

CHAPTER 34: BOARDS AND COMMISSIONS

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MUNICIPAL HOUSING COMMISSION

§ 34.01 ESTABLISHMENT OF COMMISSION.

(A) The City Council, hereby determines, finds and declares that:

(1) Unsanitary and unsafe inhabited dwelling accommodations exist in the city; and

(2) There is a shortage of safe and sanitary dwelling accommodations in the city, available to families of low income at rentals they can afford; and

(3) There is need for a Housing Commission to be created for the city; and

(4) A Housing Commission is hereby created for the city.

(B) The name of the Commission shall be "The Bardstown Municipal Housing Commission."

(Res. 1-A, passed 2-12-63)

CODE ENFORCEMENT BOARD

§ 34.20 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, ordinance enforcement officer, or other public law enforcement officer with the authority to issue a citation.

"ORDINANCE." 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. (Ord. B2015-28, passed 11-10-15)

§ 34.21 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 five members, all of whom shall be residents of the city for a period of at least one year prior to the creation of the Board and shall reside there throughout the term in office.

(Ord. B2015-28, passed 11-10-15)

§ 34.22 POWERS.

(A) 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.

(B) 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. (Ord. B2015-28, passed 11-10-15)

§ 34.23 APPOINTMENT OF MEMBERS; TERM OF OFFICE; ALTERNATE CODE ENFORCEMENT BOARD MEMBERS; REMOVAL FROM OFFICE; OATH; LIABILITY.

(A) Members of the Code Enforcement Board shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

(B) (1) The Code Enforcement Board shall consist of five members plus alternates as provided for in division (C) below. The initial appointment to the Code Enforcement Board shall be as follows:

- (a) One member appointed for a term of one year;
- (b) Two members appointed for a term of two years;
- (c) Two members appointed for a term of three years;

(2) All subsequent appointments shall be for a term of three years. A member may be reappointed, subject to the approval of the legislative body.

(C) The executive authority may appoint, subject to the approval of the legislative body, two alternate members to serve on the Code Enforcement Board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Code Enforcement Board.

(D) Any vacancy on the Code Enforcement Board shall be filled by the executive authority, subject to approval of the legislative body within 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.

(E) A Code Enforcement Board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority must submit a written statement to the member and the legislative body setting forth the reasons for removal.

(F) 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.

(G) No member of the Code Enforcement Board may hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

(H) The appointed Code Enforcement Board members acting on behalf of the city shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act made in relation to conducting Code Enforcement Board activities. Any suit instituted against a Code Enforcement Board member brought about because of an act performed by that Code Enforcement Board member in the lawful accomplishment of duties and under the legal authority of the Code Enforcement Board on which the member serves shall be defended by the legal representative of the city until the final termination of the proceedings.

(I) The Code Enforcement Board member shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this subchapter.

(Ord. B2015-28, passed 11-10-15)

§ 34.24 ORGANIZATION OF CODE ENFORCEMENT BOARD; MEETINGS; QUORUM; STAFF.

(A) The Code Enforcement 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 on the first Thursday of every other month beginning in February of 2016, at 5:00 p.m. in the Council Chambers located at 116 N. Fifth Street, Bardstown KY 40004. 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 Code Enforcement Board shall be necessary for any official action to be taken. A quorum of the Code Enforcement Board shall consist of three or more members.

(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.

(F) The city may provide clerical, administrative and legal staff as reasonably required by the Code Enforcement Board for the proper conduct of its duties.

(Ord. B2015-28, passed 11-10-15)

§ 34.25 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.

(Ord. B2015-28, passed 11-10-15)

§ 34.26 JURISDICTION.

The Code Enforcement Board shall have jurisdiction to issue remedial orders and impose civil fines as a method of enforcing city ordinances and code provisions when a violation has been classified as a civil offense.

(Ord. B2015-28, passed 11-10-15)

§ 34.27 POWERS OF THE CODE ENFORCEMENT BOARD.

The City of Bardstown 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 officer.

(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 Code Enforcement Board is authorized to enforce its remedial orders by imposition of a civil penalty in an amount not to exceed, per day of noncompliance with the term of the remedial order, the maximum civil penalty prescribed in the ordinance which has been violated.

(F) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the Code Enforcement Board has jurisdiction.

(Ord. B2015-28, passed 11-10-15)

§ 34.28 ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Code Enforcement 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 division (C) below, if a code enforcement officer has reasonable cause to believe, based upon personal observations or investigation, that the offender has committed a violation of an ordinance, which the Code Enforcement Board has jurisdiction to enforce, the code enforcement officer shall issue a code citation to that person or entity. However, if the code enforcement officer knows that it is that offender's first violation of the ordinance at that address, the officer may, in lieu of immediately issuing a citation, issue a notice of violation allowing the offender a specified period of time to remedy the violation without a code citation. If the offender fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation. If the offender is not the owner of the property on which the violation is occurring, then the code enforcement officer shall send a copy of the citation by certified mail to the owner of record as reflected in the records of the Property Valuation Administrator. The property owner shall have all of the rights and responsibilities hereunder as the offender.

