

ORDINANCE NO. 02 - 2021

**AN ORDINANCE OF THE CITY OF BERE, KENTUCKY, REVISING THE CODE OF ORDINANCES SECTIONS 22.607 and 22.608 PROVIDING THAT THE CUSTODIAN OF RECORDS FOR THE CODE ENFORCEMENT BOARD SHALL BE THE ADMINISTRATIVE ASSISTANT TO THE CODES AND PLANNING DEPARTMENT INSTEAD OF THE CITY CLERK; AND FURTHER BY REVISING SECTION 22.606, PROVIDING FOR FINES FOR VIOLATIONS OF ORDINANCES BEFORE THE CODE ENFORCEMENT BOARD.**

WHEREAS, the City of Berea has heretofore established a Codes Enforcement Board in Ordinance 14-97 as amended, and codified in the Berea City Code in Sections 22.600-22.612; and

WHEREAS, Sections 22.607 and 22.608 of the Berea City Code provide that the City Clerk shall be the record custodian for the Code Enforcement Board; and

WHEREAS, the City Council deems it necessary and expedient to provide for a division of custodial responsibilities among City officers and employees, and to provide that the Administrative Assistant of the Codes and Planning Department shall be the custodian of records for the Code Enforcement Board instead of the City Clerk; and

WHEREAS, Section 22.606 of the Berea City Code provides for a schedule of civil fines for violations of ordinances enforced by the Code Enforcement Board; and

WHEREAS, the City Council deems it necessary to revise and update the provision for such fines;

**NOW, THEREFORE, be it ordained by the City Council of the City of Berea, Kentucky, that the Code of Ordinances of the City of Berea be revised as follows:**

## SECTION I

That the Code of Ordinances is hereby amended to revise Sections 22.607 and 22.608 so that such sections shall read as follows:

### *§ 22.607 DUTIES; AUTHORITY; ADMINISTRATION*

The Code Enforcement Board shall:

(A) Hear and decide all appeals from the action or inaction of the Office of Code Enforcement or otherwise from the enforcement of the applicable building code, the property maintenance code, the electrical code, the plumbing code, or the fire prevention code.

(B) Enforce city ordinances pursuant to the provision of KRS 65.8821.

(C) All enforcement proceedings shall proceed pursuant to the provisions of KRS 65.8801 - 8838. Review of enforcement proceedings shall be as specified in KRS 65.8831. All appeals to the Code Enforcement Board shall proceed pursuant to § 22.605.

(D) The Administrative Assistant of the Codes and Planning Department ~~City Clerk~~ shall be the records custodian and administrator of all enforcement proceedings of the Code Enforcement Board.

### *§ 22.608 APPEALS*

(A) Any person affected by a decision, notice, or order, of the Office of Code Enforcement, except for zoning matters, or any person affected by a decision, notice, or order, of a city official or agent who is acting under the applicable building code (except appeals under the Kentucky Building Code, KRS 198B.070), property maintenance code, electrical code, plumbing code, or fire prevention code, shall have the right to appeal to the Code Enforcement Board by filing a written notice of appeal with the City Clerk within fourteen (14) days after the decision, notice, or order was served or made effective. The filing fees for a Notice of Appeal shall be twenty-five dollars (\$25.00) and shall be paid upon filing the Notice of Appeal. The Administrative Assistant of the Codes and Planning Department ~~City Clerk~~ shall be the records custodian and administrator of all appeals to the Code Enforcement Board.

(B) Upon receipt of a Notice of Appeal, the Code Enforcement Board shall convene a hearing to consider the appeal within fourteen (14) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter sent by regular first-class mail; certified mail, return receipt requested; by personal service, 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, no later than seven (7) days prior to the date of the hearing. The Code



Enforcement Board shall also provide notice of hearing to any lienholders with an interest in the subject premises. The Code Enforcement Board shall issue its decision on the appeal within ten (10) working days after the hearing. A final order 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 or notice of violation.

(C) All appellate decisions of the Code Enforcement Board may be appealed to the Madison Circuit Court within thirty (30) days of the Code Enforcement Board's final decision. If no appeal from a final order of the Code Enforcement Board is filed within 30 days, the Code Enforcement Board's order shall be deemed final for all purposes.

(D) Appeals from action or inaction of the enforcement of the Kentucky Building Code shall be made to the Kentucky Board of Housing, Buildings, and Construction, pursuant to KRS 198B.070.

## SECTION II

That the Code of Ordinances is hereby amended to revise Section 22.606 so that such section shall read as follows:

In all matters brought before the Code Enforcement Board for hearing, the board, upon a finding that a violation has been committed, shall impose a fine of \$100.00 for a first violation, \$300.00 for a second violation, and \$500.00 for a third and each succeeding violation; provided, however, that the board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the board determines that such waiver will promote compliance with the ordinance in issue. Each day during which the violation at issue continues in existence shall constitute a separate violation. When a violation concerns the condition of a tract of real property or of a structure thereon, any assessed fine remaining unpaid sixty (60) days after a final decision shall be added to the City *ad valorem* tax bill pertaining to the property, and shall bear interest and penalties as applicable to delinquent *ad valorem* property taxes, and shall constitute a lien on the property the same as for *ad valorem* property taxes.

~~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; however, the board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the board determines that such waiver will promote compliance with the ordinance in issue.~~

**~~Violation   1st Offense   2nd Offense   All Others~~**

Animals <del>§ 51.199</del>	\$25.00	\$50.00	\$100.00
Unsafe & unfit structure § PM-106.2	\$100.00	\$150.00	\$200.00
Garbage § PM-106.2	\$25.00	\$50.00	\$100.00
Occupational License <del>§ 60.199</del>	\$50.00	\$75.00	\$100.00
Weeds § PM-106.2	\$25.00	\$50.00	\$100.00
No Building Permit <del>§ 71.299</del>	\$10.00	\$25.00	\$50.00
Nuisance Violation § PM-106.2	\$25.00	\$50.00	\$100.00
Violation of Land Management and Development Ordinance § 305	\$10.00	\$20.00	\$50.00

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

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### ***Violation 1st Offense 2nd Offense All Others***

Animals <del>§ 51.199</del>	\$50.00	\$100.00	\$200.00
Unsafe & unfit structure § PM-106.2	\$200.00	\$300.00	\$400.00
Garbage § PM-106.2	\$50.00	\$100.00	\$200.00
Occupational License <del>§ 60.199</del>	\$100.00	\$150.00	\$200.00
Weeds § PM-106.2	\$50.00	\$100.00	\$200.00
No Building Permit <del>§ 71.299</del>	\$20.00	\$50.00	\$100.00
Nuisance § PM-106.1	\$50.00	\$100.00	\$200.00
Violation of Land Management and Development Ordinance § 305	\$20.00	\$50.00	\$100.00

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~~—(C) Each day of non-compliance shall constitute a separate violation.~~

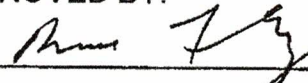
## SECTION III

All ordinances or parts of ordinances in conflict herewith are repealed. This ordinance shall be published according to law.

FIRST READING: January 5, 2021.

SECOND READING AND ENACTMENT: January 19, 2021.

APPROVED BY:

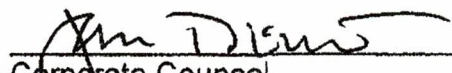
  
\_\_\_\_\_  
Bruce Fraley, Mayor

ATTEST:

  
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Clerk of the City Council

Published this 20 day of January, 2021.

PREPARED BY:

  
\_\_\_\_\_  
Corporate Counsel