

COMMONWEALTH OF KENTUCKY
COUNTY OF WARREN

WARREN COUNTY FISCAL COURT

ORDINANCE NO. 07-41WC

**AN ORDINANCE AMENDING ORDINANCE NO. 06-45WC
CREATING A CODE ENFORCEMENT BOARD**

WHEREAS, Warren County Fiscal Court originally passed an ordinance creating a Code Enforcement Board, herein referred to as Ordinance Number 96-54WC; and,

WHEREAS, Warren County Fiscal Court, thereafter, amended Ordinance Number 96-54WC through Ordinance Number 97-03WC and through Ordinance Number 99-19WC and through Ordinance Number 04-48WC and later through 06-45WC adding addition code enforcement issues; and,

WHEREAS, through the intent specified in KRS 65.8801 to 65.8839, Warren County Fiscal Court continues to desire to protect, promote and improve the health, safety and welfare of the citizens of Warren County by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective and inexpensive method of ensuring compliance with the ordinances in force within the County; and,

WHEREAS, the Fiscal Court wishes to more particularly describe the Code Enforcement Board, thus a need for a revision of the previous Ordinance; and,

WHEREAS, the Fiscal Court wishes to amend and re-state the penalties section of Code Enforcement Board Ordinance; and,

NOW, THEREFORE BE IT HEREBY ORDAINED by the Fiscal Court of the County of Warren as follows: that Warren Fiscal County Court hereby determines it is in the best interests of the County to use the authority granted in those statutes by creating the Warren County Code Enforcement Board.

Section I. Definitions:

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

- A. **"Code Enforcement Board"** shall mean an administrative body created and acting under the authority of the Warren County Fiscal Court.

- B. **“Code Enforcement Officer”** shall mean a safety officer, citation officer or other public law enforcement officer with the authority to issue a citation.

Section II. Creation and Membership:

There is hereby created, pursuant to KRS 65.8801 to KRS 65.8839, a **Code Enforcement Board**, which shall be composed of five members, all of whom shall be residents of Warren County for a period of at least one (1) year prior to the creation of the board, and shall reside in Warren County throughout their term of office.

A violation of this Ordinance shall constitute a civil offense. The maximum civil fine that may be imposed for each violation is set forth hereinbelow. Likewise, the specific civil fine, of less than the maximum civil fine, which will be imposed for each offense if the person charged does not contest the citation is also set forth hereinbelow. KRS 65.8808(2).

Section III. Powers:

A. Issue Remedial Orders and Impose Civil Fines

The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing Warren County Ordinances when a violation of the ordinance has been classified as a civil offense.

B. No Enforcement Of Statutory Offenses

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 IV. Board Members:

A. Appointment of Members

Members of the Code Enforcement Board shall be appointed by the County Judge-Executive, subject to the approval of the Fiscal Court.

B. Term of Office

One (1) member of the board shall initially be appointed to a one (1) year term; two

members shall initially be appointed to two (2) year terms and two members shall initially be appointed to three (3) year terms. All subsequent appointments shall be for a term of three (3) years. A member may be re-appointed, subject to the approval of the Fiscal Court.

C. Alternate Members

The County Judge-Executive may appoint, subject to the approval of the Fiscal Court two (2) alternate members to serve 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 board.

D. Board Vacancy

Any vacancy on the board shall be filled by the County Judge-Executive, subject to approval of the Fiscal Court, within sixty (60) days of the vacancy.

E. Removal of Board Member

A board member may be removed from office by the County Judge-Executive, with Fiscal Court approval, for misconduct, inefficiency or willful neglect of duty.

F. Oath of Office

All members of the board must, before beginning their term, take the oath, prescribed by Section 228 of the Kentucky Constitution. Said oath shall be administered by the Warren County Judge-Executive or his designee.

G. Warren County Government

No member of the board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the County of Warren.

Section V. Organization of Board; Quorum:

A. Chairperson

The board shall, annually, elect a chair from among its members. The chairperson shall be the presiding officer and a full voting member of the board.

B. Meetings

The board may elect to hold regular meetings of the board each month. Meetings, other than established regular meetings, shall be special meetings held in accordance with the Kentucky Open Meetings Act.

