

AN ORDINANCE DELETING SECTION 9-21 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PERTAINING TO A FIRE PREVENTION BOARD OF APPEALS; AMENDING SECTION 9-22(a) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO CREATE A NEW SECTION 1 WHICH DEFINES THE APPLICABILITY OF THIS SUBSECTION; AMENDING SECTION 9-22(a)(2) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO RENUMBER THE OLD SECTION 1 TO SECTION 2 AND TO INCLUDE THE ORDERS OF OTHER MEMBERS OF THE DEPARTMENT, TO PROVIDE FOR A WRITTEN APPEAL WITHIN 10 BUSINESS DAYS INSTEAD OF 30 AND TO PROHIBIT THE FIRE MARSHALL WHO ISSUED THE ORDER FROM BEING THE HEARING OFFICER; AMENDING SECTION 9-22(a)(3) OF THE CODE OF ORDINANCES RELATING TO FIRE PREVENTION TO RENUMBER THE EXISTING SECTION 2 TO BE A NEW SECTION 3 AND TO INCLUDE THE FIRE CHIEF'S DESIGNEE IN THIS SECTION; AMENDING SECTION 9-22(a) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO RENUMBER THE OLD SECTION 3 TO NEW SECTION 4 AND TO PROVIDE FOR A WRITTEN DECISION WITHIN 5 BUSINESS DAYS; AMENDING SECTION 9-22(b) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO DELETE THE EXISTING SECTION AND REPLACE IT WITH AN APPEAL OF THE FIRE CHIEF'S ORDER AS PROVIDED UNDER STATE LAW; AMENDING SECTION 9-22 OF THE CODE OF ORDINANCES RELATING TO FIRE PREVENTION TO DELETE THE EXISTING SECTION (c) AND REPLACE IT WITH A NEW SECTION (c) PROVIDING THAT ALL ORDERS NOT TIMELY APPEALED SHALL BECOME FINAL.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That section 9-21 of the Code of Ordinances be and hereby is deleted in its entirety.

Section 2 - That section 9-22 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 9-22.

(a) *Appeal of Fire Marshal's Order.*

(1) *Application.* This subsection shall not apply in instances in which the order is issued by the fire chief. In addition, this subsection shall not apply in instances in which an emergency order is issued pursuant to state law that directs the property to be closed to the public or vacated by its occupants until the violation is corrected.

(2) *Authorized.* Where any person seeks relief from an order of the fire marshal or other officer or member of the department acting in an official capacity enforcing provisions of this code, including but not limited to matters of code interpretations, that person may request reconsideration of the fire marshal's decision by appealing in writing to the fire chief within ten (10) business days of the receipt of the order stating the reasons why relief is sought and what decision the person feels should be forthcoming. The fire chief or his designee shall act as a hearing officer and hear such appeals filed. In no instance shall the designee be the fire marshal issuing the order. A hearing on such an appeal shall be held within thirty (30) days after it is received by the fire chief.

(3) *Notice of hearings.* The fire chief or his designee shall give written notice of hearings not less than ten (10) days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered at the hearing. The fire chief shall give such notice to all persons whose pecuniary interests, to the fire chief's knowledge or belief, are to be directly and immediately affected by the hearing. Notice of hearing may be given by delivery to the person to be notified or his agent or by mailing it, postage prepaid, addressed to him at his principal place of business or residence as last of record in the fire chief's office.

(4) *Conduct of hearing.* Any party to the hearing shall have the right to appear in person and to present evidence in support of his interest. The fire chief shall consider all relevant evidence presented at the hearing and shall render a written decision within five (5) business days after the hearing is completed.

(b) *Appeal of Fire Chief's Order.*

Any appeal of the fire chief's order shall be as provided under the applicable state law.

(c) All orders of the fire department which have not been timely appealed shall become final.

Section 3 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

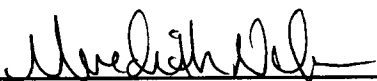
Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 17, 2015

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL
PUBLISHED: March 26, 2015-1t