky Open Meetings Act.

d. The presence of at least a majority of the Board's entire membership shall constitute a quorum. The affirmative vote of a majority of the members constituting a quorum shall be necessary for any official action to be taken. 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 and shall not be counted for purposes of establishing a quorum.

e. 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. All meetings and hearings of the code enforcement board shall be open to the public.

g. The County shall provide clerical and administrative personnel for the proper conduct of the duties of the Board. In the event the County enters an Interlocal Agreement (approved

November 10, 2016), pursuant to KRS 65.210 to 65.300 and 65.8811, for joint Code Enforcement, members of the agreement shall contribute to the costs of clerical and administrative support.

#### 8. Enforcement Proceedings.

a. Enforcement proceedings before a code enforcement board or hearing officer shall be initiated by the issuance of a citation by a code enforcement officer.

b. When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation by:

I. Personal service to the alleged violator;

ii. 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

iii. 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 of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the citation is issued.

c. The citation issued by the code enforcement officer shall contain, in addition to any other information required by rule of the Board:

I. The date and time of issuance;

ii. The name and address of the person to whom the citation is issued;

lii. The date and time the offense was committed;

Iv. The address where the offense was committed;

V. The facts constituting the offense;

Vi. The section of the code or the number of the ordinance violated;

Vii. The name of the code enforcement officer;

Viii. When the code enforcement officer has 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, a statement so indicating;

Ix. If applicable, the time period within which the person must remedy the violation;

X. A specific statement of the remediation necessary.

Xi. A statement that, if the person fails to remedy the violation within the time period specified, the county may abate the violation and bill the person for abatement costs plus an administrative fee of \$100;

Xii. When specifically authorized by the ordinance or code being violated, the citation and any applicable penalties will be waived if the violation is remedied within the time period specified by the ordinance, which period shall be set forth in the citation;

Xiii. A statement that the county shall possess a lien on property owned by the person for all charges and fees incurred by the county in connection with the enforcement of the ordinance, including abatement costs;

Xiv. The civil fine that will be imposed for the violation if the person does not contest the citation;

Xv. The maximum civil fine that may be imposed if the person elects to contest the Citation;

Xvi. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

Xvii. A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation within seven (7) days of the date the citation is issued, 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 and that the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

Xviii. A statement that contesting the citation shall serve to toll the county's abatement of the violation except where the code enforcement officer has 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.

d. After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board. The code enforcement officer, hearing officer, or code enforcement board may also elect to provide notice of the issuance of the citation to any lienholder with an interest in the subject premises.

e. Notices of violation or citations involving motor vehicles shall be sent to the property owner or other person having control or management of the premises or property, and the motor vehicle owner if known.

f. Nothing in this Subchapter 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.

g. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or filing written notice with the County Judge (or designated agent) requesting a hearing 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 to contest the citation 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 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.

Notice of the final order shall be provided to the cited violator in the manner set forth in subsection 10(g) of this Article.

h. Notwithstanding the provisions of paragraph (g) of this section, whenever a hearing before an administrative body is required by law for a particular violation, remedy or abatement action, or when, in the opinion of a Code Enforcement Officer or the County Attorney, such a hearing is necessary or advisable, the Code Enforcement Officer or the County Attorney may request such a hearing before the Board, and the Board shall schedule the hearing and provide notice to the person to whom the citation is issued in accordance with the provisions of this Section.

i. Citations shall be payable to the County of Scott and sent to the Office of the County Judge/ Executive at 101 East Main Street, Georgetown, KY 40324.

j. Notice of Violation.

i . Unless the code enforcement officer has 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, a Notice of Violation shall be issued in lieu of a citation for violation of any ordinance subject to enforcement under this Division, where any of the following is true:

a. the property upon which the violation exists has not been the subject of a citation or notice of violation within the past 24 months, or

b. the owner of the property has not been issued a citation or notice of violation within the past 24 months, or

C. the alleged violator has not been issued a citation or notice of violation within the past 24 months.

li. The Notice of Violation shall be in writing and shall give notice of:

a. The date and time of issuance;

B. The name and address of the person to whom the citation is issued;

C. The date and time the offense was committed;

D. The address where the offense was committed;

E. The facts constituting the offense;

F. The section of the code or the number of the ordinance violated;

G That the person must remedy the violation within five (5) calendar days or a citation will be issued;

iii. A Notice of Violation shall be delivered in the same manner as a citation, as specified in subsection 8(b) of this Division.