C. Kentucky Open Meetings Act Compliance

All meetings and hearing of the board shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

D. Quorum Required for Action

The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

E. Minutes

Minutes shall be kept for all proceedings of the board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

Section VI. Conflict of Interest:

Any member of the 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 VII. Jurisdiction:

The board shall have jurisdiction to enforce and shall enforce those Warren County ordinances which specifically provide for Code Enforcement Board.

Section VIII. Powers of the Code Enforcement Board:

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

- A. To adopt rules and regulations to govern its operations and 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 board may be served by a Code Enforcement Officer.

D. To take testimony, under oath. The chairperson 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 County Ordinance, which the board is authorized to enforce.

F. To impose civil fines as authorized on any person found to have violated an Ordinance, over which the board has jurisdiction.

Section IX. Enforcement Proceeding:

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

A. Enforcement proceedings shall only be initiated by the issuance of a citation or Notice of Violation by a Code Enforcement Officer.

B. When a Code Enforcement Officer believes, based on his personal observation or investigation, has reasonable cause to believe that a person has violated a Warren County Ordinance, the Code Enforcement Officer is authorized to issue a citation. A Code Enforcement Officer may, in lieu of immediately issuing a citation, issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy the violation without fine. The time allowed by the Code Enforcement Officer shall depend on the nature of the violation and the time to remedy the violation. 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 ordinance shall prohibit the County 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. Also, nothing in this ordinance shall prohibit the County from correcting the violation through self help and to file liens on property, whether real or personal, to recover the costs incurred by the County.

D. The citation issued by the Code Enforcement Officer shall contain the following information:

- i. The date and time of issuance;

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- ii. The name and address of the person to whom the citation is issued;
- iii. The date and time the offense was committed;
- iv. The facts constituting the offense;
- v. The section of the ordinance or other code violated;
- vi. The name of the Code Enforcement Officer;
- vii. The civil fine that will be imposed for the violation if the person does not contest the citation;
- viii. The maximum civil fine that may be imposed if the person elects to contest the citation;
- ix. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and,
- x. A statement that if the person pays the civil fine set forth in the citation or fails to contest the citation within the time allowed, the person shall be deemed as having waived the right to a hearing before the Code Enforcement Board and the determination that a violation was committed shall be final.

E. After issuing a citation to an alleged violator, the Code Enforcement Officer shall deliver a copy of the citation to the Clerk designated by the board.

F. The alleged violator to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing to the Board Clerk, a hearing before the Code Enforcement Board to contest the citation. If the alleged violator fails to respond to the citation within seven (7) days, the alleged violator 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 X. Hearing; Notice; and Final Order:

A. Hearing

When a hearing has been requested, the board shall schedule a hearing for the next regular meeting of the board that will permit adequate notification to be made to all parties.

B. Notice

Not less than seven (7) days before the date of the hearing, the 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 eighteen years of age or older and who is informed of the contents of the notice.

C. Failure to Appear

Any person requesting a hearing before the board who fails to appear at 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 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 on the person guilty of the violation.

D. Testimony

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. Board Determination

The 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 or requiring the offender to remedy a continuing violation, or both.

F. Final Order

Every final order of the 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 is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth above.

Section XI. Legal Counsel:

Each case before the Board shall be presented by an attorney selected by the County or by a Code Enforcement Officer for the County. If the Board determines that it needs the County Attorney present at the hearing, the County Attorney may either be counsel to the board or may present cases before the Board, but in no case shall the County Attorney serve in both capacities.

Section XII. Appeals; Final Judgment:

An appeal from any final order of the Board may be made to the Warren 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 Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the Code Enforcement Board. If no appeal of the final order of the Board is filed within the time allowed, the Board's order shall be deemed final for all purposes.

Section XIII. Ordinance Fine Schedule:

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

- A. Non-contested Citations:** If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties section, as set forth below, shall apply; however, the Board may waive any or all 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. The penalties listed below

are for each day a violation continues beginning on the eighth day after the date the citation was issued. A second offense is an offense that occurs within five (5) years of the determination by the Code Enforcement Board of a prior offense. All others are those that occur within five (5) years of the determination by the Code Enforcement Board of two or more prior offenses.

