

**COMMONWEALTH OF KENTUCKY
COUNTY OF TRIMBLE
ORDINANCE NO. 830.28**

**AN ORDINANCE ESTABLISHING A JOINT CODE ENFORCEMENT
BOARD**

WHEREAS, it is the intent of KRS 65.8801 to 65.8839 to protect, promote, and improve the health, safety, and welfare of the citizens residing within the local jurisdictions 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; and

WHEREAS, KRS 65.8801 to 65.8839 is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local government ordinances, and nothing contained in KRS 65.8801 to 65.8839 shall prohibit the enforcement of local government ordinances by any other means authorized by law; and

WHEREAS, the Fiscal Court of Trimble County Kentucky (" the Fiscal Court"), desires to utilize the authority granted under KRS 65.8801 to 65.8839 to establish a Trimble County Joint Code Enforcement Board ("the Joint Code Enforcement Board"), alternatively, ("the Board").

NOW THEREFORE be it ordained by the Fiscal Court of Trimble County, Kentucky as follows:

SECTION 1. TITLE OF ORDINANCE.

This Ordinance shall be known and may be cited as the "Joint Code Enforcement Board Ordinance."

SECTION 2. DEFINITIONS.

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

- (a) **ABATEMENT COSTS.** A county'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 regarding a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any county ordinance, including but not limited to costs incurred in the relocation of tenants from the structure or premises pertaining to the condition of or maintenance of the structure or premises.

SECTION 4. ENFORCEMENT POWERS.

- (a) The Joint Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing county ordinances when a violation of the ordinance has been classified as a civil offense.
- (b) The Joint Code Enforcement Board shall not have the authority to enforce any ordinance regulating conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense, or a moving motor vehicle offense.
- (c) The Magistrate for the County District where the alleged violation has occurred shall be authorized to be present at Joint Code Enforcement Board hearings and articulate their perspective on the issue.

SECTION 5. APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; COMPENSATION.

- (a) The Mayor of Milton and the Mayor of Bedford shall appoint one (1) member each to the Joint Code Enforcement Board and the Trimble County Judge-Executive shall appoint three (3) members to the Board with approval of their respective legislative bodies.
- (b) The initial appointment of the primary members of the Joint Code Enforcement Board shall be as follows:
 - (1) One (1) member appointed for one (1) year;
 - (2) Two (2) members appointed for two (2) years; and
 - (3) Two (2) members appointed for three (3) years.
- (c) All subsequent appointments shall be for a term of three (3) years. A city member may be re-appointed by the Mayor, and a county member may be re-appointed by the Judge-Executive with approval of the respective legislative bodies.
- (d) Any vacancy on the Joint Code Enforcement Board shall be filled by the executive authority of either city or the county, subject to approval of the legislative body, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining Board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.
- (e) A Board member may be removed from office by a Mayor and County Judge-Executive for misconduct, inefficiency, or willful neglect of duty. The Mayor and Judge-Executive shall submit a written statement to the members setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.
- (f) All members of the Board shall, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

- (c) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Joint Code Enforcement Board may be served by any Code Enforcement Officer.
- (d) To take testimony under oath. The Chairperson shall have the authority to administer oaths for the purpose of taking testimony.
- (e) To make findings of fact and issue orders necessary to remedy any violation of an ordinance or code provision which the Joint Code Enforcement Board is authorized to enforce.
- (f) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the Joint Code Enforcement Board has jurisdiction.
- (g) To make any recommendations to the Fiscal Court deemed necessary by the Joint Code Enforcement Board.

SECTION 9. ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the 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 Section 17 of this Ordinance, if a Code Enforcement Officer believes, based on their personal observation or investigation, that a person has violated a county ordinance, the officer shall 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 the citation by one of the following methods:
 - (1) Personal Service to the alleged violator and/or property owner; or
 - (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) Mailing a copy of the citation by certified mail to the alleged violator and/or property owner; or
 - (4) If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out above in (c)(1), (c)(2), and (c)(3) is not possible, then the citation is properly served by 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:

SECTION 10. HEARING; NOTICE; AND FINAL ORDER.