(C) Nothing in this subchapter 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.

(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 or entity 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 offender does not contest the citation;

(8) The maximum civil fine that may be imposed if the offender elects to contest the citation;

(9) The procedure for the offender to follow in order to pay the civil fine or to contest the citation; and

(10) A statement that if the offender fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the offender shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation and that the determination that the violation was committed shall be final.

(E) After issuing a citation to an alleged violator, the code enforcement officer shall notify the Code Enforcement Board via e-mail.

(F) The offender to whom the citation is issued shall respond to the citation within seven 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 offender fails to respond to the citation within seven days, the offender 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.

(Ord. B2015-28, passed 11-10-15)

§ 34.29 HEARING; NOTICE; FINAL ORDER.

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

(B) Not less than seven 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 delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 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 shall be

final. The Code Enforcement Board shall enter a final order determining the 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 it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized by this or other ordinance or requiring the offender to remedy a continuing violation within a specified time, 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 division (B) above.

(Ord. B2015-28, passed 11-10-15)

#### § 34.30 PRESENTATION OF CASES.

Each case before the Code Enforcement Board shall be presented by an attorney selected by the city or by a code enforcement officer for the city. The city attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but in no case serve in both capacities.

(Ord. B2015-28, passed 11-10-15)

#### § 34.31 APPEALS; FINAL JUDGMENT.

(A) An appeal from any final order of the Code Enforcement Board may be made to the Nelson County District Court within 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 is filed within the time period set in division (A) above, the Code Enforcement Board's order shall be deemed final for all purposes.

(Ord. B2015-28, passed 11-10-15)

§ 34.32 ORDINANCE FINE SCHEDULE.

Violations of ordinances that are enforced by the Code Enforcement Board shall be subject to the following schedule of civil fines:

(A) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this division shall apply; however, the Code Enforcement Board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with the ordinance in issue.

| <u>Violation</u>                    | <u>1st<br/>Offense</u> | <u>2nd<br/>Offense</u> | <u>All<br/>Others</u> |
|-------------------------------------|------------------------|------------------------|-----------------------|
| Animals (Chapter 90)                | \$25                   | \$50                   | \$100                 |
| Drainage Control (Chapter 156)      | \$50                   | \$75                   | \$100                 |
| Occupational Licenses (Chapter 117) | \$50                   | \$75                   | \$100                 |
| Property Maintenance (Chapter 155)  | \$100                  | \$150                  | \$200                 |
| Public Nuisances (Chapter 94)       | \$100                  | \$150                  | \$200                 |
| Sign Regulations (Chapter 98)       | \$100                  | \$150                  | \$200                 |
| Solid Waste (Chapter 51)            | \$100                  | \$150                  | \$200                 |

(B) If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Board:

| <u>Violation</u>                    | <u>1st<br/>Offense</u> | <u>2nd<br/>Offense</u> | <u>All<br/>Others</u> |
|-------------------------------------|------------------------|------------------------|-----------------------|
| Animals (Chapter 90)                | \$100                  | \$200                  | \$300                 |
| Drainage Control (Chapter 156)      | \$150                  | \$200                  | \$250                 |
| Occupational Licenses (Chapter 117) | \$200                  | \$250                  | \$300                 |
| Property Maintenance (Chapter 155)  | \$200                  | \$250                  | \$300                 |
| Public Nuisances (Chapter 94)       | \$200                  | \$250                  | \$300                 |
| Sign Regulations (Chapter 98)       | \$200                  | \$250                  | \$300                 |
| Solid Waste (Chapter 51)            | \$200                  | \$250                  | \$300                 |

(Ord. B2015-28, passed 11-10-15)

§ 34.33 LIEN; FINES, CHARGES, AND FEES.

(A) The city shall possess a lien on property owned by the person found by a final, non-appealable order of the Code Enforcement Board, or by a final judgment 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 other 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 division (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.

(Ord. B2015-28, passed 11-10-15)

CABLE TELEVISION PROGRAMMING COMMITTEE§ 34.45 ESTABLISHMENT.

A Cable Television Programming Committee for the city is created and established for the purpose of selecting programming to be shown on the municipally owned cable television system.

(Ord. 300, passed - -85)

§ 34.46 MEMBERSHIP; TERM.

(A) The Cable Television Programming Committee shall consist of three members who shall be appointed by the Mayor subject to the approval of City Council.

(B) Each member shall serve a term of three years. Appointments to the first committee shall be one appointment for one year, one appointment for two years, and one appointment for three year terms respectively.

(Ord. 300, passed - -85)

§ 34.47 POWERS AND DUTIES.

The Cable Television Programming Committee shall have the sole and exclusive power of selecting programming to be shown on the city owned cable television system.

(Ord. 300, passed - -85)

Cross reference:

Cable television, see Ch. 54.

## CITY TREE BOARD

§ 34.65 ESTABLISHMENT.

For provisions concerning the City Tree Board, see §§ 99.10 - 99.14.

## BOARD OF ETHICS

§ 34.85 ESTABLISHMENT.

For provisions concerning the Board of Ethics, see §§ 43.40 - 43.50.