

Ordinance Creating Code Enforcement Board (Model County Ordinance)  
Kentucky Association Of Counties

CREATION OF A CODE ENFORCEMENT BOARD

AUTHORIZED BY H.B. 814 EFFECTIVE JULY 15, 1996

## ENFORCEMENT BOARD FACT SHEET

\* Creation of a code enforcement board is optional, not mandatory. The new legislation passed in the 1996 Session of the Kentucky General Assembly allows this new way of enforcing local ordinances but does not require it.

\* The board may consist of either five (5) or seven (7) members.

\* The county judge/executive may appoint two (2) alternative members to serve on the code enforcement board in the absence of regular members subject to the approval of the fiscal court. Alternate members shall meet all of the qualifications and be subject to all of the requirements that apply to regular members.

\* Code enforcement officers may include or may be limited to existing law enforcement officers. Building inspectors and solid waste coordinators who have enforcement responsibilities should be included and their work coordinated if a code enforcement board is created.

\* Local Code of Ethics ordinances will apply to these board members if appointees are covered by the requirements of the adopted code.

## MODEL ORDINANCE

Ordinance No. \_\_\_\_\_

AN ORDINANCE relating to the creation of a code enforcement board. Be it ordained by the Fiscal Court of the County of \_\_\_\_\_, Commonwealth of Kentucky:

It is hereby declared that the purpose of this ordinance is to provide an equitable, expeditious, and effective method of ensuring compliance with the ordinances in force in this county. This ordinance will provide an additional or supplemental means of enforcing the local ordinances enacted by the Fiscal Court of \_\_\_\_\_ County.

The Fiscal Court of the County of \_\_\_\_\_, after due consideration, has determined that the creation of an administrative body to enforce local ordinances will provide a desirable alternative method of such enforcement.

Now, therefore, the County of \_\_\_\_\_ does hereby create a code enforcement board, pursuant to KRS Chapter 65, which shall have the power to issue remedial orders and impose civil fines as a method of enforcing a county ordinance when a violation of the ordinance has been classified as a civil offense in accordance with state statutes. This enforcement board shall have no power to enforce any violations which are offenses under any provision of Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

## MEMBERSHIP/QUALIFICATIONS

Section 1.

A. The code enforcement board shall consist of five (5) members who shall be appointed by the county judge, and approved by the fiscal court. The initial appointment of the members shall be as follows:

- a. One (1) member appointed for a term of one (1) year;
- b. Two (2) members appointed for a term of two (2) years; and
- c. Two (2) members appointed for a term of three (3) years each.

B. All subsequent appointments shall be made for a term of three (3) years.

## Section 2.

A. Each member of the code enforcement board shall have resided within the boundaries of the county for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

B. All members of the board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

C. No member of the board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government of which he is a member.

## VACANCIES/REMOVAL FROM OFFICE

Section 3. A member may be reappointed, subject to the approval of the fiscal court. Any vacancy on the board shall be filled within sixty (60) days by the county judge/executive, subject to the approval of the fiscal court. If a vacancy is not filled by the county judge/executive within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

Section 4. Any member of the code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the fiscal court setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

## RESPONSIBILITIES/AUTHORITY/CONFLICTS OF INTEREST

### Section 5.

A. The board shall, initially and annually thereafter, elect a chair from among its members, who shall be the presiding officer and a full voting member of the board.

B. The board shall meet as necessary and three (3) or more members shall constitute a quorum; all official action of the board shall require the affirmative vote of a majority of the members constituting a quorum. Any member of the board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter and shall not be counted for purposes of establishing a quorum.

C. The board shall keep written minutes of all proceedings and the vote of each member on any issue decided by the board shall be recorded in the minutes which shall be subject to Open Records provisions under KRS 61.870-61.884.

D. All meetings and hearings of the board shall be open to the public, according to the provisions of KRS 61.805-61.850.

E. The Fiscal Court of County shall provide clerical and administrative personnel as reasonably required by the board for the proper conduct of its duties.