Iv. A Notice of Violation is not appealable.

v.If a Notice of Violation is not remedied within 5 calendar days, the code enforcement officer is authorized to issue a citation.

## 9. Hearing Officer

a. The Code Enforcement Board may assign a hearing officer to conduct hearings in accordance with the procedures set forth in KRS 65.8828.

b. Any member of the Board, including the chair, may be assigned as a hearing officer. In the event a Board member is assigned as a hearing officer, he or she shall not participate in the Board's hearing, deliberation or decision of the appeal.

c. An individual that is not a member of the Board may be assigned by the Board as a hearing officer as long as the individual does not hold any elected or appointed office or position of

employment with the County or any jurisdiction participating in an Interlocal Agreement for joint enforcement through the Board.

d. Any person assigned to be a hearing officer by a code enforcement board shall have experience or shall have received training in the code enforcement process and basic procedural due process, as specified in the ordinance creating the code enforcement board. The experience or training shall include, at a minimum, acquired knowledge regarding a party's fundamental due process right to:

- i . Be accompanied and advised by counsel at the hearing;
- li. Present evidence and witnesses on his or her behalf at the hearing;
- lii. Examine the evidence opposing the party; and
- iv. Confront and cross-examine the witnesses opposing the party.

e. An assigned hearing officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses, and evidence to the hearing to which the officer is assigned.

f. Any hearing conducted by a hearing officer under this section shall conform to the procedural requirements of KRS 65.8828(1) to (5).

g. The hearing officer shall make written findings of facts and conclusions of law, and enter a final order consistent with the authority granted to the Board under KRS 65.8828(4).

III. The findings of fact, conclusions of law, and final order shall be forwarded within twenty-four (24) hours of entry to the alleged violator in the manner required by KRS 65.8828(5) and to the Board.

Iv. A final order issued by a hearing officer under this subsection may be appealed by the alleged violator to the Board. The appeal shall be filed in writing to the Board within seven (7) days of the receipt of the final order. The failure to file an appeal within seven (7) days shall render the order entered by the hearing officer final for all purposes and an individual receiving a final order under this subparagraph shall be required to exhaust the administrative remedy of appeal to the Board before appealing to District Court as authorized under KRS 65.8831.

#### 10. Hearing, Notice and Final Order.

a. When a hearing has been requested, the Board, through its clerical and administrative staff, shall schedule a hearing.

b. 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 regular first class mail, 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 (18) years of age or older and who is informed of the contents of the notice. The Board may also elect to provide notice of hearing to any lienholders with an interest in the subject premises.

c. 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 that 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. Notice of the final order shall be provided to the cited violator in the manner set forth in KRS 65.8828(5).

d. All testimony shall be taken under oath and recorded. The Board or assigned hearing officer shall take testimony 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. Each case that is the subject of a hearing may be presented by an attorney selected by the local government or by a member of the administrative staff of the local government. An attorney may either be counsel to the Board or may represent the local government by presenting cases at the hearing, but in no case shall an attorney serve in both capacities.

f. The Board or the assigned hearing officer 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 ordering the offender to do either or both of the following:

I. Pay a civil fine up to the maximum authorized by ordinance; or

ii. Remedy a continuing violation in order to avoid the imposition of a fine as authorized by ordinance.

g. Every final order of the Board or the assigned hearing officer shall be reduced to writing, which shall include the findings and conclusions of the board, and the date the order was issued. A copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the board is issued, the order shall be delivered to that person by regular first-class mail; certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that 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.

