

ORDINANCE NO. **BG2014 - 13**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 5 (ANIMALS), 6 (BUILDING REGULATIONS), 8 (CEMETERIES), 13 (HEALTH), 15 (BUSINESS AND GENERAL REGULATIONS), 21 (STREETS AND SIDEWALKS), 26 (PUBLIC TREES) AND 28 (FLOOD DAMAGE PREVENTION) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO MOVE CIVIL CITATION ENFORCEMENT PROCEEDINGS TO CHAPTER 2 OF THE CODE OF ORDINANCES AND TO MAKE OTHER ADMINISTRATIVE AMENDMENTS

WHEREAS, approximately one year ago, the Neighborhood and Community Services (NCS) Department began the process of rewriting Chapter 27 of the Code of Ordinances, known as the Property Code; and,

WHEREAS, the NCS Department created and worked with a committee of interested citizens to review the existing Property Code for possible amendments and additions to the Property Code; and,

WHEREAS, the committee consisted of ten (10) members representing a cross section of the City with staff from the NCS Department facilitating the process; and,

WHEREAS, the committee met monthly and toured a variety of neighborhoods to review the issues and conditions the committee was being asked to address; and,

WHEREAS, the recommendations for amendments to the Property Code were presented to the Code Enforcement Board in February and to the Board of Commissioners during a work session this past April; and,

WHEREAS, the proposed amendments impacted several other Code of Ordinance chapters that included civil penalties for violations by moving the specific enforcement action language to Chapter 2 of the Code of Ordinances and removing it from the various other chapters of the Code of Ordinances; and,

(Ordinance No. BG2014 - 13)

WHEREAS, during the course of reviewing these other chapters, some minor administrative changes are being proposed as well; and,

WHEREAS, it is in the best interests of the City to approve these amendments to the other chapters of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 5 (Animals) is hereby amended as follows:

5-1 ANIMAL CONTROL.

5-1.01 Definitions.

As used in this Chapter:

...

“Animal Control Officer” shall mean all persons designated by the City as the primary enforcement officers of ordinances regulating animals and owners of animals, and for the enforcement of Sections of the Kentucky Revised Statutes and shall have the same meaning as a Code Official or Code Enforcement Officer.

...

“Code Enforcement Board” shall mean the administrative body created in Chapter 2 of this Code of Ordinances.

“Code Official” shall have the same meaning as a Code Enforcement Officer as set forth in Chapter 2 of this Code of Ordinances.

...

“Exotic or wild animal” shall mean any wildlife ~~live monkey, nonhuman primate, member of the feline species other than domestic cat, member of the canine species other than domestic dog, raccoon, skunk, fox, bear, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in the wild, alligator, crocodile, cayman, sea mammal, venomous or poisonous reptiles, amphibians or insects, constrictor snakes, any other animal~~ identified by the Kentucky

(Ordinance No. BG2014 - 13)

~~Department of Fish and Wildlife Resources as inherently dangerous to human health and safety, and any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals. Wild animal does not include domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents or any hybrid animal that is part wild and captive bred species of common cage birds.~~

...

5-3 ENFORCEMENT.

5-3.01 Designated Enforcement Officials.

a. This Chapter is enforceable by any City, State or County Police Officer, Sheriff, Deputy Sheriff, Constable and City Animal Control Officer, and by any other duly designated code official of the City pursuant to the provisions of Chapter 2 of this Code of Ordinances.

b. Any person enforcing this Chapter may enter upon private premises to apprehend stray animals, vicious or dangerous animals, or exotic or wild animals found in violation of this Chapter, or to enforce any other provision of this Chapter. Any person enforcing this Chapter may seize, impound or dispose of any animal found in violation of this Chapter.

5-3.02 Notice of Violation or Citation.

a. Enforcement proceedings for those provisions of this Chapter designated as civil violations shall be initiated by the issuance of a notice of violation or a citation by the Animal Control Officer or code official pursuant to the provisions of Chapter 2 of this Code of Ordinances.

