

CITY OF LEBANON JUNCTION
ORDINANCE 15- 01

AN ORDINANCE REPEALING ORDINANCE 154 AND ORDINANCE 95-1 AND PROVIDING FOR THE ABATEMENT OF NUISANCES WITHIN THE CITY OF LEBANON JUNCTION, KY.

WHEREAS the City Council of the City of Lebanon Junction desires to repeal prior Ordinances regarding Nuisances and their abatement and enact a new Ordinance regarding Nuisances and abatement of Nuisances within the city,

AND WHEREAS the Kentucky Revised Statutes authorize local governments to enact Nuisance codes and set out requirements for such codes,

NOW THEREFORE, pursuant to Kentucky Revised Statute 82.700 *et seq.*, be it ordained by the City Council of the City of Lebanon Junction, Kentucky:

SECTION ONE: Ordinance 154 and Ordinance 95-1 are hereby repealed and abolished.

SECTION TWO: NUISANCES PROHIBITED. It shall be unlawful for any owner or owners of any land within the city to create or permit a Nuisance upon said property.

SECTION THREE: DEFINITIONS.

(1) "Nuisance" is hereby defined as any public health or safety hazard or other deleterious condition and includes but is not limited to the following:

- (a) Any unfit or unsafe or dilapidated structure: any structure which is unfit or unsafe for human habitation, occupancy, or use, or having conditions existing in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the City; any structure in a dilapidated or unfinished condition, or not completely sided with a commonly used wood, metal, plastic, brick or stone exterior siding product or such exterior material is peeling, faded or otherwise unkempt.
- (b) Any motor vehicle, boat, trailer, or camper, which is inoperative or unfit for further use for which it was intended, unless stored within a garage; but this does not apply to junked, wrecked, or non-operative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer as defined under the provisions of KRS 190.010(8), or any motor vehicle as defined in KRS 281.011 that is owned, controlled, operated, managed, or leased by a motor carrier.

- (c) Any vehicle, trailer, or camper parked in the front yard of any residence except on the driveway and in accordance with City parking ordinances.
- (d) Any accumulation of rubbish or garbage or both which is not within a container made for that use which encloses and conceals its contents from sight and smell and prevents leakage and access by vermin and insects.
- (e) Grass or other vegetation of any state of maturity which exceeds 9 inches in height (except healthy trees, shrubs, bushes, flowers or other ornamental plants or crops tended and cultivated), trees or shrubs with branches which hang lower than eight (8) feet above any sidewalk or street within the City right-of-way or easement, and vegetation which, regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash, or which harbors vermin or pests, or which interferes with the safe use, construction, or maintenance of streets or sidewalks, causes injury to streets or sidewalks, constitutes an obstruction to desired drainage, or interferes with the delivery of public utilities.
- (f) Any tree, stack, or other object standing in such a condition that it endangers the life, limb or property of persons upon the public streets, sidewalks, or other adjacent property by the falling thereof or of portions thereof, or which blocks partially or totally travel upon the public streets, sidewalks, or other property.

(2) "Unfit for human habitation" means dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting ventilation, or construction, infection with contagious disease or the existence on the premises of any unsanitary condition likely to cause sickness among persons using or occupying the structure; this includes such conditions that do or would so endanger users or occupants if the structure were to be used or occupied and does not require current use or occupancy.

(3) "Dilapidated condition" means property which due to damage, wear and tear, or decay, and lack of timely repair or improper repair, is not suitable for its intended purpose or presents an appearance of being abandoned, neglected, damaged or decayed.

(4) "Abatement costs" means the City's costs for and associated with cleaning, 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 to maintain and preserve public health, safety, and welfare in according with this this Ordinance pertaining to the condition of and maintenance of structures or premises.

(5) "Imminent danger" means a condition which could cause serious or life-threatening injury or death at any time.

(6) "Premises" means a lot, plot, or parcel of land, including any structures upon it.

SECTION FOUR: NUISANCE HEARING BOARD.

There is hereby established a "Nuisance Hearing Board", which is hereby empowered to conduct hearings pursuant to KRS 82.710. Said Hearing Board is composed of three (3) person(s) appointed by the Mayor. "Nuisance Hearing Board" also means any hearing officers appointed by the board. Any action of a hearing officer shall be deemed to be the action of the Board once the Board has by majority vote of its members adopted the hearing officer's Findings, Conclusions and Recommendation.

SECTION FIVE: ENFORCEMENT.

(1) Any person wishing to report a Nuisance shall be directed to the City Police Department. A City police officer shall thereafter investigate the allegation to determine whether a Nuisance exists and the owner(s) of record of the property whereupon it exists. Any City police officer may also investigate possible Nuisances based upon their own observations without a complaint having been received from another person.

(2) If the officer determines that a Nuisance exists, he shall write a citation against the premises owner(s) of record. The citation shall state the nature of the violation, the penalties for violation, the procedure to be followed to respond to the notice, and that the determination shall be final unless contested pursuant to the hearing procedures provided hereunder. The citation shall be filed with the City Clerk, and a copy posted conspicuously at the premises. If the officer determines that the Nuisance is of imminent danger, the citation shall so state.

(3) Upon receiving a citation from a City police officer, the City Clerk shall mail, via First-class U.S. Mail, to the offending owner(s) of the premises in question a copy of the citation, which shall note the date of mailing, and keep the original citation along with information as to the date of mailing.

(4) Within ten (10) days from the date the citation is mailed by the City Clerk, any party alleged to be harboring a Nuisance may file a written dispute of the allegation.