#### 11. Appeals; Final Judgment.

a. Within seven (7) days of the entry of a final order issued by the hearing officer, the order may be appealed by the alleged violator to the Board, which shall review the record created before the hearing officer and determine whether there is substantial evidence on the record to support a finding by the hearing officer that a violation was committed. If the Board determines that there is not substantial evidence on the record, it shall issue an order dismissing the citation. If the Board determines that there is substantial evidence on the record that a violation was committed, it shall issue a final order upholding the order entered by the hearing officer. The failure to file an appeal within seven (7) days shall render the order entered by the hearing officer final for all purposes and an individual receiving a final order under this subparagraph shall be required to exhaust the administrative remedy of appeal to the code enforcement board before appealing to District Court as authorized under KRS 65.8831.

b. An appeal from any final order of the Board may be made to the Scott 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 District Court shall review the final order de novo.

c. A judgment of the Scott District Court may be appealed to the Scott Circuit Court in accordance with the Rules of Civil Procedure.

d. If no appeal of the final order of the Board is filed within the time allowed in subsection (a) of this section, the Board's order shall be deemed final for all purposes.

#### 12. Abatement.

a. All violations of ordinances and codes enforced under this Division shall be remedied by the violator within the time period specified in the specific ordinance or code, unless the code enforcement officer determines that a shorter time is warranted. In the absence of a specified time period, the time period for remedy of a violation shall not exceed (10) days, however the code enforcement officer, Board or hearing officer may grant an extension of this time period. The time period for the violation to be remedied shall not be less than twenty-four (24) hours following issuance of the citation, unless the code enforcement officer has 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. The time period shall commence upon the issuance of a citation in accordance with subsection 8(b) of this Section.

b. If the property owner so served does not abate the violation within the applicable time period, the county may proceed to abate such violation, keeping an account of the expense of

abatement. The abatement costs, including 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 local government ordinance, shall be charged to and paid by the property owner.

c. Filing of notice to contest a citation in accordance with subsection 8(g) of this Section shall serve to toll the county's abatement of the violation, unless the code enforcement officer has 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. In the event the Board or a hearing officer determines that the violation contested did occur, the Board or hearing officer may order that the abatement proceed immediately or within a specified time period not to exceed 30 days.

d. The code official shall bill the property owner of such premises at least once following abatement. No lien claimed shall be filed against the property until seven (7) days have elapsed after the bill is sent. If the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill.

### 13. Liens, Fines, Charges and Fees.

a. The County shall possess a lien on property owned by the person found by a final, non-appealable final order as defined by KRS 65.8805(8), 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 the regularity of the proceedings pursuant to KRS 65.8801 to 65.8839. The lien:

1. Shall be recorded in the office of the county clerk;

li. Shall be notice to all persons from the time of its recording and shall bear interest until paid;

lii. Subject to KRS 65.8836, shall take precedence over all other liens, except state, county, school board, and city taxes;

lv. Shall continue for ten (10) years following the date of the nonappealable final order, or final judgment of the court; and

V. May be enforced by judicial proceedings, including an action to foreclose.

b. A copy of the notice of the lien shall be mailed to the owner of the premises. However, the failure to mail the owner a copy of such notice or the failure of the owner to receive such notice shall not affect the right of the county to enforce its lien for such charges as provided by law.

c. In addition to the remedy prescribed 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 County in connection with the enforcement of the applicable Code of Ordinances.

d. The County Attorney is authorized to bring a civil action for the collection of delinquent liens and other costs incurred by the County, and the County shall have the same remedies as provided for the recovery of a debt. The County Attorney is granted authority to use his or her best judgment and discretion to settle any fine and remedy assessments and to release liens as he/she deems to be in the best interests of the County. The County Attorney is further authorized to make a determination that a lien not be filed if the cost of the lien and collection is greater than the amount of the lien, when intervening in existing litigation is not cost effective or when the lien would not be enforceable as a matter of law. The County Attorney is also authorized to release any existing liens that meet the above criteria.

e. Lienholder notification system.

Pursuant to KRS 65.8835 - 65.8836, the county shall obtain and maintain priority over previously filed liens in accordance with the following provisions:

- (i) 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.
- (ii) In order to receive the notification, the registrant shall submit the following information to the County Clerk:

- 1. Name;
- 2. Mailing address;
- 3. Phone number; and
- 4. Electronic mailing address.

(iii) A registrant may use the electronic form provided on the county Web site to submit the information required by subsection (ii) of this Section. It shall be the responsibility of the registrant to maintain and update the required contact information with the county. The county 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.

