

CITY OF COLDSTREAM, KENTUCKY
ORDINANCE NO. 09-03
AN ORDINANCE ESTABLISHING A
CITY CODE ENFORCEMENT BOARD

Whereas, the city of Coldstream, Kentucky is a sixth (6th) class city which desires to formally establish a Code Enforcement Board, and define the duties thereof,

DEFINITIONS

1. "Code Enforcement Board" means the Code Enforcement Board of the City of Coldstream, Kentucky, an administrative body created and acting under the authority of KRS 65.8801 to 65.8839 and this Ordinance.
2. "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.
3. "Ordinance" means an official action of a City 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 City which embodies all or part of an ordinance.
4. "City Council" means the City Council of the City of Coldstream, Kentucky.
5. "City" means the City of Coldstream, Kentucky.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COLDSTREAM, KENTUCKY, AS FOLLOWS:

1. There is established the Code Enforcement Board of the City of Coldstream, Kentucky.
2. The duties, powers and responsibilities of the Code Enforcement Board shall include, but not be limited to, the following:
 - a. The power to issue remedial orders and impose civil fines as a method of enforcing the city's ordinances and restrictions when a violation of the ordinance or restriction has been classified as a civil offense.
 - b. Subject to the limitations set forth herein, the City Council may elect to enforce any City ordinance or restriction, including any zoning ordinance or regulation, by classifying a violation of the ordinance or restriction as a civil offense and establishing civil fines which may be imposed on any person who commits a violation of the ordinance. If the City elects to enforce an ordinance as a civil offense, the ordinance, by its express terms,

shall provide:

- i. That a violation of the ordinance is a civil offense;
 - ii. A maximum civil fine that may be imposed for each violation of the ordinance; and
 - iii. 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.
- c. The City Council shall not classify the violation of an ordinance as a civil offense if the same conduct that is regulated by the ordinance would also constitute a criminal offense or a moving motor vehicle offense under any provision of the Kentucky Revised Statutes.
3. Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with the requirements of KRS 65.8801 to 65.8839 and ordinances of the City.
 4. Conduct hearings to determine whether there has been a violation of any City ordinance that the board has jurisdiction to enforce.
 5. Subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas issued by the board may be served by any code enforcement officer.
 6. 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.
 7. Make findings and issue orders that are necessary to remedy any violation of a City ordinance that the board has jurisdiction to enforce.
 8. Impose civil fines as authorized by ordinance on any person found to have violated any ordinance that the board has jurisdiction to enforce.
 9. Performance of all other duties and responsibilities required or authorized for Code Enforcement Boards by statute or ordinance.

COMPOSITION OF CODE ENFORCEMENT BOARD

10. The Code Enforcement Board shall consist of no fewer than three (3) members who shall be appointed by the Mayor of the City, subject to the approval of the City Council.
11. The initial appointments to the Code Enforcement Board shall be as follows:
 - (a) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;
 - (b) One-third (1/3) of the membership or one-third (1/3) of the membership

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

(c) One-third (1/3) of the membership or one-third (1/3) of the membership
and one (1) member of the board shall be appointed for a term of three (3) years.

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

12. Qualifications:

(a) Each member of the Code Enforcement Board shall have resided within the
boundaries of the City 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;

(b) Board members serving on joint code enforcement boards shall have resided
within the boundaries of the City they represent 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.

13. A member may be reappointed, subject to approval of the City Council.

14. Any vacancy on the Code Enforcement Board shall be filled within sixty (60) days by the
Mayor, subject to the approval of the City Council. If a vacancy is not filled by the Mayor 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.

15. Any member of the Code Enforcement Board may be removed by the Mayor for
misconduct, inefficiency, or willful neglect of duty. Any Mayor who exercises the power to remove a
member of the Code Enforcement Board shall submit a written statement to the member and to the
City Council setting forth the reasons for removal. The member so removed shall have the right of
appeal to the Circuit Court.

16. All members of the 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.

17. The members of the Code Enforcement Board may be reimbursed for expenses or
compensated, or both.

18. No member of a City code enforcement board shall hold any elected or appointed
office, whether paid or unpaid, or any position of employment with the City that has created the code
enforcement board.

19. Within thirty (30) days of receiving notice of his/her employment, the Code
Enforcement Board shall take the oath of office as required by KRS 62.010 and as contained in
Section 228 of the Kentucky Constitution.

20. The Code Enforcement Board members shall execute such bond as required by
the city council.

21. The Mayor 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 City Council. Alternate members shall meet all of the qualifications and be subject to all of the requirements of KRS 65.8801 to 65.8839 that apply to regular members.

MEETINGS

22. The Code Enforcement 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.

23. Meetings of the Code Enforcement Board shall be held on a quarterly basis or as needed for disposition of appeals or hearings, or as requested by the Mayor.

24. The presence of two (2) or more members shall constitute a quorum on a three (3) member board, 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 the 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.

25. 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.

26. All meetings and hearings of the code enforcement board shall be open to the public.

27. The City Council shall provide clerical and administrative personnel as reasonably required by its Code Enforcement Board for the proper conduct of its duties.

ENFORCEMENT PROCEEDINGS – PROCEDURE

28. Enforcement proceedings before the Code Enforcement Board shall be initiated by the issuance of a citation by a Code Enforcement Officer.

29. 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 City 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.

30. The citation issued by the Code Enforcement Officer shall be in a form prescribed by the City Council 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.

31. 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.

32. 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.

HEARING -- NOTICE -- FAILURE TO APPEAR -- PROCEDURE -- FINAL ORDER

33. 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. 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.

34. Each case before the Code Enforcement Board may be presented by an attorney selected by the City or by a member of the administrative staff of the City. An attorney may either be counsel to the Code Enforcement Board or may represent the City by presenting cases before the Code Enforcement Board, but in no case shall an attorney serve in both capacities.

35. 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.

36. 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.

37. 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 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.

APPEALS - FINAL JUDGMENT

38. An appeal from any final order issued by the Code Enforcement Board may be made to the District Court of Jefferson 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 appeal shall be limited to a review of the record created before the Code Enforcement Board.

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

40. If no appeal from a final order of the 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.

LIEN - RECORDING - RESPONSIBILITY FOR FINES, CHARGES, AND FEES

41. The City shall possess a 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 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. 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.

42. In addition to the remedy prescribed in subsection 34, 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 the ordinance. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

IMMEDIATE ACTION TO REMEDY VIOLATION OF ORDINANCES

43. Nothing contained in KRS 65.8801 to 65.8839 or 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 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.

This ordinance shall become effective on its passage, approval and publication as required by law.

First Reading on the ___ day of _____, 2008.

Passed, Approved and Enacted this ___ day of _____, 2009.

J. KEVIN TAYLOR, MAYOR

ATTEST:

CITY CLERK