

ORDINANCE NO. 18-11

AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY REPEALING THE CITY'S EXISTING ORDINANCES PERTAINING TO THE RICHMOND CODES ENFORCEMENT BOARD AND ENACTING A REPLACEMENT ORDINANCE

WHEREAS, the City, in §§ 35.167 through 35.175 of the City of Richmond, Kentucky Code of Ordinances, has enacted an ordinance creating and governing the City's Codes Enforcement Board; and

WHEREAS, the Kentucky legislature has enacted new statutes pertaining to codes enforcement boards which in many respects substantially modify the law applicable to such boards, and the City's existing ordinance should be repealed and a replacement ordinance enacted which will bring the City's ordinance into compliance with the state statutes;

NOW, THEREFORE, BE IT ORDAINED that:

SECTION I

§§ 35.165 through 35.175 of the City of Richmond, Kentucky Code of Ordinances are hereby repealed in their entirety.

SECTION II

The aforementioned repealed sections of the Code of Ordinances shall be replaced as follows:

§35.165 CODE ENFORCEMENT BOARD ESTABLISHED; MEMBERS AND TERM; COMPENSATION; ORGANIZATION.

There is hereby created the Code Enforcement Board (the "Board") for the City of Richmond, Kentucky pursuant to the provisions of KRS 65.8801 *et seq.* The Board shall consist of five members appointed by the Mayor, subject to the approval of the Board of Commissioners. The members of the Board, all of whom shall have been residents of the city for a period of at least one year prior to their appointment, shall serve for terms of three years, and shall be the five sitting members of the City's existing Codes Enforcement Board for the remainder of each sitting member's term. As the terms of the sitting members shall expire, Board members shall be appointed in accordance with the foregoing provisions. The chairperson of the Board shall receive as compensation the sum of \$200.00, and the remaining members the sum of \$100.00, for each board meeting actually attended.

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. The presence of at least a majority of the Board's entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.

§35.166 VACANCY; REMOVAL.

A vacancy on the Board shall be filled within sixty days by the Mayor, subject to the approval of the Board of Commissioners. If a vacancy is not filled within sixty days, the remaining members of the Board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

Any member of the Board may be removed by the mayor for misconduct, inefficiency, or willful neglect of duty. If so removed, the mayor shall submit a written statement to the member and to the board of commissioners setting forth the reasons for the removal. The member so removed shall have the right of appeal to the circuit court.

§35.167 DUTIES AND AUTHORITY.

The Board shall:

- (1) Hear and decide all appeals from the action of the City’s Department of Codes Enforcement.

- (2) Hear and decide cases arising under Section 110 of the International Property Maintenance Code (the “IPMC”) relating to the demolition or repair of structures so deteriorated or dilapidated or so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy within the meaning of Section 110.1 of the IPMC. The issues before the Board shall be: (i) whether the condition of the structure in question is as is set forth in the said Section 110.1 of the IPMC and, if so, (ii) whether it is reasonable to repair the structure or whether the structure should be demolished. The City’s Department of Codes Enforcement shall issue such notice to the property owner regarding the structure as is mandated by the IPMC, and should the time within which either repair or demolition of the structure by the owner elapse without abatement, the Department of Codes Enforcement shall schedule a hearing in front of the Board and provide to the property owner notice of the date, time, and location of the scheduled hearing.

In any such case, should the property owner testify that he or she intends to make repairs to the structure so as to make it safe and fit for human habitation or occupancy, the Board shall enter an order which permits the property owner to do so, but which in addition sets forth the parameters within which such repairs shall be commenced, performed, and completed. If in any subsequent hearing involving the same structure and property owner the Board shall find that repairs have not been effected with due and reasonable diligence, the Board may enter such further orders as it may deem appropriate, including the imposition of one or more civil fines and/or an order directing that the structure be demolished.

- (3) Make findings of fact and enter an order reflecting its adjudication of matters brought before it and in its order assess such civil fines as it may deem to be

appropriate any violation it finds to have taken place; provided, however, that any fine shall be within the parameters prescribed by ordinance for the violation.

§35.168 ENFORCEMENT PROCEEDINGS; PROCEDURE.

- (1) Enforcement proceedings before the Board shall be initiated by the issuance of a citation by a code enforcement officer.
- (2) When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation by:
 - (a) Personal service to the alleged violator;
 - (b) Leaving a copy of the citation with any person eighteen 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;
 - (c) Mailing a copy of the citation by regular first-class mail to the mailing address of the violator as reflected in the records in the office of the Madison County Property Valuation Administrator;
 - (d) If in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (a) to (c) of this subsection is not possible, then the citation is properly served by posting a copy of it in a conspicuous place on the premises.
- (3) A code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation shall be remedied within a specified period of time. If the person to whom the notice is given fails to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.
- (4) The citation issued by the code enforcement officer shall contain the following information:
 - (a) The date and time of issuance;
 - (b) The name and address of the person to whom it is issued;
 - (c) The date and time the offense was committed;
 - (d) The facts constituting the offense;
 - (e) The ordinance violated;

- (f) The name of the code enforcement officer;
 - (g) The civil fine that will be imposed for the violation if the person does not contest the citation and the maximum fine that may be imposed if the person elects to contest the citation;
 - (h) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - (i) 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 Board to contest the citation and that the determination that a violation was committed shall be final and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.
- (5) When a citation is issued, the person to whom the citation is issued shall respond to it within seven days of the date the citation is issued by either paying the civil fine set forth in the citation or by filing a notice of appeal with the City Clerk in accordance with the provisions of §35.170 (1). If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to an appeal and to a hearing to contest it and the determination that a violation was committed shall be considered final. In this event, the citation, as issued, shall be deemed to be a final order determining that 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 the District Court.