## POWERS OF THE BOARD

Section 6. The enforcement board shall have the following powers:

A. Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with state and local laws.

B. Conduct hearings to determine whether there has been a violation of any local government ordinance that the board has jurisdiction to enforce.

C. Subpoena alleged violators, witnesses, and evidence to its hearings. A subpoena issued by the board may be served by any code enforcement officer.

D. Take testimony under oath. The chairman of the board shall have the authority to administer oaths to witnesses prior to their testimony before the board on any matter.

E. Make findings and issue orders that are necessary to remedy any violation of a local government ordinance that the board has jurisdiction to enforce.

F. impose civil fines as authorized by ordinance on any person found to have violated any ordinance that the board has the jurisdiction to enforce.

## INITIATION OF PROCEEDINGS

Section 7. All enforcement proceedings before the board shall be initiated by the issuance of a citation by a code enforcement officer.

A. The code enforcement officer is authorized to issue a citation to the offender when the officer, either from personal observation or investigation, has reason to believe that

a person has committed a violation of a local government ordinance. The officer may, in lieu of issuing a citation, give notice that a violation shall be remedied within a specified period of time. If the violation is not remedied within the time specified, the code enforcement officer is authorized to issue a citation.

B. The citation issued by the code enforcement officer shall be in a form prescribed by the county government. (Commonwealth of Kentucky Uniform Citation form. Sample attached).

C. The code enforcement officer shall notify the board of the issuance of a citation by delivering one copy of the citation to the Office of the County Judge/Executive.

D. The person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the code enforcement board to contest the citation. If the person fails to respond to the citation in seven (7) days, the person 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 considered final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

## HEARINGS

Section 8. When a hearing before the board is requested, the code enforcement board, through its clerical and/or administrative staff, shall schedule a hearing.

A. The hearing shall be conducted within fourteen (14) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed fourteen (14) days. Not less than seven (7) days before the date set for the hearing, the code enforcement board shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by certified mail, return mail 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. Any person requesting a hearing before the code enforcement board 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 board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

B. Each case before the board shall be presented by a member of the administrative staff of the county government or by an attorney selected by the county government. The attorney shall either be counsel to the board or shall represent the county government by presenting cases before the board, but in no case shall an attorney serve in both capacities.

C. All testimony shall be under oath and shall be recorded. The board shall take testimony from the code enforcement officer, 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.

D. At the hearing, the board shall determine, based on the evidence presented, whether a violation was committed. When the board determines that no violation was committed, an order dismissing the citation shall be entered. When the board determines that a violation has been committed, the board shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by ordinance.

E. Every final order of the code enforcement board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If that person is not present at the time a final order of the board is issued, the order shall be delivered to that person by certified mail, return receipt requested, by personal delivery, or by leaving a copy of the order at that 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 order.

## APPEALS

Section 9. An appeal from any final order issued by a code enforcement board may be made to the District Court of County 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 board's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the county to establish that a violation has occurred. If the court finds that a violation occurred, judgment shall be entered ordering the offender to pay to the county all fines assessed for the violation and all charges and fees incurred by the county as of the date of the judgment in connection with the enforcement of the ordinance. If the court finds a violation did not occur, the complaint shall be dismissed and the plaintiff shall be authorized to recover his costs.

Section 10. A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

Section 11. If no appeal from a final order of a code enforcement board is filed within the time period set forth in this section, the code enforcement board's order shall be deemed final for all purposes.

## FINES/LIENS

Section 12. The county shall possess lien on property owned by the person found by a final, nonappealable order of the code enforcement board, or by a final judgment of the court, to have committed a violation of a local government ordinance for all fines assessed for the violation and for all charges and fees incurred by the county in connection with the enforcement of the ordinance. 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 take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings.

