

# ORDINANCE NUMBER 1996-1

COPY

## LINCOLN COUNTY, MISSOURI DUTIES AND POWERS OF THE LINCOLN COUNTY OFFICE OF ENVIRONMENTAL SANITATION

An ordinance establishing the Lincoln County Office of Environmental Sanitation and the duties and powers of the code officials working within the Lincoln County Office of Environmental Sanitation.

### Section 1. Authority

Section 192.300, RSMo. "The county commissions and county health boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the Department of Health in accordance with this chapter or by the Department of Social Services under Chapter 198, RSMo."

The governing authority shall be the Lincoln County Commission.

### Section 2. Applicability.

This ordinance shall apply to any order, ordinance, rule or regulation promulgated by the Lincoln County Commission and assigned by the Lincoln County Commission to be implemented and enforced by the code officials of the Lincoln County Office of Environmental Sanitation.

### Section 3. Definitions.

As used in this ordinance, unless the context otherwise requires, the following terms shall mean:

**3.1 Code official:** The Lincoln County Office of Environmental Health employee who is charged by the Lincoln County Commission with the administration and enforcement of those orders, ordinances, rules and regulations assigned to the

Lincoln County Office of Environmental Sanitation.

**3.2 Occupant:** Any person living or sleeping in a building; or having possession of a space within a building.

**3.3 Property owner:** The person in whose name legal title to the real estate is recorded.

**3.4 Prosecuting Attorney:** The person elected by Lincoln County residents to prosecute traffic and criminal offenses committed against the citizens of Lincoln County.

### Section 4. General

The code official shall administer and enforce all provisions of the orders, ordinances, rules and regulations as assigned to the Lincoln County Office of Environmental Sanitation by the Lincoln County Commission. The code official shall make or cause to be made such surveys, investigations, inspections, and visits as may be deemed necessary to ascertain the existence of a violation of the applicable Lincoln County order, ordinance, rule or regulation. The code official shall collect or cause to be collected and shall analyze or cause to have analyzed all samples, specimens, materials, photographs, or substances from any premise whatsoever wherein or whereon a violation of a Lincoln County order, ordinance, rule or regulation is suspected to exist for the purpose of determining the existence of non-compliance. Every owner, occupant, permit holder, tenant, or employee of a premise, and any other person having information concerning the facts about the creation or the existence of a violation of a Lincoln County order, ordinance, rule or regulation shall furnish to the code official or his/her agent(s) such facts, information, or records as he/she may have or obtain when requested to do so.

## 1996-1: THE LINCOLN COUNTY OFFICE OF ENVIRONMENTAL SANITATION

### Section 5. Notices and Orders.

The code official shall issue all necessary notices or orders to ensure compliance with the orders, ordinances, rules or regulations promulgated by the Lincoln County Commission and assigned for implementation by the Lincoln County Office of Environmental Sanitation.

### Section 6. Right of Entry.

The code official is authorized to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise open to the general public, the code official shall make a reasonable effort to locate the owner or other person or agent having charge or control of the structure or premises, present proper identification, and request entry. If requested entry is refused or not obtained, the code official shall pursue recourse as provided by law.

### Section 7. Identification

The code official shall carry proper identification when inspecting structures or premises in the performance of assigned duties.

### Section 8. Coordination of enforcement

Inspection of premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the code official so charged by the Lincoln County Commission. Whenever inspections are necessary by any other department, the code official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. The Lincoln County Office of Environmental Sanitation shall not, however, delay the issuance of any emergency orders.

### Section 8. Rule-making authority

The Lincoln County Commission shall have the power as necessary in the interest of public health, safety, and general welfare, to adopt and promulgate rules and regulations and assign the

Lincoln County Office of Environmental Sanitation to interpret and implement the provisions of adopted rules and regulations and to designate requirements applicable because of local climatic or other conditions.

### Section 9. Organization

The Lincoln County Commission shall appoint such number of code officials, technical assistants, inspectors, and other employees as shall be necessary for the administration and implementation of adopted orders, ordinances, rules or regulations. The Lincoln County Commission is authorized to designate an employee as a code official who shall exercise all the powers of a code official during the temporary absence or disability of the code official.

### Section 10. Restriction of employees

An official or employee connected in any way with the implementation or enforcement of adopted orders, ordinances, rules or regulations assigned to the Lincoln County Office of Environmental Sanitation by the Lincoln County Commission shall not be engaged in, or directly or indirectly connected with the furnishing of labor, materials, or appliances for the construction, alteration or maintenance of a building or premise unless that person is the owner of the premise or engage in any work that conflicts with official duties or with the interest of the Lincoln County Office of Environmental Sanitation.