~~b.—Except as provided below, if the Animal Control Officer or code official believes based on his personal observation or investigation that a person has violated those provisions of this Chapter designated as civil violations, he is authorized to issue a citation to the violator. In lieu of a citation, the Animal Control Officer or code official may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without~~

(Ordinance No. BG2014 - 13)

~~fine. The time allowed by the Animal Control Officer or code official shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the Animal Control Officer or code official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.~~

~~e. The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll or from other means to identify the owner of the animal. Such notice of violation or citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy may also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.~~

~~d. The citation issued by the code official shall contain the following information:~~

- ~~1. A description of the real estate sufficient for identification;~~
- ~~2. The name and address of the person to whom the citation is issued;~~
- ~~3. The date and time the violation was observed, and the date and time of issuance of the citation;~~
- ~~4. The facts constituting the violation;~~
- ~~5. The section of the ordinance or other code violated;~~
- ~~6. The name of the code official;~~
- ~~7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;~~
- ~~8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;~~
- ~~9. The maximum civil fine that may be imposed per day for the violation if the~~

(Ordinance No. BG2014 - 13)

~~person elects to contest the citation; and,~~

~~10.—A statement that if the person fails to pay the civil fine set forth in the citation or 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, the Animal Control Officer or code official shall deliver a copy of the citation to the person designated by the Code Enforcement Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to remedy the violation.~~

~~b.f.~~ Nothing in this Chapter shall prohibit the City from correcting the violation through self-help or taking immediate action to remedy a violation of this Chapter by impoundment or other means. The Animal Control Officer or code official may remove any animal observed to be in immediate danger. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses in enforcing this Chapter.

~~g.—After determining that compliance has been achieved in the allowed correction time, the code official shall report that statistic to the Code Enforcement Board.~~

#### ~~§ 3.03 — 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 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 this Chapter.~~

~~b.—The lien shall be recorded in the office of the County Clerk, and shall be notice to all~~

(Ordinance No. BG2014 - 13)

~~persons from the time of its recording, and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e. The lien shall take precedence over all other subsequent liens except state, county, school boards 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 fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

5-4 PENALTIES.

5-4.01 Civil Penalties, Fine Schedule.

a. Any violation of the provisions of this Chapter, with the exception of those Sections specifically listed hereinabove and below as criminal offenses shall be classified as a nuisance and any person violating any of the provisions of this Chapter, with the exception of those Sections specifically listed hereinabove and below as criminal offenses, shall be subject to civil fines as set out below. These civil penalties shall be in addition to all license and impoundment fees charged under this Chapter.

1. If a citation for a violation of this Chapter is not contested by the person charged with the violation, the maximum penalties below shall apply; however, the Code Enforcement 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 this Chapter. The penalties listed below are for each day a violation continues, beginning on the first day after the ending date of the correction period given in the citation. 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 (2) or more prior offenses.

(Ordinance No. BG2014 - 13)

<u>Violation</u>	<u>1<sup>st</sup> Offense</u>	<u>2<sup>nd</sup> Offense</u>	<u>3<sup>rd</sup> Offense</u>
License Registration	\$75.00	\$150.00	\$300.00
Rabies Vaccination	\$25.00	\$50.00	\$100.00
Kennels; Dog/Cat Restrictions	\$100.00	\$200.00	\$400.00
Poultry Restrictions	\$50.00	\$100.00	\$200.00
Animal Nuisances	\$50.00	\$100.00	\$200.00
Confinement	\$75.00	\$150.00	\$300.00
Animal Waste Removal	\$25.00	\$50.00	\$100.00
Animal Carcasses	\$25.00	\$50.00	\$100.00
Exotic or Wild Animals	\$50.00	\$100.00	\$200.00
Livestock	\$50.00	\$100.00	\$200.00

2. 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 Board:

<u>Violation</u>	<u>1<sup>st</sup> Offense</u>	<u>2<sup>nd</sup> Offense</u>	<u>3<sup>rd</sup> Offense</u>
License Registration	\$150.00	\$300.00	\$600.00
Rabies Vaccination	\$50.00	\$100.00	\$200.00
Kennels; Dog/Cat Restrictions	\$200.00	\$400.00	\$600.00
Poultry Restrictions	\$100.00	\$200.00	\$400.00
Animal Nuisances	\$100.00	\$200.00	\$400.00
Confinement	\$150.00	\$300.00	\$600.00
Animal Waste Removal	\$50.00	\$100.00	\$200.00
Animal Carcasses	\$50.00	\$100.00	\$200.00
Exotic or Wild Animals	\$100.00	\$200.00	\$400.00
Livestock	\$100.00	\$200.00	\$400.00

...

2. Chapter 6 (Building Regulations) is hereby amended as follows:

...

6-13 CONTRACTOR LICENSING.

...

6-13.14 Enforcement.

...

j. Complaint and Investigations: Disciplinary Actions.

...

6. Enforcement Proceedings Before Code Enforcement Board.

(Ordinance No. BG2014 - 13)

(a) Enforcement proceedings for this Subchapter other than those set out above shall be designated as civil violations, and shall be initiated by the issuance of a citation by the Code Enforcement Officer as set out in the procedures in Chapter 2 Subchapter 27-7 of this Code, except as may be set out herein.

(1) The notice of the violation or citation shall be delivered to the violator at his last known address as listed on his contractor's license, if any. Such notice of violation or citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mail.

(2) The citation issued by the code official shall contain not only the information set forth in Chapter 2 Subchapter 27-7, but shall also contain the location by address of the construction project involved.

(b) In addition to all procedures as set out in Chapter 2 of this Code of Ordinances Subchapter 27-7, the Contractors Licensing Board may also take immediate action to remedy a violation of this Subchapter, including the issuance of a Stop Work Order, for work not in compliance with the requirements of this Subchapter. Any person violating any portion of this Subchapter shall be subject to civil penalties as set out in Subchapter 27-8 of this Code. Each case brought before the Code Enforcement Board alleging a violation of this Subchapter shall be prosecuted by the Code Enforcement Officer or by an attorney requested by the Contractors Licensing Board.

...

3. Chapter 8 (Cemeteries) is hereby amended as follows:

...

8-8           SPECIFIC RULES AND REGULATIONS TO GOVERN OPERATION.



(Ordinance No. BG2014 - 13)

...

8-8.14 Enforcement and Penalties.

a. Enforcement proceedings for Subsections 8-8.07 (b) and 8-8.09 (b) shall be classified as a nuisance and shall be initiated by the issuance of a notice of violation or a citation by a code official as set out in the procedures in Chapter 2 Subchapter 27-7 of this Code. Any person violating any portion of the aforementioned Subsections shall be subject to civil penalties as set out in Subchapter 27-8 of this Code.

b. Any person who violates the remaining provisions of this Chapter shall be guilty of a misdemeanor and shall be fined not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars.

...

4. Chapter 13 (Health) is hereby amended as follows:

...

13-3 ENFORCEMENT.

13-3.01 Designated Enforcement Officials.

This Chapter is enforceable by any police officer, code official duly designated by the City Manager and the Bowling Green-Warren County Health Department (subject to formal determination by the Health Department Board of Directors that the Health Department shall assume responsibilities for such enforcement).

13-3.02 Notice of Violation or Citation.

a.—Except as otherwise provided below, any violation of this Chapter, including any person who smokes in an area where smoking is prohibited, shall be classified as a civil violation and shall be enforced through the Code Enforcement Board as set out in Chapter 2 of this Code of Ordinances. Violations of this Chapter shall be initiated by the issuance of a notice of violation or a citation delivered to the violator at his last known address.

