

CITY OF BELLEVUE

ORDINANCE NO. 2019-08-01

AN ORDINANCE AMENDING PROVISIONS OF THE CITY OF BELLEVUE CODE ENFORCEMENT BOARD CHAPTER 35.90 ET SEQ. TO ESTABLISH A MEETING TIME AND DATE AND MODIFYING OTHER PROVISIONS.

WHEREAS, the Code Enforcement Ordinance codified in Bellevue Code of Ordinances §§ 35.90 et seq. needs to be amended to provide new definitions, establish a monthly time and meeting date, change deadlines to be in accordance with state law, and to upgrade and improve the fine structure for violations in citations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BELLEVUE, IN CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

Section 1

Bellevue Code of Ordinances §§ 35.90, 35.93, 35.94, 35.97, and 35.101 are hereby amended as follows:

CODE ENFORCEMENT BOARD

§ 35.90 DEFINITIONS.

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

“ABATEMENT COSTS.” A city’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 city ordinance.

“CIVIL OFFENSE”. A violation of city code, ordinance, and/or regulation, for which a fine may be imposed upon the offender.

“CODE ENFORCEMENT BOARD.” An administrative body created and acting under the authority of the Local Government Code Enforcement Board.

“CODE ENFORCEMENT OFFICER.” A city police officer, safety officer, citation officer, or other public law enforcement officer with the authority to issue a citation.

“FINAL ORDER.” Any order:

(1) Issued by the Code Enforcement Board following a hearing in accordance with § 35.98(E) of this section;

(2) Created because a violator neither paid nor contested the citation within seven (7) days as provided in § 35.97(F) of this subchapter; or

(3) Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in § 35.98(C).

“IMMINENT DANGER.” A condition which is likely to cause serious or life-threatening injury or death at any time.

“ORDINANCE.” An official action of the local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance.

“OWNER.” A person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

“PREMISES.” A lot, plot or parcel of land, including any structures upon it.

“VIOLATION”. Failure to abide by a city code, ordinance, or regulation. Where multiple violations are assessed for the same conduct, omission or condition, each violation may be fined per Section 35.101.

§ 35.93 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; COMPENSATION.

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

(B) The initial appointment to the Code Enforcement Board shall be as follows:

(1) One (1) member of the Board shall be appointed for a term of one (1) year;

(2) One (1) member of the Board shall be appointed for a term of two (2) years; and

(3) One (1) member of the Board shall be appointed for a term of three (3) years.

(C) All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the legislative body.

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

(E) Any vacancy on the Board shall be filled by the executive authority, subject to approval of the legislative body, within sixty (60) days of the vacancy. If the vacancy is not filled

within that time period, and after notice is given to the Mayor in writing of the intent to fill said vacancy at least ten (10) days prior to the next regularly scheduled meeting, the remaining Code Enforcement Board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(F) A Board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority shall submit a written statement to the member and the legislative body setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(G) All members of the Code Enforcement Board shall, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

(H) Members of the Code Enforcement Board shall be reimbursed for actual expenses and educational expenses as authorized by the executive authority.

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

§ 35.94 ORGANIZATION OF BOARD; MEETINGS; QUORUM.

(A) The Code Enforcement 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. In the absence of the chair, the remaining members of the Board shall select a member to preside in place of and exercise the powers of the chair.

(B) Regular meetings of the Code Enforcement Board shall be held ~~on the date and time assigned by the Mayor~~ at 7 p.m. on the fourth Thursday of each month. Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

(C) All meetings and hearings of the Code Enforcement Board shall be public meetings held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

(D) 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.

(E) 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.

§ 35.97 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 § 35.105, if a Code Enforcement Officer believes, based on his personal observation or investigation, that a person has violated a city ordinance, he ~~shall~~ 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 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 may be imposed for the violation, including, if applicable:

(a) The civil fine that will be imposed if the person does not contest the citation; and

(b) 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 City Administrator's Office.

(F) (1) The person to whom the citation is issued shall respond to the citation within ~~seven (7)~~ 10 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)~~ 10 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.

(B) If no appeal from a final order of the Code Enforcement Board is filed within the time period set in division (A) of this section, the Code Enforcement Board's order shall be deemed final for all purposes.

§ 35.101 ORDINANCE FINE SCHEDULE.

For each violation within a Citation the following fines will apply:

(A) For each violation that is within a Citation involving violations of Sec. 95.03 (i.e. weeds and rubbish) which is not contested the penalties set forth below apply:

<u>Violation</u>	<u>Civil Fine</u>
<u>First Violation</u>	<u>\$50.00</u>
<u>Second Violation</u>	<u>\$100.00</u>
<u>Third Violation</u>	<u>\$250.00</u>

If a Citation for any violations of Sec. 95.03 is contested, and a hearing before the Code Enforcement Board is required, the following minimum to maximum penalties may be imposed at the discretion of the Code Enforcement Board.

<u>Violation</u>	<u>Civil Fine</u>
<u>First Violation</u>	<u>\$50.00-\$150.00</u>
<u>Second Violation</u>	<u>\$100.00-\$300.00</u>
<u>Third Violation</u>	<u>\$250.00-\$500.00</u>

(B) For all other violations within a Citation, if the first, second, or third Citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this division shall apply.

<u>Violation</u>	<u>Civil Fine</u>
<u>First Violation</u>	<u>\$250.00</u>
<u>Second Violation</u>	<u>\$500.00</u>
<u>Third Violation</u>	<u>\$1,000.00</u>

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

<u>Violation</u>	<u>Civil Fine Range</u>
<u>First Violation</u>	<u>\$50.00 - \$500.00</u>
<u>Second Violation</u>	<u>\$100.00 - \$1,000.00</u>
<u>Third Violation</u>	<u>\$200.00 - \$2,000.00</u>

(C) Determination of whether the Citation of first, second, or third offense will be determined based on the cited person or business with no citation over one year prior counting against the cited person or business.

~~§ 35.101 ORDINANCE FINE SCHEDULE.~~

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

~~—(A) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this subsection shall apply:~~

~~—Each section violated — 1st Offense — 2nd Offense — All Others
 ————— \$10 to \$100 — \$30 to \$300 — \$90 to \$900~~

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

~~—Each section violated — 1st Offense — 2nd Offense — All Others
 ————— \$20 to \$200 — \$60 to \$600 — \$180 to \$1,800~~

Section 2.0 – Provisions Severable

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section 3.0 – Conflicting Ordinances Repealed

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4.0 – Effective Date

This Ordinance shall be effective as soon as possible according to law.

Section 5.0 – Publication

This Ordinance shall be published pursuant to K.R.S. 83A.060(9).

The Ordinance shall be effective when read, passed and advertised according to law.

Charlie Cleves, Mayor

ATTEST:

Mary H. Scott, City Clerk

1st reading: _____

2nd reading: _____

Publication: _____