Section A:

<u>Ordinance Title</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Others</u>
<u>Ordinance 02-37WC</u> *** (Operation of Solid Waste Transfer Facilities) ****	\$ 300	\$ 300	\$ 300
<u>Ordinance 00-58, amended 02-38WC</u> *** (Solid Waste - Franchises, Commercial/Industrial)	\$ 500	\$ 500	\$ 500

<u>Ordinance Title</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Others</u>
<u>Ordinance 00-59WC, amended 02-40WC</u> *** (Solid Waste - Franchises, County Residential)	\$ 500	\$ 500	\$ 500
<u>Ordinance 02-43WC</u> *** (Solid Waste- Franchise Required)	\$ 300	\$ 300	\$ 300
<u>Ordinance 02-44WC</u> *** (Solid Waste - Unlawful Disposal)	\$ 25	\$ 500	\$ 500
<u>Ordinance 99-20, amended 02-39WC</u> *** (Property Maintenance Code)	\$ 500	\$ 500	\$ 500
<u>Ordinance 06-21WC</u> *** (Illicit Discharge (ID))	\$ 500	\$ 1,000	\$ 2,000
<u>Ordinance 06-17WC</u> *** (Stormwater Management (EPSC))	\$ 100	\$ 500	\$ 1,000

*** All fines listed above are maximum daily fines. The Code Board, at their discretion, may waive and/or issue a lesser fine, on each offense.

**** Violators may be shut down or other remedies allowed.

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Ordinance

(Contractors License 04-28WC)

Expired License	\$ 100	\$ 200	\$ 300
No License	\$ 250	\$ 500	\$ 750
Expired Insurance	\$ 100	\$ 200	\$ 300
No Insurance	\$ 250	\$ 500	\$ 750

Zoning Ordinance and Subdivision Regulations, as Amended

Use Violations	\$ 100	\$ 200	\$ 300
Yard / Dimensional Violations	\$ 50	\$ 100	\$ 200
Sign Violations	\$ 50	\$ 100	\$ 200
Violation of General Development Standards	\$ 100	\$ 200	\$ 300
Violation of Development Review Procedures	\$ 100	\$ 200	\$ 300
Violation of Overlay District Standards	\$ 250	\$ 500	\$ 750

B. Contested Citations: If the citation is contested and a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board.

Section B:

<u>Ordinance Title</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Others</u>
<u>Ordinance 02-37WC</u> *** <u>(Solid Waste - Operation of Solid Waste Transfer Facilities)</u>	\$ 300	\$ 300	\$ 300

<u>Ordinance Title</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Others</u>
<u>Ordinance 00-58, amended 02-38WC</u> *** <u>(Solid Waste - Franchises, Commercial/Industrial)</u>	\$1,000	\$1,000	\$1,000
<u>Ordinance 00-59, amended 02-40WC</u> *** <u>(Solid Waste - Franchises, County Residential)</u>	\$1,000	\$1,000	\$1,000
<u>Ordinance 02-43WC</u> *** <u>(Solid Waste - Franchise Required)</u>	\$ 300	\$ 300	\$ 300

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Ordinance 02-44WC *** (Solid Waste - Disposal and Unlawful Disposal)	\$ 500	\$ 500	\$ 500
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*** All fines listed above are maximum daily fines. The Code Board, at their discretion, may waive and/or issue a lesser fine, on each offense.

**** Violators may be shut down or other remedies allowed.

Ordinance 99-20, amended 02-39WC (Property Maintenance Code)	\$1,000	\$1,000	\$1,000
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Ordinance 07-23WC (PSWCJSWSAgency)	\$100	\$500	\$1,000
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Contractors License – Ordinance 04-28WC

Expired License	\$ 200	\$ 400	\$ 600
No License	\$ 500	\$1,000	\$1,500
Expired Insurance	\$ 200	\$ 400	\$ 600
No Insurance	\$ 500	\$1,000	\$1,500

Zoning Ordinance and Subdivisions Regulations, As Amended:

Use Violations	\$ 200	\$ 400	\$ 600
Yard / Dimensional Violations	\$ 100	\$ 200	\$ 400
Sign Violations	\$ 100	\$ 200	\$ 400
Violations of General Development Standards	\$200	\$ 400	\$ 600
Violation of Development Review Procedures	\$200	\$ 400	\$ 600
Violation of Overlay District Standards	\$500	\$1,000	\$1,500

Section C.