(Ordinance No. BG2014 - 13)

~~b. Except as provided below, if the code official believes based on his personal observation or investigation that a person has violated those provisions of this Chapter designated as civil violations, he is authorized to issue a citation to the violator.~~

~~e. The citation shall be delivered to the violator at his last known address. The citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing.~~

~~d. The citation shall contain the following information:~~

- ~~1. A description of the real estate sufficient for identification;~~
- ~~2. The name and address of the person to whom the citation is issued;~~
- ~~3. The date and time the violation was observed, and the date and time of issuance of the citation;~~
- ~~4. The facts constituting the violation;~~
- ~~5. The section of the ordinance or other code violated;~~
- ~~6. The name of the code official;~~
- ~~7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;~~
- ~~8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;~~
- ~~9. The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,~~
- ~~10. A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed as having waived the~~

(Ordinance No. BG2014 - 13)

~~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, the code official shall deliver a copy of the citation to the person designated by the Code Enforcement Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation.~~

~~13-3.03 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 Board, or by a final judgment of the court to have committed a violation of this Chapter for all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter.~~

~~b. The lien shall be recorded in the office of the County Clerk, and shall be notice to all persons from the time of its recording, and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e. The lien shall take precedence over all other subsequent liens except state, county, school boards 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 fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

...

5. Chapter 15 (Business and General Regulations) is hereby amended as follows:

...

15-4 ENFORCEMENT.

(Ordinance No. BG2014 - 13)

15-4.01 Designated Enforcement Officials.

This Chapter is enforceable by any City Police Officer and by any other duly designated Code Enforcement Officer official of the City.

15-4.02 Notice of Violation or Citation.

a.—Enforcement proceedings for the provisions of this Chapter shall be initiated by the issuance of a notice of violation or a citation by City Police Officer or Code Enforcement Officer official as set out in Chapter 2 of this Code of Ordinances.

~~b.—Except as provided below, if the City Police Officer or code official believes based on his personal observation or investigation that a person has violated the provisions of this Chapter, he is authorized to issue a citation to the violator. In lieu of a citation, the Police Officer or code official may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without fine. The time allowed shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the Police Officer or code official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.~~

~~e.—The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll or from other means to identify the owner of the property or of the business. Such notice of violation or citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy may also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.~~

~~d.—The citation issued by the Police Officer or code official shall contain the following information:~~

(Ordinance No. BG2014 - 13)

1. ~~A description of the real estate sufficient for identification;~~
  2. ~~The name and address of the person to whom the citation is issued;~~
  3. ~~The date and time the violation was observed, and the date and time of issuance of the citation;~~
  4. ~~The facts constituting the violation;~~
  5. ~~The section of the ordinance or other code violated;~~
  6. ~~The name of the Police Officer or code official;~~
  7. ~~The procedure for the person to follow in order to pay the civil fine or to contest the citation;~~
  8. ~~The civil fine that may be imposed per day for the violation if the person does not contest the citation;~~
  9. ~~The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,~~
  10. ~~A statement that if the person fails to pay the civil fine set forth in the citation or 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, the Police Officer or code official shall deliver a copy of the citation to the person designated by the Code Enforcement Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the Police Officer or code official is authorized to issue another citation and to remedy the violation.~~
- f. ~~Nothing in this Chapter shall prohibit the City from correcting the violation through~~

(Ordinance No. BG2014 - 13)

~~self-help or taking immediate action to remedy a violation of this Chapter. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses in enforcing this Chapter.~~

~~g.—After determining that compliance has been achieved in the allowed correction time, the code official shall report that statistic to the Code Enforcement Board.~~

~~15-4.03—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 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 this Chapter.~~

~~b.—The lien shall be recorded in the office of the County Clerk, and shall be notice to all persons from the time of its recording, and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e.—The lien shall take precedence over all other subsequent liens except state, county, school boards 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 fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

...

6. Chapter 21 (Streets and Sidewalks) is hereby amended as follows:

...

