

CITY OF ST. MATTHEWS
ORDINANCE NO. 24-04
AN ORDINANCE OF THE CITY OF ST. MATTHEWS, 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 city by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with the ordinances in force within the city;

WHEREAS, it is the desire of the city council of the City of St. Matthews, Kentucky to utilize the authority granted in KRS 65.8801 to 65.8839 by creating a City of St. Matthews Code Enforcement Board.

NOW THEREFORE be it ordained by the city council of the City of St. Matthews as follows:

SECTION 1. A new Chapter of the City of St. Matthews Code of Ordinances is hereby adopted as follows:

A. 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:

1. **"Abatement Costs"** means a city's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, 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 city ordinance.
2. **"Citation"** means the city's official form notifying an owner or occupant of ordinance violation(s).
3. **"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.

4. **"Enforcement Officer"** means a city Enforcement Officer, city police officer, or other public law enforcement officer with the authority to issue a citation.
5. **"Final Order"** means any order:
 1. Issued by the code enforcement board in accordance with this chapter;
 2. Issued by an assigned hearing officer in accordance with this chapter;
 3. Created because a violator neither paid nor contested the citation within seven (7) days as provided in this chapter; or
 4. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in this chapter.
6. **"Imminent Danger"** means a condition which is likely to cause serious or life-threatening injury or death at any time.
7. **"Ordinance"** means an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance, or for any city which has in place an Interlocal Cooperation Agreement to perform and enforce the duties of a code enforcement board.
8. **"Owner"** means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property.
9. **"Occupant"** means a person who is living in, or otherwise has custody and control of a Premises.
10. **"Premises"** means a lot, plot or parcel of land, including any structures upon it.

B. CREATION AND MEMBERSHIP

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 within the city, a Code Enforcement Board which shall be composed of no fewer than three 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 and shall be at least twenty-one years of age.

C. ENFORCEMENT POWERS

1. 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.

2. 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.

D. APPOINTMENT OF MEMBERS, TERM OF OFFICE, REMOVAL FROM OFFICE, OATH, COMPENSATION

1. Members of the code enforcement board shall be nominated for appointment by the Mayor with confirmation by the city council.
2. The initial appointment to the code enforcement board shall be as follows:
 1. 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;
 2. 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
 3. 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.
3. All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the city council.
4. The city may appoint two (2) alternate members to serve on the code enforcement board in the absence of regular members. Alternate members shall meet all the qualifications and shall be subject to all the requirements that apply to regular members of the code enforcement board.
5. Any vacancy on the board shall be filled by the city, subject to approval of the city council, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining code enforcement board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.
6. A code enforcement board member may be removed from office by city council for misconduct, inefficiency, or willful neglect of duty. The city council 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 Circuit Court.

7. 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.
8. Members of the code enforcement board shall be reimbursed for actual expenses and compensated in the amount of \$25 per meeting hour.
9. No member of the code enforcement board shall hold any other elected or nonelected office, paid or unpaid, or any position of employment with the city.

E. ORGANIZATION OF BOARD; MEETINGS; QUORUM

1. 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.
2. Regular meetings of the code enforcement board shall be held at the City Hall located at 3940 Grandview Avenue, at the hour of 6 p.m. on the 1st Tuesday day each month if there is business to be undertaken. 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.
3. 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.
4. The presence of at least a majority of the board's entire 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.
5. Minutes shall be kept for all proceedings of the code enforcement board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

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

G. POWERS OF THE CODE ENFORCEMENT BOARD

The City of St. Matthews Code Enforcement Board shall have the following powers and duties:

1. To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with this ordinance.
2. To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.
3. To subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas issued by the code enforcement board may be served by any police officer.
4. To take testimony under oath. The chair shall have the authority to administer oaths for the purpose of taking testimony.
5. 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.
6. To impose civil fines, as authorized, on any person found to have violated an ordinance over which the board has jurisdiction.
7. To assign a hearing officer to conduct hearings in accordance with this chapter and for the appointed hearing officer to conduct any hearing with all the powers set out in this chapter.