Storm Water Management Fee Issue:

1. Upon receipt of a delinquency notice, the violator shall respond to the delinquency notice within fifteen (15) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the delinquency notice. If the violator responds by paying the civil fine, the violator shall still be required to remedy the delinquency notice. If the violator fails to remedy the violation or to request a hearing within the designated time,

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the code official is authorized to issue another citation and to remedy the delinquency notice.

2. If a delinquency notice for a violation of this Ordinance is not contested by the person charged with the violation, the maximum penalties shall apply; however, the Board may waive any or all of a penalty of an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Ordinance. The penalties listed are for each month a delinquent payment continues, beginning on the first day after the ending date of the sixty (60) day period provided for curing the initial delinquent payment. A second offense is an offense that occurs within five (5) years of the prior offense. All other delinquent payments are those, which occur within five (5) years of two (2) or more prior offenses:

<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
\$100.00	\$500.00	\$1000.00

3. If the violator is not the property owner, concurrently with the violator's delinquency notice, the property owner who will also receive a delinquency notice. If the violator does not correct the delinquency, the property owner will be subject to the fine and property lien's provided for by the Code Enforcement Board ordinance.

Section XIV. Lien; Fines; Charges; and Fees:

- A. The County shall possess a lien on property, whether real or personal, owned by the person found by a final, non-appealable order of the board, or by a final judgment of the court to have committed a violation of a County ordinance for all fines assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the ordinance.
- B. The lien shall be recorded in the Office of the Warren County Clerk and shall be notice to all persons from the time of its recording and shall bear interest until paid. The interest shall accrue at a rate of 12% (Twelve Percent).
- 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 above, the person found to have committed the violation shall be personally responsible for the amount of all

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finer assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the ordinance. The County may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

Section XV. Citation Officers:

- A. Citation officers shall not have the powers of peace officers to make arrests or carry deadly weapons, but may issue citations as authorized upon observation of violations of Warren County Ordinances.
- B. The procedures for citations issued by a citation officer shall be as provided in K.R.S. 431.015 and by the Code Enforcement Board. Citation officers shall carry identification identifying themselves as citation officers and shall so identify themselves immediately to any member of the public while enforcing any ordinance of the County.
- C. The County Judge-Executive may designate certain County employees holding the positions listed below, as well as any other persons with the approval of the Warren County Fiscal Court, to issue citations with respect to the ordinances expressly set out herein: County Building Inspector(s), County Road Supervisor, Environmental Planning and Assistance Coordinator, Storm Water Management Inspector(s), Code Enforcement Officer(s) of the Planning Commission, and Warren County Contractors' Licensing Board Inspectors.
- D. This section shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in K.R.S. 431.005. This subchapter shall not be the exclusive means for enforcement of Warren County ordinances and citation officers are not limited to use of a criminal citation, but may swear to a complaint in lieu of citation and may issue citations for civil violations of County ordinances.

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Section XVI. Validity:

- A. The provisions of this Ordinance are hereby declared to be severable and, if any section, phrase or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.
- B. All prior County Ordinances or parts of any County Ordinance in conflict herewith are hereby repealed.

Section XVII. Effective Date:

This Ordinance shall be effective on and after legal publication of this Ordinance pursuant to K.R.S. 67.077(3) and K.R.S. 424.

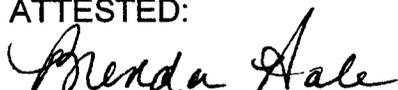
IT IS NOW HEREBY ORDERED AND ORDAINED by the Fiscal Court of Warren County, Commonwealth of Kentucky, that this Ordinance be adopted as hereinabove written.

This Ordinance is adopted pursuant to K.R.S. 67.077 in that it was introduced on August 10, 2007, and given final reading on September 21, 2007, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to K.R.S. 67.077(3).

APPROVED this 21st day of September, 2007.


MICHAEL O. BUCHANON
Warren County Judge Executive

ATTESTED:


BRENDA HALE
Warren County Fiscal Court Clerk

Passed by a vote of 7 to 0.

Approved as to legality and form:

Amy Hale Milliken
Warren County Attorney
1001 Center Street, Suite 206
Bowling Green, KY 42101

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