### Section 11. Relief from personal responsibility

The code official, officer, or employee charged with the enforcement of the Lincoln County ordinances while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against a code official or employee in the lawful discharge of duties under the provision of adopted orders, ordinances, rules or regulations promulgated by the Lincoln County Commission and assigned to the Lincoln County Office of Environmental Sanitation shall be defended by the legal representative of Lincoln

## 1996-1: THE LINCOLN COUNTY OFFICE OF ENVIRONMENTAL SANITATION

County until the final termination of proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of adopted orders, ordinances, rules or regulations promulgated by the Lincoln County Commission and assigned to the Lincoln County Office of Environmental Sanitation. Any code official of the Lincoln County Office of Environmental Sanitation, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

### Section 12. Official Records

An official record shall be kept of all business and activities of the Lincoln County Office of Environmental Sanitation and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

### Section 13. Emergency measures

**13.1 Imminent danger:** When, in the opinion of the code official, there is imminent danger or situation on a premise which endangers life or threatens the public health, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such property a notice reading as follows: "This Property is Unsafe and its Occupancy has been Prohibited by the Lincoln County Office of Environmental Sanitation." It shall be unlawful for any person to enter such premises except for the purpose of securing the premises, making the required repairs, or removing the hazardous condition.

**13.2 Temporary safeguards:** Notwithstanding other provisions of any adopted code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe, unsanitary, or unhealthy condition, the code official shall order the necessary work to be done and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**13.3 Costs of Emergency work:** Costs incurred in the performance of emergency work shall be paid from the Lincoln County Treasury on approval of the code official. The legal counsel of the Lincoln County shall institute appropriate action against the owner of the premises where the violation condition was located for the recovery of such costs.

### Section 14. Violations.

Whenever the code official shall ascertain or have knowledge that a violation of an adopted order, ordinance, rule or regulation exists, the code official shall notify the person causing, maintaining or permitting the violation to abate or remove such violation. Such notice shall be required but such notice shall not be required as a prerequisite for determination by the code official of the existence of a violation. If the violation is on private property, proof that a person occupies the property or that a person has possession or the right of possession of the property shall constitute prima facie evidence for the purposes of this code that such person has caused, maintained, and/or permitted the violation; and such person shall be responsible for its abatement.

Such notification shall (1) Be in writing, (2) If applicable, include a description of the real estate sufficient for identification, (3) Include a statement of the reasons or reasons why the notice is being issued, and (4) Include a correction order allowing reasonable time for the repairs and improvements required to bring the premises into compliance with the provisions of the code being violated.

Such notification may be made by any one (1) of the following methods: (1) Delivery of the written notice of violation to the owner or the person occupying or having possession of the property, (2) Depositing in the United States mail, postage prepaid, the notice addressed to the owner or the person occupying or having possession or the right of possession of the property, (3) If such property is not occupied, the code official shall notify the owner(s) by posting a notice of the request to abate or remove such violation within a time to be specified in such notice upon such premises and shall send a copy of such notice by registered mail to the last-known address of the owners, (4) If such property is not occupied and the owner is unknown or cannot be located, the code official shall post a notice containing an order to abate the violation on

1996-1: THE LINCOLN COUNTY OFFICE OF ENVIRONMENTAL SANITATION

the property where such violation exists, (5) By delivery of a notice or by depositing in the United States mail, postage, prepaid, a notice to the person causing, maintaining, or permitting a violation.

**Section 14. Penalty**

Any person who shall violate a provision of any order, ordinance, rule or regulation promulgated by the Lincoln County Commission and assigned to the Lincoln County Office of Environmental Sanitation for implementation and enforcement shall upon conviction thereof, be subject to the penalty, if any, specified in the order, ordinance, rule or regulation that has been violated.

**Section 15. Prosecution**

In case of any unlawful act(s), the code official shall institute an appropriate action or proceeding at law to exact the penalty provided in the order, ordinance, rule or regulation that has been violated. The code official will take violations as necessary to the Prosecuting Attorney for prosecution at law or in equity against the person responsible for the violation for the purpose of ordering that person: (1) To restrain, correct, or remove the violation or refrain from any further actions that further the violation; (2) To prevent the occupancy of the premises that is not in compliance.

**Section 16. Transfer of Ownership**

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another the subject property until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the

corrections or repairs required by such compliance order or notice of violation.

**Section 17. Conflict With Other Laws.**

The provisions of any law or regulation establishing standards affording greater protection of the public health and/or safety shall prevail within the respective jurisdictions over the provisions of this ordinance adopted hereunder.

**Section 18. Severability.**

If any portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and that holding shall not effect the validity of the remaining portion of this ordinance.

**Section 19. Revision; Amendments.**

The Lincoln County Commission may convene a hearing and enter into this ordinance any necessary revisions or amendments for the administration of this ordinance. Such revisions or amendments shall represent a separate, distinct and independent entity of the ordinance and may be accomplished by court order or any other method allowed by law.

**Section 20. Effective Date.**

This ordinance shall become effective on the date that this ordinance is acted upon and ordered by the Lincoln County Commission.

  
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Presiding Commissioner

  
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Associate Commissioner District 1

  
\_\_\_\_\_  
Associate Commissioner District 2

1-29-96  
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Date