

**COMMONWEALTH OF KENTUCKY  
WARREN COUNTY FISCAL COURT  
ORDINANCE NO. 23-08WC**

**ORDINANCE AMENDING ORDINANCE NUMBER 07-41WC  
RELATING TO THE CREATION OF THE CODE ENFORCEMENT BOARD**

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**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 and 07-41WC; adding additional 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,

**NOW, THEREFORE BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF WARREN, COMMONWELATH OF KENTUCKY as follows:** that Warren Fiscal 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 1. Definitions**

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: city police officer, safety officer, citation officer, county police officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation.

C. "Imminent danger" means a condition which is likely to cause serious or life-threatening injury or death at any time.

D. "Abatement costs" means a local government's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety, and welfare in accordance with any local government ordinance.

E. "Final order" means any order:

- (1) Issued by the code enforcement board in accordance with this Act;
- (2) Created because a violator neither paid nor contested the citation within seven (7) days as

provided in this Act;

(3) Created because of a failure of a violator to appear at a hearing the violator requested to contest the citation as provided in this Act.

F. "Owner" means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property.

G. "Premises" means a lot, plot, or parcel of land, including any structures upon it.

## **SECTION 2. 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.

## **SECTION 3. Enforcement Powers**

- A. The code enforcement board shall have the power to issue remedial orders and impose civil fines as a method of enforcing county 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 regulating conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

## **SECTION 4. Appointment of members; term of office; removal from office; oath, compensation**

- 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 the requirements that apply to regular members of the board.
- D. Board Vacancy. Any vacancy of the board shall be filled by the County Judge-Executive, with Fiscal Court approval, 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 5. Organization of board; meetings; quorum.**

- A. Chairperson. The board shall, annually, elect a chair from among its members. The chair 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. All meetings and hearings of the code enforcement board shall be public meetings 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 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 code enforcement board and the vote of any 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, 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. 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 the conduct of its hearings consistent with this ordinance.
- 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 county ordinance or code provision 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 8. Enforcement Proceedings**

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

- A. Enforcement proceedings shall only be initiated by the issuance of a citation by a code enforcement officer.
- B. Except when immediate action is necessary pursuant to Section 16 of this ordinance, if a code enforcement officer believes, based on his personal observation or investigation, that a person has violated an ordinance, he may issue a Notice of Violation allowing the alleged violator a specified period of time to remedy the violation without incurring a fine. If the alleged violator fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.
- C. The code enforcement officer shall issue a citation by one of the following methods:
1. Personal service to the alleged violator;
  2. Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or
  3. Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first-class mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.
- D. The citation issued by the code enforcement officer shall contain the following information:
1. The date and time of the issuance;
  2. The name and address of the person to whom the citation is issued;
  3. The physical address of the premises where the violation occurred;
  4. The date and time the offense was committed;
  5. The facts constituting the offense;
  6. The section of the code or the number of the ordinance violated;
  7. The name of the code enforcement officer;
  8. The civil fine that will be imposed for the violation, including, if applicable:
    - i. The civil fine that will be imposed if the person does not contest the citation; and
    - ii. The maximum civil fine that may be imposed if the person elects to 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; the determination that the violation was committed shall be final; the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation;

and the person shall be deemed to have waived the right to appeal the final order to District Court.

E. After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the Clerk designated by the Board.

F. Final Orders

1. The person 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, a hearing 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. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.
2. Notice of a final order shall be provided to the cited violator by regular first-class mail; certified mail, return receipt requested; personal delivery; 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.

#### **SECTION 9. Hearing; Notice; and Final Order**

A. Hearing. When a hearing has been requested, the code enforcement board or its administrative staff shall schedule a hearing.

B. Notice. 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 regular first-class mail; certified mail, return receipt requested; personal delivery; 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. Failure to Appear

1. Any person requesting a hearing 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. In this event, the citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.
2. Notice of a final order shall be provided to the cited violator by regular first-class mail; certified mail, return receipt requested; personal delivery; 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.

D. Testimony. All testimony at the hearing 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 code enforcement board shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The board may impose a fine up to the maximum authorized by ordinance, or require the offender to remedy a continuing violation to avoid a fine, or both.

F. Final Order

1. Every final order following a hearing shall be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy shall be furnished to the person named in the citation.
2. If the person named in the citation is not present when the final order is issued, the order shall be delivered to the person by regular first-class mail; certified mail, return receipt requested; personal delivery; 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.

#### **SECTION 10. Presentation of Cases**

Each case before the code enforcement board shall be presented by an attorney selected by the county, a code enforcement officer for the county, or by a member of the county's administrative staff. The county attorney may either be counsel to the code enforcement board or may present cases before the code enforcement board, but shall in no case serve in both capacities.

#### **SECTION 11. Appeals; Final Judgement**

- A. An appeal from a final order of a code enforcement board following a hearing conducted pursuant to Section 9(e) of this ordinance 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 final 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 subsection (a) of this Section, the code enforcement board's order shall be deemed final for all purposes.