H. HEARING OFFICER

1. Eligibility.
 - a. The code enforcement board may assign any of its members, including the chair, to be the Hearing Officer.
 - b. The board may assign an individual who is not a member of the board to be a Hearing Officer if the individual does not hold any elected or appointed office or position of employment with the city. The Hearing Officer does not have to be a resident of the city. The Hearing Officer shall be compensated at an hourly rate determined by the city.
 - c. The Hearing officer shall have all the powers to conduct the hearing and gather and compel evidence set out for the Code Enforcement Board in this chapter.
2. Experience and training.
 - a. A person assigned to be a Hearing Officer by the code enforcement board shall have experience or shall have received training in the code enforcement

process and basic procedural due process. At a minimum, the experience or training shall include acquired knowledge regarding a party's fundamental due process right to:

- i. Be accompanied and advised by counsel at the hearing;
 - ii. Present evidence and witnesses on his or her behalf at the hearing;
 - iii. Examine the evidence supporting the citation; and
 - iv. Confront and cross-examine the witnesses supporting the citation.
- b. Before assigning a person as a Hearing Officer, the Code Enforcement Board shall inquire as to that person's experience or training qualifying them to be a hearing officer.
3. Hearing powers and procedures.
- a. A Hearing Officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses, and evidence.
 - b. Any hearing conducted by a Hearing Officer shall conform to the procedural requirements in this chapter.
 - c. The Hearing Officer may conduct the hearing and may draft proposed findings of fact, but the Code Enforcement Board shall hear and rule on the evidence and decide each case.

I. ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Code Enforcement Board or Hearing Officer:

1. Enforcement proceedings shall only be initiated by the issuance of a citation by an Enforcement Officer.
2. Except when immediate action is necessary pursuant to this chapter, if a Enforcement Officer believes, based on his personal observation or investigation, that a person has violated a city 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. If the alleged violator fails or refuses to remedy the violation within the time specified, the Enforcement Officer is authorized to issue a Citation.
3. The Enforcement Officer shall issue the Citation by one of the following methods:
 - a. Personal service to the alleged violator;
 - b. 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

- c. 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, or e-mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.
4. The citation issued by the Enforcement Officer shall contain the following information:
 - a. The date and time of issuance;
 - b. The name and address of the person to whom the citation is issued;
 - c. The physical address of the premises where the violation occurred;
 - d. The date and time the offense was committed/observed;
 - e. The facts constituting the offense;
 - f. The section of the code or the number of the ordinance violated;
 - g. The name of the Enforcement Officer;
 - h. The civil fine that may be imposed for the violation.
 - i. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - j. A statement that if the person fails to pay the civil fine and remedy the violation 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 or Hearing Officer 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.
5. After issuing a citation to an alleged violator, the Enforcement Officer shall notify the code enforcement board by delivering a copy of the citation to the City Clerk.
6. 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 and remedying the violation or requesting, in writing, a hearing to contest the citation.
7. 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 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.

8. Notice of the final order shall be delivered 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 delivery.

J. HEARING, NOTICE AND FINAL ORDER

1. When a hearing has been requested, the code enforcement board or city administrative staff shall schedule a hearing.
2. 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; e-mail; 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.
3. 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, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.
4. 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.
5. All testimony at the hearing shall be taken under oath and recorded. Testimony shall be taken from the Enforcement Officer, the alleged violator, and any witnesses to the violation offered by the Enforcement Officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
6. The Code Enforcement Board, based on the evidence, shall determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The Code

Enforcement 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.

7. 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.
8. If the person named in the citation is not present when the final order is issued, the order shall be delivered 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.

K. PRESENTATION OF CASES

Each case before the Code Enforcement Board shall be presented by an attorney selected by the city, an 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 Hearing Officer or may present cases before the Board but shall in no case serve in both capacities.

L. APPEALS; FINAL JUDGMENT.

1. An appeal from a final order of a code enforcement board or assigned hearing officer following a hearing conducted pursuant to this chapter may be made to the Jefferson 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.
2. If no appeal from a final order following a hearing is filed within the time period set in subsection (1) above, the order shall be deemed final for all purposes.