21-2       STORMWATER.

...

(Ordinance No. BG2014 - 13)

21-2.04 Illicit Discharge.

...

n. Cost of abatement of a violation. Any person causing a violation of this Section which requires the City to expend public funds for the response to the violation, its abatement or the cleanup or removal of any prohibited discharges, pollutants or hazardous materials shall be liable to the City for all recoverable costs incurred by the City for such response, cleanup and removal, including but not limited to, personnel costs of the Police Department, Fire Department, Public Works Department and other responding City departments, replacement costs of supplies and equipment contaminated as a result of the discharge, proper disposal of contaminated materials, cleanup, evacuation and administrative and other expenses, including legal expenses, incurred in recovering such costs. Any such illegal discharges shall be considered a public health hazard and nuisance and the City shall have a lien against the property for its recoverable costs.

...

21-2.06 Penalties; Stop Work Orders; Abatement.

Enforcement proceedings for this subchapter shall be initiated by the issuance of a notice of violation or a citation by a code official as set out in the procedures in Chapter 2 Subchapter 27-7 of this Code. In addition to all procedures as set out in Chapter 2 Subchapter 27-7, the City of Bowling Green may also take immediate action to remedy a violation of this Subchapter, including the issuance of a Stop Work Order, for construction under an active building permit, grading permit, detailed development plan or subdivision if work is not in compliance with the requirements of this Subchapter. Any person violating any portion of this Subchapter shall be subject to civil penalties as set out in Subchapter 27-8 of this Code.

...

7. Chapter 26 (Public Trees) is hereby amended as follows:

...

(Ordinance No. BG2014 - 13)

26-10 ABATEMENT.

26-10.01 Issuance of Notice of Violation or Citation.

a. Enforcement proceedings for this Chapter shall be initiated by the issuance of a notice of violation or a citation by a code official as set out in Chapter 2 of this Code of Ordinances and any violations shall be classified as a nuisance.

~~b.—If a code official believes based on his personal observation or investigation that a person has violated any provisions of this Chapter, he is authorized to issue a citation to the violator. In lieu of a citation, the code official may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without fine. The time allowed by the code official shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the code official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.~~

~~e.—The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll or as otherwise determined by the code official. Such notice of violation or citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy shall also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.~~

bd. Notices of violation or citations involving streets, sidewalks and public ways shall be sent to the property owner or other person having control or management of the premises or property adjacent to or fronting the street, sidewalk or public way.

~~e.—The citation issued by the code official shall contain the following information:~~



(Ordinance No. BG2014 - 13)

- ~~1. A description of the real estate sufficient for identification;~~
  - ~~2. The name and address of the person to whom the citation is issued;~~
  - ~~3. The date and time the violation was observed and the date and time of issuance of the citation;~~
  - ~~4. The facts constituting the violation;~~
  - ~~5. The section of the ordinance or other code violated;~~
  - ~~6. The name of the code official;~~
  - ~~7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;~~
  - ~~8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;~~
  - ~~9. The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,~~
  - ~~10. A statement that if the person fails to pay the civil fine set forth in the citation or 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.~~
- ~~f. Nothing in this Subchapter shall prohibit the City from correcting the violation through self help or 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. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses.~~
- ~~g. After issuing a citation, the code official shall deliver a copy of the citation to the person designated by the Board. Upon receipt of a citation, the violator shall respond to the citation~~

(Ordinance No. BG2014 - 13)

~~within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board pursuant to the provisions of Chapter Two of this Code of Ordinances to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to remedy the violation.~~

~~h. After determining that compliance has been achieved in the allowed correction time, the code official shall report that statistic to the Code Enforcement Board.~~

~~26-10.02 City May Correct Violation.~~

~~If the violator does not request a hearing before the Code Enforcement Board and the property is not brought into compliance, or if the Code Enforcement Board orders the property be brought into compliance and the violator refuses, failure to so comply shall constitute permission to an official, employee or other authorized agent of the City to enter upon the property to remedy the situation and to abate the violation.~~

~~26-10.03 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 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 and shall be notice to all persons from the time of its recording and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e. The lien shall take precedence over all other subsequent liens except state, county, school boards 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 fines assessed for the violation and for~~

(Ordinance No. BG2014 - 13)

~~all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

...

