

CITY OF WEST LIBERTY
CODE ENFORCEMENT BOARD ORDINANCE
ORDINANCE NUMBER 08252014-02

An ordinance creating a Code Enforcement Board for the City of West Liberty, Kentucky

CODE ENFORCEMENT BOARD

SECTION 1: DEFINITIONS.

The following words, terms and phrases when used in this subchapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

“CODE ENFORCEMENT BOARD.” An administrative body created and acting under the authority of the Local Government Code Enforcement Board Act.

“CODE ENFORCEMENT OFFICER.” A city police officer, building inspector, fire chief or other public law enforcement officer with the authority to issue a citation.

“ORDINANCE.” An official act of a city legislative body, which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.

(KRS 83.010 (11))

SECTION 2: CREATION: 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 three (3) 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.

SECTION 3: APPOINTMENT: TERM OF OFFICE: VACANCY: REMOVAL FROM OFFICE: OATH: COMPENSATION.

- (A) Appointment. Members of the Code Enforcement Board shall be appointed by the Mayor of the city, subject to the approval of the City Council.
- (B) Term of office. The initial appointments to a member Code Enforcement Board shall be as follows:
 - (1) First members appointed to a one (1) year term.
 - (2) Second member appointed to a two (2) year term.
 - (3) Third member appointed to a three (3) year term.

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.

- (C) Vacancy. Any vacancy on the Board shall be filled by the Mayor, subject to the approval of the City Council within sixty (60) days of the vacancy.
- (D) Removal from office. A Code Board member may be removed from office by the Mayor for misconduct, inefficiency, or willful neglect of duty. The Mayor must submit a written statement to the member and the City Council setting forth the reasons for removal.
- (E) Oath. All members of the Code Enforcement Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

- (F) Compensation. No member of the Code Enforcement Board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the city.

SECTION 4: POWERS: DUTIES.

The Code Enforcement Board shall have the following powers and duties:

- (A) To adopt rules and regulations to govern its operations and the conduct of its hearings
- (B) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.
- (C) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any Code Enforcement Board.
- (D) To take testimony under oath. The chairman shall have the authority to administer oaths for the purpose of taking testimony.
- (E) 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.
- (F) To issue remedial orders and impose civil fines, as authorized, on any person found to have violated an ordinance which has been classified as a civil offense over which the Board has jurisdiction.
- (G) The Code Enforcement Board shall not have the authority to enforce any ordinance, the violation of which constitutes an offense, under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

SECTION 5: ORGANIZATION: MEETINGS: QUORUM: ALTERNATIVE BOARD MEMBERS.

- (A) The Board shall annually elect a chair from among its members. The chairman shall be the presiding officer and a full voting member of the Board.
- (B) Regular meetings of the Code Enforcement Board shall be held quarterly on the 3rd Tuesday of every month at 5:00 p.m. at City Hall, located at 565 Main Street, West Liberty, Kentucky. Meetings other than those regularly scheduled shall be special meetings held in accordance with the requirements of the Kentucky Open Meetings Act.
- (C) All meetings and hearings of the Code Enforcement Board shall be held in accordance with the requirements of KRS 65.8815 (5) and the Kentucky Open Meetings Act.
- (D) The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.
- (E) 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.

SECTION 6: 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 and shall disqualify himself from voting on the matter in which he has an interest and shall not be counted for purposes of establishing a quorum.

SECTION 7: JURISDICTION.

The Code Enforcement Board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions which specifically provide for Code Board enforcement.

SECTION 8: ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Board:

- (A) Enforcement proceedings before the Code Enforcement Board shall only be initiated by the issuance of a citation by a Code Enforcement Officer.
- (B) Except as provided in subsection (C) below, if a Code Enforcement Officer believes, based upon his personal observation or investigation, that a person has violated a city ordinance, he shall issue a Notice of Violation to the offender a specified period of time to remedy the violation without fine. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.
- (C) Nothing in this subchapter shall prohibit the city from taking immediate action to remedy a violation of its ordinance 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.
- (D) The citation issued by the Code Enforcement Officer shall contain the following information:
 - (1) The date and time of issuance;
 - (2) The name and address of the person to whom the citation is issued;
 - (3) The date and time the offense was committed;
 - (4) The facts constituting the offense;
 - (5) The section of the code or the number of the ordinance violated;
 - (6) The name of the Code Enforcement Officer;
 - (7) The civil fine that will be imposed for the violation if the person does not contest the citation;
 - (8) The maximum civil fine that may be imposed if the person does not contest the citation;
 - (9) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - (10) A statement that if the person fails to pay the civil fine 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 to contest the citation and that the determination the violation was committed shall be final.
- (E) After issuing a citation to the alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the Chairman of the Code Enforcement Board.
- (F) The person to whom the citation is issued shall respond within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing before the Code Enforcement Board 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 and the determination that a violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.
- (G) If the alleged violator does not contest the citation within the time prescribed, the Code Enforcement shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

SECTION 9: HEARING: NOTICE: FINAL ORDER.

- (A) When a hearing has been requested, the Code Enforcement Board shall schedule a hearing.

- (B) 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 certified mail, return receipt requested; by personal deliver; 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.
- (C) Any person requesting a hearing before the Code Enforcement Board 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 and shall impose the civil fine set forth in the citation. A copy of the final order shall be served upon the person guilty of the violation.
- (D) All testimony shall be taken under oath and recorded. Testimony shall be taken 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) After issuing a citation to the alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the Chairman of the Code Enforcement Board.
- (F) The person to whom the citation is issued shall respond within seven (7) days of the date of issuance by wither paying the civil fine or requesting, in writing, a hearing before the Code Enforcement Board 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 and the determination that a violation was committed shall be considered final.
- (G) If the alleged violator does not contest the citation within the time prescribed, the Code Enforcement Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

SECTION 10: HEARING: NOTICE: FINAL ORDER.

- (A) When a hearing has been requested, the Code Enforcement Board shall schedule a hearing.
- (B) 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 certified mail, return receipt requested; by personal deliver; or by leaving 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.
- (C) Any person requesting a hearing before the Code Enforcement Board 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 and shall impose the civil fine set forth in the citation. A copy of the final order shall be served upon the person guilty of the violation.
- (D) All testimony shall be taken under oath and recorded. Testimony shall be taken 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) The Code Enforcement Board 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 the Board determines that a violation was committed, an order finding a violation

shall be entered either imposing a fine up to the maximum authorized by this subchapter or other ordinance, or requiring the offender to remedy a continuing violation, or both.

- (F) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth in subsection (B) above.

SECTION 11: LEGAL COUNSEL.

Each case before the Code Enforcement Board shall be presented by the Code Enforcement Officer who issued the citation. Should legal counsel be needed to present a case, the city shall employ independent legal counsel for said purpose. The City Attorney shall be counsel to the Code Enforcement Board.

SECTION 12: APPEALS: FINAL JUDGEMENT

- (A) An appeal from any final order of the Code Enforcement Board may be made to the Morgan 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 Code Enforcement Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.
- (B) If no appeal from a final order of the Code Enforcement Board shall be subject is filed within the time period set in subsection (A) above, the Code Enforcement Board's order shall be deemed final for all purposes.

SECTION 13: ORDINANCE FINE SCHEDULE.

Violations of ordinances that are enforced by the city Code Enforcement Board shall be subject to a schedule of civil fines as established by the City Council.

SECTION 14: LIEN: FINES, CHARGES AND FEES.

- (A) The city shall possess a lien on property owned by the person found by a final, nonappealable order of the Code Enforcement Board, or by a final judgement of the court, to have committed a violation of a city ordinance 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.
- (B) The lien shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid.
- (C) The lien shall take precedence over all subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings.
- (D) In addition to the remedy prescribed in subsection (A), 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 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.

Let it be so ordained after proper readings and publication.

First Reading 07-28-2014

Second Reading 08-25-2014

Signed By Mark Walter

Attested By Sally Barker

Updated: Section 5

1st Reading: 10-26-2020

2nd Reading: 10-29-2020

Signed By: Mark Walter

Attested By: Amy Williams