M. ORDINANCE FINE SCHEDULE

Violations of any ordinance enforced by the city Enforcement Officer, Code Enforcement Board or an assigned Hearing Officer may be subject to the penalty section of the individual ordinance violated. In the alternative, the city Enforcement Officer, Code Enforcement Board or any assigned Hearing Officer may in his or her discretion, use the following schedule of standard civil fines. Each day during which any such offence is committed, continued, or allowed shall be a separate offense. The following maximum penalties may be imposed at the discretion of the code

enforcement board or hearing officer:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Animals	\$100.00	\$200.00	\$300.00
Building Code	\$500.00	\$750.00	\$1,000.00
Nuisance	\$75.00	\$150.00	\$250.00
Licensing	\$500.00	\$750.00	\$1,000.00
Signage	\$50.00	\$100.00	\$700.00
Littering	\$50.00	\$100.00	\$200.00
Parking	\$50.00	\$100.00	\$200.00
Streets/Sidewalks	\$50.00	\$100.00	\$200.00

N. LIENS, FINES, CHARGES AND FEES

1. The Enforcement Officer or Code Enforcement Board, upon finding there is a violation of the city ordinances, is also authorized to require compliance, in addition to the fines set out in this chapter and find that each day of non-compliance after said finding will constitute the imposition of another fine for each day's violation, up to the following maximums. On first violation, the maximum total fine for each person cited is \$1,000. On second violation that occurs within a 12-month period, the maximum total fine for each person cited is \$3,000. On third violation that occurs within a 12-month period the maximum total fine for each person cited is \$5,000.
2. The city shall possess a lien on property owned by the person found by a non-appealable final order of the code enforcement officer, board, hearing officer, 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. An affidavit of the 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.
3. The lien shall be recorded in the office of the Jefferson 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.
4. Subject to this chapter, 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.

5. In addition to the remedy prescribed herein, the person found to have committed the violation shall be personally responsible 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. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

O. LIENHOLDER NOTIFICATION SYSTEM

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

1. 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.
2. In order to receive the notification, the registrant shall submit the following information to the code enforcement officer:
 - a. Name;
 - b. Mailing address;
 - c. Phone number; and
 - d. Electronic mailing address.
3. The city shall maintain the records created under this Section for ten (10) years following their issuance.

P. LIENS

1. A lienholder of record who has registered pursuant to this chapter may, within forty-five (45) days from the date of issuance of notification under this chapter:
 - a. Correct the violation, if it has not already been abated;
 - b. or 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.
2. Nothing in this Section shall prohibit the city from taking immediate action if necessary, under this chapter.
3. The lien provided by this chapter shall not take precedence over previously recorded liens if:
 - a. The city failed to comply with the requirements of this chapter for notification of the final order; or
 - b. A prior lienholder complied with the registration requirement in this Chapter.

4. A lien that does not take precedence over previously recorded liens under this chapter shall, if the final order remains partially unsatisfied, take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
5. The city may record a lien before the forty-five (45) day period established in this chapter. 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.
6. Failure of the city to comply with this chapter, or failure of a lien to take precedence over previously filed liens as provided in this chapter, shall not limit or restrict any other remedies the city has against the property of the violator.

Q. IMMEDIATE ACTION

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.

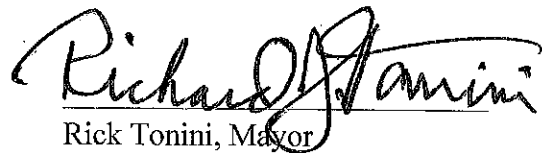
SECTION 2:

This ordinance shall take effect on its passage, approval, and publication as required by law.

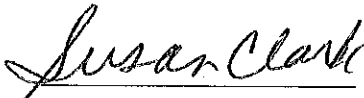
First Reading: May 18, 2024

Second Reading: Sept 24, 2024

Adopted this 24 day of Sept, 2024.


Rick Tonini, Mayor

ATTEST:


Susan Clark, City Clerk

Those in Favor: 8

Those Opposed: 0