Section 13. In addition to the remedy prescribed in Section 12, 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 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. Effective Date: This ordinance shall be effective on and after

\_\_\_\_\_.

INTRODUCED, SECONDED, AND GIVEN FIRST READING APPROVAL at a duly convened meeting of the Fiscal Court of \_\_\_\_\_ County, Kentucky, held on the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of \_\_\_\_\_ County, Kentucky, held on the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
County Judge/Executive

ATTEST

\_\_\_\_\_  
Fiscal Court Clerk

COMMONWEALTH OF KENTUCKY  
**UNIFORM CITATION**

KSP 206 (REV. 1/1/88)

**COURT**

<b>OFFENDER/VIOLATOR</b>	AGENCY										ORI: <b>KY</b>										
	NAME (L-F-M) SKIP A SPACE BETWEEN NAMES										ATTN. <input type="checkbox"/>		HOME PHONE								
	ALIAS												EMERGENCY PHONE								
	ADDRESS (RFD/STREET/APT. NO., ETC.)										KENTUCKY RESIDENT STATUS: F. <input type="checkbox"/> FULL-TIME; P. <input type="checkbox"/> PART-TIME; N. <input type="checkbox"/> NON RESIDENT										
	CITY:					STATE:					ZIP:		MARITAL STATUS								
	ID. TYPE/STATE			ID. NUMBER			S.S. NUMBER				VICTIM'S RELATIONSHIP TO OFFENDER										
	DATE OF BIRTH		SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE			RACE <input type="checkbox"/> WHITE <input type="checkbox"/> BLACK <input type="checkbox"/> AM. INDIAN OR ALASKA <input type="checkbox"/> ASIAN					ETHNIC ORIGIN <input type="checkbox"/> HISPANIC <input type="checkbox"/> NON HISPANIC										
	PLACE OF EMPLOYMENT/OCCUPATION										CITY:		STATE:		HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR			
	VEH. MAKE										VEH. TYPE		VEH. YEAR		COLOR		TOP/BOTTOM		ALCOHOL/DRUG INVOLVEMENT (SPECIFY) <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK		
	<b>VEHICLE</b>	REG. STATE		REG. YEAR		REGISTRATION NO.				VEHICLE IDENTIFIERS			MPH	IN MPH ZONE	VOL. KEY						
VIOLATION DATE		VIOLATION TIME		EXACT LOCATION OF VIOLATION/ARREST										B.A. RESULTS							
DATE OF ARREST		TIME OF ARREST		MILES		DIRECTION		CITY			COUNTY OF VIOLATION		SECTOR								
<b>DATE/TIME</b>	VIOLATION CODE	ASCF	STATUTE/ORD.		CHARGE(S)		#	PLEA	FIND-ING	FINAL VIOLATION CODE	DISPN. CODE	FINE	COSTS	FEE	JAIL/ PRISON	PROB. TIME					
							1														
							2														
							3														
							4														
<b>CHARGE(S)</b>	COURT DATE		COURT TIME <input type="checkbox"/> AM <input type="checkbox"/> PM		PAYABLE <input type="checkbox"/>		COURT LOCATION			COURT CASE NO.		DISPN. DATE		TRIAL <input type="checkbox"/> B <input type="checkbox"/> J <input type="checkbox"/> N		CLERK'S INITIALS					
<b>POST-ARREST COMPLAINT</b>	POST-ARREST COMPLAINT																				
<b>CASE</b>	NAME OF WITNESS										ADDRESS CITY/STATE										
	NAME OF WITNESS										ADDRESS										
	CASE NO.		1			2			3			4									
	CARRIED FOR UCR BY CONTRIBUTOR: <input type="checkbox"/>										OTHER AGENCY: <input type="checkbox"/> SPECIFY		<input type="checkbox"/> FINGERPRINTS		EVIDENCE HELD						
OFFICERS SIGNATURE										BADGE/I.D. NUMBER		ASSIGNMENT									
X																					
														YEAR	CONTROL NUMBER	TYPE					
															6922152						

GENERAL ASSEMBLY  
COMMONWEALTH OF KENTUCKY  
REGULAR SESSION 1996  
HOUSE BILL NO. 814  
WEDNESDAY, MARCH 13, 1996

The following bill was reported to the Senate from the House and ordered to be printed.