(iv) At least once per month and not more than once per week, the county (or agency designated by the County) shall send electronic mail notification of all final orders entered pursuant to this Article since the last date of notification to each party registered pursuant to this Section. The notification shall provide an electronic link to the county code enforcement database located on the county 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.

(v) If an appeal is filed on a final order pursuant to this ordinance, the county shall send electronic mail notification to all registrants.

(vi) Within ten (10) days of the issuance of a final order pursuant to this Article, the county shall update its code enforcement database to reflect the issued final order, and shall post the notification required by subsection (iv) of this Section containing an updated link to the code enforcement database on the county Web site.

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

(viii) In the event the County enters into an Interlocal Agreement (approved November 10, 2016) with the City of Georgetown, the responsibilities outlined above for the Lienholder Notification System will be assigned to the City and/or the appropriate City Agency to implement and maintain same.

f. Lien priority

(i) A lienholder of record who has registered pursuant to Section 13(e) of this Article may, within forty-five (45) days from the date of issuance of notification under Section 13(e) of this Article:

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.

(ii) Nothing in this Section shall prohibit the county from taking immediate action if necessary.

(jii) The lien provided by this Article shall not take precedence over previously recorded liens if:

1. The county failed to comply with the requirements of Section 13(e) of this Article for notification of the final order; or

2. A prior lienholder complied with subsection (i) of this Section.

(iv) A lien that does not take precedence over previously recorded liens under subsection 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.

(v) The county may record a lien before the forty-five (45) day period established in subsection (i) of this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the county shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.

(vi) 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 (iii) of this Section, shall not limit or restrict any other remedies the county has against the property of the violator.

#### 14. Due Process and Right of Entry

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused or the person having charge or control cannot be located, the code official shall utilize the procedures set forth in Section 18 of this Division to obtain an Administrative Search Warrant, unless a lawful exception to the requirement for a warrant exists.

#### 15. Penalties.

a. Unless otherwise stated therein, the penalty for violation of any ordinance or code provision enforced by the Board under this Division shall be as follows:

(i) The maximum civil fine that may be imposed for each offense if the citation is contested is \$2,000.

(ii) If the citation is not contested, civil fines will be imposed according to the following schedule:

- a. For a first offense within a 24-month period, where the violation is remedied within the time period required by the ordinance or for which no remediation is required, there shall be no fine.
- b. For a first offense within a 24-month period, where the violation is not remedied within the time period allowed by the ordinance, the penalties shall be as set forth in subsection (g) of this Section.
- c. For the second offense within a 24-month period, the initial fine shall be two hundred dollars \$200.
- d. For the third offense within a 24-month period, the initial fine shall be three hundred dollars \$300.
- e. For the fourth offense within a 24-month period, the initial fine shall be four hundred dollars \$400.
- F. For the fifth and subsequent offenses within a 24-month period, the initial fine shall be five hundred dollars \$500.
- g. For any offense that continues unremedied beyond the time period by which the ordinance requires the violation to be remedied, an additional three hundred dollars (\$300) for every seven (7) days or portion thereof beyond the remediation date shall be added to the initial fine until the violation is remedied by the responsible person or is abated by the county or until the total fine reaches one thousand dollars (\$1,000).
- H. The maximum civil fine that may be imposed for each offense if the citation is not contested is \$1,000.

Example for illustration purposes only: Owner receives a citation for a second offense within 24 months for a property maintenance code violation. The minimum fine is \$200. Owner does not contest the citation.

The ordinance specifies a 7-day remediation period. Sixteen days after the citation is issued, owner remedies the violation. Code enforcement will issue a bill to Owner for \$800 (\$200 + (\$50\*6 days) + (\$100\*3 days)).

## 16. Stop Work Order

A code enforcement officer may order the immediate cessation of any construction or reconstruction work being done in violation of any ordinance or being done on property that is in violation of any ordinance. The stop work order shall be issued in conjunction with or in supplement to a citation for the violation. Work shall not resume until the violation has been remedied and any applicable fees and fines have been paid.