§35.169 HEARING; NOTICE; FAILURE TO APPEAR; PROCEDURE; FINAL ORDER

- (1) The Board shall conduct necessary hearings during its regular monthly meetings. Not less than seven days before the date set for the hearing in any particular case, the Department of Code Enforcement shall notify the person whose case will be heard of the date, time, and place of the hearing. The notice shall be given by regular first class mail sent to the person's address as set forth in the records in the office of the Madison County Property Valuation Administrator. Any person given notice of a hearing who shall fail to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing, and the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the Board's final order to the District Court.
- (2) All testimony shall be under oath and shall be recorded. The Board shall take testimony from the code enforcement officers, the alleged offender, and any witnesses to the alleged violation offered by the code enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

- (3) The Board shall determine, based on the evidence presented, whether a violation was committed. If the Board shall find that no violation was committed, an order dismissing the citation shall be entered. Should the Board determine that a violation has been committed, the Board shall issue an order so finding and may order the offender to do either or both of the following:
 - (a) Pay a civil fine in an amount up to the maximum authorized by the ordinance in question; or
 - (b) Remedy a continuing violation within a specified time to avoid the imposition of a fine.
- (4) Every final order following a hearing of the Board shall be reduced to writing and shall include the findings and conclusions of the Board and the date the order was issued. A copy of the order shall be furnished to the person named in the citation by first class mail at the person's address as set forth in the records in the office of the Madison County Property Valuation Administrator, or such other address as the person shall have provided, if any.

§35.170 APPEALS; FINAL JUDGMENT.

- (1) Any person to whom a citation has been issued by the Department of Codes Enforcement shall have the right to appeal to the Board by filing a written notice of appeal with the City Clerk within seven days after the citation was served. The filing fee for such a notice of appeal shall be \$25.00 and shall be paid upon the filing of the notice of appeal.
- (2) An appeal from any final order of the Board may be made to the Madison District Court within thirty days of the date the order is served. 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 Rules of Civil Procedure. The District Court shall review the final order de novo. A judgment of the District Court may be appealed to the Madison Circuit Court in accordance with the Rules of Civil Procedure.
- (3) If no appeal from a final order is filed within the time period set forth in subsection (1), above, the order shall be deemed final for all purposes.

§35.171 LIEN; RECORDING; RESPONSIBILITY FOR FINES; CHARGES AND FEES.

In those cases in which the Board in its final order has determined a violation to have occurred, the City shall have a lien against the property in question for all civil fines assessed for the violation and for all charges and fees incurred by the City in connection with the case, including abatement costs. All such fines, charges, and fees, if remaining unpaid, shall be added to the ad valorem tax bill for the property and shall bear interest and penalties, if delinquent, calculated at the same rates as are applicable to delinquent ad valorem taxes.

§35.172 IMMEDIATE ACTION TO REMEDY VIOLATION.

Nothing contained in this Ordinance shall prohibit the City from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the existence of the violation presents imminent danger, 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 term “imminent danger” as used in this subsection shall be defined to mean a condition which is likely to cause serious or life-threatening injury or death at any time.

§35.173 FINES FOR VIOLATIONS.

In those cases brought before the Board for hearing, the Board, upon a finding that a violation has been committed, shall impose a fine of \$100.00 for the first violation, \$300.00 for the second violation, and \$500.00 for the third and any subsequent violation. Each day during which the violation at issue continues in existence shall constitute a separate violation. When the violation concerns the condition of a tract of land or of a structure thereon, any assessed fine remaining unpaid for sixty or more days after the fine shall have become final shall be added to the City ad valorem tax bill pertaining to the property, and same shall draw interest and penalties the same as are applicable to delinquent ad valorem property taxes.

§35.174 REGULAR MEETINGS OF THE BOARD.

The Board shall hold its regular meetings on the third Wednesday of each month at 5:30 p.m. in the Commission Chambers on the first floor of Richmond City Hall, 239 W. Main Street, Richmond, Kentucky.

SECTION III

This Ordinance shall become effective immediately upon its enactment following second reading, and publication in accordance with the requirements of applicable Kentucky law.

DATE OF FIRST READING: June 12, 2018
MOTION BY: Commissioner Morgan
SECONDED BY: Commissioner Eaves

DATE OF SECOND READING: June 26, 2018
MOTION BY: Commissioner Eaves
SECONDED BY: Commissioner Blythe

VOTE

Commissioner Blythe
Commissioner Eaves
Commissioner Morgan
Commissioner Newby
Mayor Barnes

YES

x
x
x
x
x

NO



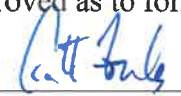
Mayor Barnes

ATTEST:



City Clerk

Approved as to form:



City Attorney, Garrett Fowles