AN ACT relating to the enforcement of local government ordinances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

It is the intent of Sections 1 to 13 of this Act to protect, promote, and improve the health, safety, and welfare of the citizens residing within the local governments of this state by authorizing the creation of administrative boards with the authority to issue remedial orders and impose civil fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with the ordinances in force in local governments. Sections 1 to 13 of this Act is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local government ordinances and nothing contained in Sections 1 to 13 of this Act shall prohibit the enforcement of local government ordinances by any other means authorized by law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act, unless the context otherwise requires;

- (1) "Local Government" means any county, any municipal corporation of any class incorporated in the Commonwealth, any urban-county government organized and governed under KRS Chapter 67A, and any charter county government organized and governed under KRS Chapter 67.
- (2) "Code enforcement board" means an administrative body created and acting under the authority of Sections 1 to 13 of this Act.
- (3) "Code enforcement officer" means 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.
- (4) "Ordinance" means an official of a 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 a local government which embodies all or part of an ordinance.

SECTION 3 A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of a local government may, by ordinance, create a code enforcement board which shall have the power to issue remedial orders and impose civil fines as a method of enforcing a local government ordinance when a violation of the ordinance has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsection (3) of this section, the legislative body of a local Government may elect to enforce an ordinance of the local government by classifying a violation of the ordinance as a civil offense and establishing civil fines which may be imposed on any person who commits a violation of the ordinance. If a local government elects to enforce an ordinance as a civil offense, the ordinance, by its express terms, shall provide:

(a) That a violation of the ordinance is a civil offense:

(b) A maximum civil fine that may be imposed for each violation of the ordinance; and

(c) A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.

(3) No legislative body of a local government shall classify the violation of an ordinance as a civil offense if the violation would also constitute an offense under any provision of the KRS, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A code enforcement board shall consist of either five (5) or seven (7) members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.

(2 ) (a) The initial appointments to a five (5) member code enforcement board shall be as follows:

1. One (1) member appointed for a term of one (1) year;
2. Two (2 ) members appointed for a term of two (2 ) years each; and
3. Two (2) members appointed for a term of three (3) years each.

(b) The initial appointments to a seven (7) member code enforcement board shall be as follows:

1. Two (2) members appointed for a term of one (1) year each;
2. Three (3 ) members appointed for a term of two (2 ) years each; and
3. Two (2) members appointed for a term of three (3) years each.

All subsequent appointments shall be made for a term of three (3) years.

(3) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(4) A member may be reappointed, subject to approval of the legislative body.

(5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.

(9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government of which he is a member.

(10) Each legislative body of a local government code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement boards.

**SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:**

(1) The board shall, upon the initial appointment of its members, and annually thereafter, elect a chair from among its members, who 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 one (1) of their number to preside in place of the chair and exercise the powers of the chair.

(2) Meetings of the code enforcement board shall be held as specified in the ordinance creating the board.

(3) The presence of three (3) or more members shall constitute a quorum on a five (5) member board and the presence of four (4) or more members shall constitute a quorum on a seven (7) member board. The affirmative vote of a majority of the members constituting a quorum shall be necessary for any official action to be taken. Any member of a 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 and shall disqualify himself from voting on the matter and shall not be counted for purposes of establishing a quorum.

(4) Minutes shall be kept for all proceedings of the code enforcement board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

(5) All meetings and hearings of the code enforcement board shall be open to the public.

(6) The local government legislative body shall provide clerical and administrative personnel as reasonably required by its code enforcement board for the proper conduct of its duties.

**SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:**

The executive authority may appoint two (2) alternate members to serve on the code enforcement board in the absence of regular members. The appointment of alternate members shall be subject to the approval of the legislative body. Alternate members shall meet all of the qualifications and be subject to all of the requirements of Sections 1 to 13 of this Act that apply to regular members.

**SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:**

Each code enforcement board shall have the power to:

(1) Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with the requirements of Sections 1 to 13 of this Act and ordinances of the local government.

(2) Conduct hearings to determine whether there has been a violation of any local government ordinance that the board has jurisdiction to enforce.

(3) Subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas issued by the board may be served by any code enforcement officer.

(4) Take testimony under oath. The chairman of the board shall have the authority to administer oaths to witnesses prior to their testimony before the board on any matter.

(5) Make findings and issue orders that are necessary to remedy any violation of a local government ordinance that the board has jurisdiction to enforce.

(6) Impose civil fines as authorized by ordinance on any person found to have violated any ordinance that the board has jurisdiction to enforce.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Enforcement proceedings before a code enforcement 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 to the offender. When authorized by ordinance, 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 or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.

(3) The citation issued by the code enforcement officer shall be in a form prescribed by the local government and shall contain, in addition to any other information required by ordinance or rule of the board:

(a) The date and time of issuance;

(b) The name and address of the person to whom the citation is issued;

(c) The date and time the offense was committed;

(d) The facts constituting the offense;

(e) The section of the code or the number of 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;

(h) The maximum civil fine that may be imposed if the person elects to contest the citation;

(i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(j) 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 and that the determination that a violation was committed shall be final.

(4) After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board.

(5) When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the code enforcement board 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 to contest the citation and the determination that a violation was committed shall be considered final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) When a hearing before the code enforcement board has been requested, the code enforcement board, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within fourteen (14) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed fourteen (14) days. Not less than seven (7) days before the date set for the hearing, the code enforcement board shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be 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. Any person requesting a hearing before the code enforcement board 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 board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(2) Each case before a code enforcement board shall be presented by an attorney selected by the local government or by a member of the administrative staff of the local government. The attorney shall either be counsel to the code enforcement board or shall represent the local government by presenting cases before the code enforcement board, but in no case shall the attorney serve in both capacities.

(3) All testimony shall be under oath and shall be recorded. The code enforcement board shall take testimony from the code enforcement officer, 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.

(4) At the hearing, the code enforcement board shall determine, based on the evidence presented, whether a violation was committed. When the board determines that no

violation was committed, an order dismissing the citation shall be entered. When the board determines that a violation has been committed, the board shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by ordinance.

(5) Every final order of a code enforcement board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the board is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that 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 order.

#### SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) An appeal from any final order issued by a code enforcement board may be made to the District Court of the county in which the local government is located 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 board's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the local government to establish that a violation has occurred. If the court finds that a violation occurred, judgment shall be entered ordering the offender to pay to the local government all fines assessed for the violation and all charges and fees incurred by the local government as of the date of the judgment in connection with the enforcement of the ordinance. If the court finds a violation did not occur, the complaint shall be dismissed and the plaintiff shall be authorized to recover his costs.

(2) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(3) If no appeal from a final order of a code enforcement board is filed within the time period set forth in this section, the code enforcement board's order shall be deemed final for all purposes.

#### SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The local government shall possess a lien on property owned by the person found by a final, nonappealable order of a code enforcement board, or by a final judgment of the court, to have committed a violation of a local government ordinance for all fines assessed for the violation and for all charges and fees incurred by the local government in connection with the enforcement of the ordinance. 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 take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings.

(2) In addition to the remedy prescribed in subsection (1) of this section, 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 local government in connection with the enforcement of the ordinance. The local government may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

**SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:**

Nothing contained in Sections 1 to 13 of this Act shall prohibit a local government from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the existence of 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 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:**

The provisions of Sections 1 to 13 of this Act may be cited as the "Local Government Code Enforcement Board Act. "