(5) The City Clerk shall notify the City police department of property owner responses that the Nuisance has been corrected, and a City police officer shall investigate and then either:

- (a) confirm to the Clerk that the Nuisance has been corrected, or
- (b) inform the Clerk that it has not.
- (c) If the Nuisance is abated within said ten (10) days as outlined in subsection above, then the citation shall be dismissed.
- (d) If the Nuisance is not abated the City may proceed to abate the Nuisance, keeping an account of the expense of the abatement, and the expense shall be charged and paid by the owner(s) unless the owner(s) prevail at hearing before the Nuisance Hearing Board.

- (e) For disputed citations, or when the owner fails to cause the timely abatement of the Nuisance, a hearing shall be set before the Nuisance Hearing Board.
- (6) Hearings.
- (a) Hearings of the Nuisance Hearing Board shall be scheduled by the Nuisance Hearing Board. The Nuisance Hearing Board shall require the City Clerk to mail notice of the scheduled hearing to the property owner(s) of record by first class mail no less than fifteen days prior to the date of hearing.
 - (b) At any Nuisance Hearing Board hearing, all witnesses shall take an oath or affirm that their testimony shall be the truth and only the truth prior to giving their testimony. The City shall have the burden of proving the existence of a Nuisance and the expense incurred in abating the Nuisance. All witnesses may be cross examined by the opposing party. Upon the City announcing its case complete the owner(s) may present evidence in defense of the City's claim of Nuisance and the reasonable expense incurred in abatement thereof.
 - (c) Exhibits may be submitted by the City or the owner(s).
 - (d) The City and the owner(s) may be represented by counsel.
 - (e) Upon the owner(s) announcing their case complete the City may offer rebuttal evidence.
 - (f) At the conclusion of the hearing the Nuisance Hearing Board shall upon appropriate motion go into executive session to deliberate. While in executive session they may receive legal advice from counsel but shall hear no further evidence; after due deliberation they shall return to open session and render their determination as to whether based upon a preponderance of the evidence a Nuisance existed on the subject property; whether the owner was given due notice of said Nuisance; whether the owner failed to cause timely abatement of the Nuisance; whether the City abated the Nuisance; and the amount of expense incurred by the City in abating said Nuisance. Within a reasonable time thereafter the Nuisance Hearing Board shall commit its findings, conclusions and order to writing. The Nuisance Hearing Board shall file said findings, conclusions and order with the City Clerk and cause the Clerk to mail a certified copy of its findings, conclusions and order to the owner(s).
- (7) Penalty.
- (a) Any owner(s) violating any of the provisions of this ordinance shall pay a civil penalty of not less than \$10.00 nor more than \$100.00 for each offense.
 - (b) Each day of continued violation shall constitute a separate offense.

- (c) The expense of abatement incurred by the City shall be charged and paid by the owner(s), along with any penalty, within thirty (30) days from the date of the Nuisance Hearing Board determination.

SECTION SIX: APPEALS.

- (1) An appeal from the Nuisance Hearing Board's determination may be made to the Bullitt County District Court within thirty (30) days of the Board's determination. 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 Rules of Civil Procedure. The action shall be tried *de novo* and the burden shall be upon the City to establish that a violation occurred. If the court finds that a violation occurred, the owner(s) shall be ordered to pay to the City all fines, fees, and penalties occurring as of the date of the judgment. If the court finds a violation did not occur, the City shall be ordered to dismiss the notice and the plaintiff shall be authorized to recover his costs.
- (2) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

SECTION SEVEN: LIEN.

- (1) The city shall possess a lien on property for all fines, penalties, charges, abatement costs, and fees imposed pursuant to this Ordinance. The lien shall be superior to and have priority over all other liens on the property, except state, county, school board, and city taxes. The lien may be enforced by judicial proceeding.
- (2) The affidavit of the responsible officer shall constitute *prima facie* evidence of the amount of the lien and the regularity of the proceedings pursuant to this ordinance, and shall be recorded in the office of the Bullitt County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid.
- (3) Nothing herein shall otherwise affect the rights or obligations between the owner of the property and those persons who claim a security interest in the property.
- (4) In addition to any other remedy authorized by law, the owner(s) of a property upon which a lien has been attached pursuant to this sections shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the City may bring a civil action against the owner and shall have the same remedies a provided for the recovery of a debt owed.

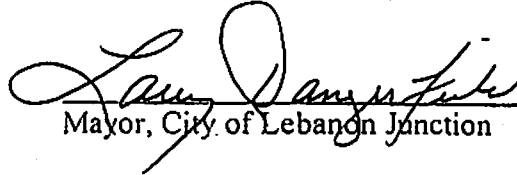
SECTION EIGHT: SEVERABILITY.

Should any section, clause, line, paragraph or part of this Ordinance be held unconstitutional or invalid for any reason by a court of competent jurisdiction, the same shall not affect the remainder of this Ordinance.

THIS ORDINANCE SHALL BECOME EFFECTIVE ON THE DATE OF THE SECOND READING AND ADOPTION HEREOF.

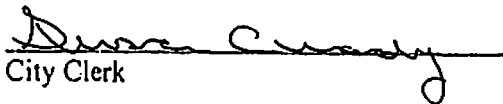
INTRODUCED AND GIVEN FIRST READING IN FULL at a duly convened meeting of the City Council of the City of Lebanon Junction, Bullitt County, Kentucky on the 4 day of May, 2015.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting Passed at the regular meeting of the City Council on the 2 day of June, 2015.
Votes for 5 Votes against 0 Abstentions 0



Mayor, City of Lebanon Junction

ATTEST:



City Clerk