## 17. RESERVED

## 18. Administrative Search Warrant.

### a. Definition.

i) An administrative search warrant is a written order of a judge or other officer authorized by statute to issue search warrants that commands the search or inspection of any property, place or thing, and the seizure, photographing, copying, or recording of property or physical conditions found. An administrative search warrant authorizes an officer to enter any premises to conduct any inspection, sampling, and other functions required or authorized by law to determine compliance with the provisions of an ordinance, code, or other regulation including, but not limited to, those relating to the use, condition, or occupancy of property or structures.

### b. Who may apply for warrant.

(i) Whenever a law requires or authorizes an inspection or investigation of any place or thing, the administrative officer charged to enforce that law, acting in the course of his or her official duties, may apply for an administrative search warrant. For this purpose, administrative officer includes a building inspector, code enforcement officer, fire chief, their deputies, or other duly authorized representative, as the case may be.

ii) Before filing an application for an administrative search warrant, the administrative officer shall consult with legal counsel as to its legality in both form and substance.  
Contents of application.

### (i) The application shall:

(a) Be supported by an affidavit sufficient under Section 10 of the Kentucky Constitution and be sworn to before an officer authorized to administer oaths as provided in the Kentucky Rules of Criminal Procedure or other applicable law;

(b) State the applicant's status in applying for the warrant, the ordinance or regulation requiring or authorizing the inspection or investigation, and the nature, scope and purpose of the inspection to be performed;

© Describe the property or places to be entered, searched, inspected or

seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(d) State:

(A) that, for the purpose of making an inspection, access to the property has been sought from and refused by the regulated party, or

(B) that, after making a reasonable effort, the applicant has been unable to locate the regulated party, or

(C) that the facts or circumstances reasonably show that the purposes of the inspection or investigation might be frustrated if entry were sought without first procuring a warrant; and

(e) State the basis upon which sufficient cause exists to search or inspect for violations of the ordinance or regulation specified.

d. Grounds for issuance.

(i) An administrative search warrant may issue upon a showing that probable cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied. Probable cause may be shown by:

(a) Reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection and that those standards are satisfied with respect to the location;

(b) A reasonable administrative inspection program exists regarding the condition of the property and that the proposed inspection comes within that program;

(c) A health, public protection or safety ordinance, regulation, rule, standard or order and that specific evidence of a condition or nonconformity exists with respect to the particular location; or

(d) An investigation is reasonably believed to be necessary in order to determine or verify the condition of the location.

(ii) A copy of the administrative search warrant and supporting affidavit shall be retained by the issuing officer and filed by such officer with the clerk of the court to which the warrant is returnable.

e. Contents of warrant.

(i) The warrant:

(a) May direct its execution and return by the administrative officer charged to enforce the ordinance or regulation specified in the application;

(b) Shall specify the property, place, structure, premises, vehicle or records to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

© May contain a direction as to the time and manner of its execution; and

(d) Shall command the return to the appropriate court of any evidence of ordinance violations found, or of any property seized pursuant thereto, or a description of such property seized, to be dealt with according to law.

f. Execution and return.

i) Unless otherwise prescribed in the warrant, the officer executing an administrative search warrant shall make return thereof to the appropriate court within a reasonable time of its execution. The return shall show the date and hour of service.

(ii) Except as provided in the following sentence, in executing a search warrant the person authorized to execute it shall before entry make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show him or her the warrant or a copy thereof upon request. In executing a search warrant, the person authorized to execute the warrant need not inform anyone of his or her authority and purpose, as prescribed in the preceding sentence, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition, but shall orally announce their credentials and authority to execute the warrant prior to entry.

(iii) If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place. The return shall be accompanied by any photographs, copies or recordings made, and by any property seized, along with a copy of the itemized receipt of such property required by this section.

(iv) The officer may summon as many persons as he deems necessary to assist him in executing the warrant and may request that a peace officer assist in the execution of the warrant.

19. RESERVED.

20. Remedies not exclusive

Any code enforcement officer designated by the interlocal agreement as authorized to enforce the provisions of KRS 65.8801 to 65.8839 on behalf of the member jurisdictions is hereby

authorized to enforce all county ordinances that specifically provide for enforcement according to the procedures set forth in the Scott County Code Enforcement Board Ordinance.