26-12 ENFORCEMENT.

This Chapter shall be enforced by any designated Code Official or Code Enforcement Officer.

8. Chapter 28 (Flood Damage Prevention) is hereby amended as follows:

...

28-3 GENERAL PROVISIONS.

...

28-3.08 Enforcement and Violation Notice.

a. Civil Offense: If, at any time, development occurs which is not in accordance with the provisions of this Chapter, including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil violation.

b. Enforcement proceedings for those provisions of this Chapter designated as civil violations shall be initiated by the issuance of a notice of violation or a citation by the Floodplain Administrator or other code official as designated by the City as set out in Chapter 2 of this Code of Ordinances.

~~e.—Except as provided below, if the Floodplain Administrator or code official believes based on his personal observation or investigation that a person has violated those provisions of this Chapter designated as civil violations, he is authorized to issue a citation to the violator. In lieu of a citation, the Floodplain Administrator or code official may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without~~

(Ordinance No. BG2014 - 13)

~~fine. The time allowed by the Floodplain Administrator or code official shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the Floodplain Administrator or code official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.~~

~~d. The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll or from other means to identify the owner of the property. Such notice of violation or citation shall be deemed to be properly served if 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 (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy may also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.~~

~~e. The citation issued by the Floodplain Administrator Agency or code official shall contain the following information:~~

- ~~1. A description of the real estate sufficient for identification;~~
- ~~2. The name and address of the person to whom the citation is issued;~~
- ~~3. The date and time the violation was observed, and the date and time of issuance of the citation;~~
- ~~4. The facts constituting the violation;~~
- ~~5. The section of the ordinance or other code violated;~~
- ~~6. The name of the Floodplain Administrator or code official;~~
- ~~7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;~~
- ~~8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;~~

(Ordinance No. BG2014 - 13)

~~9.—The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,~~

~~10.—A statement that if the person fails to pay the civil fine set forth in the citation or 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.~~

~~f.—After issuing a citation, the Floodplain Administrator or code official shall deliver a copy of the citation to the person designated by the Code Enforcement Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to remedy the violation.~~

~~g.—Nothing in this Chapter shall prohibit the City from correcting the violation through self help or taking immediate action to remedy a violation of this Chapter. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses in enforcing this Chapter.~~

~~h.—After determining that compliance has been achieved in the allowed correction time, the Floodplain Administrator or code official shall report that statistic to the Code Enforcement Board.~~

#### ~~28 3.09 —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 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 this Chapter.~~

~~b.—The lien shall be recorded in the office of the County Clerk, and shall be notice to all~~

(Ordinance No. BG2014 - 13)

~~persons from the time of its recording, and shall bear interest at twelve (12%) percent per annum thereafter until paid.~~

~~e. The lien shall take precedence over all other subsequent liens except state, county, school boards 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 fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.~~

28-3.0910 Penalties.

Violation of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall be subject to the civil penalties set out in Chapter 27 of the Code of Ordinances, specifically listed under penalties, Zoning Ordinance/Subdivision Regulations, Violation of General Development Standards. Nothing herein contained shall prevent the Floodplain Administrator or code official from taking such other lawful action as is necessary to prevent or remedy any violation.

...

9. 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.

10. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

11. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on May 20, 2014, and given final reading on June 3, 2014,

(Ordinance No. BG2014 - 13)

and said Ordinance shall be in full force and effect, upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: June 3, 2014

APPROVED: Bruce Wilkinson  
Mayor, Chairman of Board of Commissioners

ATTEST: Kate Shallu  
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 04/28/2014, 11:25 a.m.