#### **SECTION 12. Ordinance Fine Schedule**

Violations of ordinances that are enforced by the county code enforcement board shall be subject to the schedule of fines indicated in each ordinance. If no penalty is indicated, the fine schedule shall be a maximum penalty as follows:

<b>Violation</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>All Others</b>
Any Violation With Penalty Unlisted	\$500.00	\$1000.00	\$2000.00

When a third citation for a violation a county ordinance has been issued as part of the same case, and the property remains in violation, the Code Official shall bring the property before the Code Enforcement Board to request authorization to issue a per-day fine citation. The fine shall not exceed the maximum authorized by ordinance per violation per day, and the timeframe shall not exceed sixty (60) days.

**SECTION 13. Liens; Fines; Charges; Fees**

- A. The county shall possess a lien on property owned by the person found by a nonappealable final order as defined by Section 1(d) of this ordinance, or by a final judgment of the court, to have committed a violation of a county ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the county in connection with the enforcement of the ordinance, including abatement costs. An affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.
- 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. The lien shall continue for ten (10) years following the date of the nonappealable final order or final court judgment
- C. Subject to Section 15 of this ordinance, the lien shall take precedence over all other liens, except state, county, school board, and county taxes, and may be enforced by judicial proceedings, including a foreclosure action.
- D. In addition to the remedy prescribed in subsection (a) of this Section, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs 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 14. Lienholder Notification System**

The county shall obtain and maintain priority over previously filed liens, as provided in Section 13 of this ordinance, in accordance with the following provisions:

- A. Individuals and entities, including but not limited to lienholders, may register with the county to receive electronic notification of final orders entered pursuant to this ordinance.
- B. In order to receive the notification, the registrant shall submit the following information to the Warren County Code Enforcement Clerk.
  - 1. Name;
  - 2. Mailing Address;

3. Phone number; and,
  4. Electronic mailing address.
- C. A registrant may use the electronic form provided on the county website to submit the information required by subsection (b) of this Section. It shall be the responsibility of the registrant to maintain and update the required contact information with the county. The county shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.
- D. The county shall send electronic mail notification of all final orders entered pursuant to this ordinance since the last date of notification to each party registered pursuant to this Section. The notification shall provide an electronic link to the county code enforcement database located on the county website. The database shall include the following information regarding each final order:
1. The name of the person charged with a violation;
  2. The physical address of the premises where the violation occurred;
  3. The last known mailing address for the owner of the premises where the violation occurred;
  4. A copy of the full citation;
  5. A copy of the full final order; and
  6. The status of the final order regarding its ability to be appealed pursuant to this ordinance.
- E. If an appeal is filed on a final order pursuant to this ordinance, the county shall send electronic mail notification to all registrants.
- F. Within ten (10) days of the issuance of a final order pursuant to this ordinance, the county shall update its code enforcement database to reflect the issued final order, and shall post the notification required by subsection (d) of this Section containing an updated link to the code enforcement database on the county website.
- G. The county shall maintain the records created under this section for ten years following their issuance.

#### **SECTION 15. Liens**

- A. A lienholder of record who has registered pursuant to Section 14(b) of this ordinance may, within forty-five (45) days from the date of issuance of notification under Section 14(d) of this ordinance:
1. Correct the violation, if it has not already been abated; or
  2. Pay all civil fines assessed for the violation, and all charges and fees incurred by the county in connection with enforcement of the ordinance, including abatement costs.
- B. Nothing in this section shall prohibit the county from taking immediate action if necessary under Section 16 of this ordinance.
- C. The lien provided by Section 13 of this ordinance shall not take precedence over previously recorded liens if:



1. The county failed to comply with the requirements of Section 14 of this ordinance for the notification of the final order; or
  2. A prior lienholder complied with subsection A of this Section.
- D. A lien that does not take precedence over previously recorded liens under subsection C of this section shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except for state, county, school board, and county taxes.
- E. The county may record a lien before the forty-five (45) day period established in subsection (a) of this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the county shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.
- F. Failure of the county to comply with Sections 14 and 15 of this ordinance, or failure of a lien to take precedence over previously filed liens as provided in subsection (c) of this Section, shall not limit or restrict any other remedies the county has against the property of the violator.

#### **SECTION 16. Immediate Action**

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.

#### **SECTION 17. Severability Clause**

Each section and each provision of each section of this Ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person is held by a court of law to be unconstitutional or invalid for any reason, such a holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

#### **SECTION 18. Repeal and Replace**

This Ordinance hereby repeals and replaces Ordinance 07-41 WC.

This Ordinance is adopted pursuant to KRS 67.077 in that it was published in summary form on the 9<sup>th</sup> day of January, 2023, and was introduced and read on the 6<sup>th</sup> day of January, 2023, and given final reading on the 20<sup>th</sup> day of January, 2023, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary form pursuant to KRS Chapter 424 and KRS 67.077 Subsection 3.

APPROVED this the 20<sup>th</sup> day of January, 2023.



**DOUG GORMAN**  
**WARREN COUNTY JUDGE EXECUTIVE**

ATTESTED:



**BRENDA HALE**  
**Warren County Fiscal Court Clerk**

Passed by a Vote of 7 to 0.

APPROVED AS TO FORM AND LEGALITY BY:

  
**AMY HALE MILLIKEN**  
**Warren County Attorney**