- (a) When a hearing has been requested, the Joint Code Enforcement Board or its administrative staff shall schedule a hearing.
- (b) Not less than seven (7) days before the date of the hearing, the Joint Code Enforcement Board shall notify the requester of the date, time, and place of the hearing. The notice may be given by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual residence, or entity's usual place of business with any person residing at the residence or employed at the usual place of business who is eighteen (18) years of age or older and who is informed of the contents of the notice.
- (c) 1. Any person requesting a hearing 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 citation as issued shall be deemed a final order determining 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 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 residence, or entity's usual place of business with any individual residing at the residence, or employed at the usual place of business who is eighteen (18) years of age or older and who is informed of the contents of the order.
- (d) All testimony at the hearing shall be taken under oath and recorded. Testimony shall be taken from the Code Enforcement Officer, the alleged violator, and any witnesses to the violation offered by the Code Enforcement Officer or alleged violator. Formal rules of evidence shall not apply to the hearing, but fundamental due process shall be observed and shall govern the proceedings.
- (e) The Joint Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered in the record. If it is determined that a violation was committed, an order may be issued upholding the citation. The board may impose a fine up to the maximum authorized by ordinance or require the violator to remedy a continuing violation to avoid a fine, or both.
- (f) In the event that a final order determining that the violation was committed is issued, if the property is not brought into compliance, or the Joint Code Enforcement Board orders the property to be brought into compliance and the violator refuses, failure to comply shall constitute permission to an official, employee, independent contractor, or other authorized agent of the county to enter upon the property or premises for the purpose of abating the violation.
- (g) 1. Every final order following a hearing shall be reduced to writing, which shall include

SECTION 13. ORDINANCE FINE SCHEDULE.

Violations of ordinances that are enforced by the Joint Code Enforcement Board or an assigned hearing officer shall be subject to the following schedule of civil fines. Any violations not listed below that are set forth in an adopted County Ordinance or any fines or penalties in conflict with an adopted County Ordinance shall be assessed at the amount set forth in the adopted County Ordinance:

<u>Violation within one (1) year</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Accumulation of Discarded Items; Debris	\$500.00	\$1,000.00	\$2,000.00
Accumulation of Garbage; Refuse	\$500.00	\$1,000.00	\$2,000.00
Inoperative Motor Vehicles	\$500.00	\$1,000.00	\$2,000.00
Inoperative Machinery; Recyclers	\$500.00	\$1,000.00	\$1,000.00
Scrap Metals	\$500.00	\$1,000.00	\$2,000.00
Non-Permitted Storage of Explosives	\$500.00	\$1,000.00	\$2,000.00
Non-Permitted Storage of Hazardous Waste	\$500.00	\$1,000.00	\$2,000.00
Non-Permitted Storage of Hazardous Materials	\$500.00	\$1,000.00	\$2,000.00
Improper Disposal of Sewage; Solid Waste	\$500.00	\$1,000.00	\$2,000.00
Unfit; Unsafe; Abandoned Structure(s)	\$500.00	\$1,000.00	\$2,000.00
Dangerous Trees or Other Objects	\$500.00	\$1,000.00	\$2,000.00
Unfit; Unsafe; Abandoned Mobile Homes	\$500.00	\$1,000.00	\$2,000.00
Non-Permitted Uses as Residential Dwelling	\$500.00	\$1,000.00	\$2,000.00
Noxious Odors or Smoke	\$200.00	\$ 400.00	\$ 800.00
Exterior Use or Storage of Indoor Furniture	\$200.00	\$ 400.00	\$ 800.00
Exterior Use or Storage of Indoor Appliance(s)	\$200.00	\$ 400.00	\$ 800.00
Open Wells	\$200.00	\$ 400.00	\$ 800.00
Overgrown Grass and Weeds	\$100.00	\$ 200.00	\$ 400.00
Landscaping Obstructing Streets; Sidewalks	\$100.00	\$ 200.00	\$ 400.00
Prohibited Keeping of Animals	\$200.00	\$ 200.00	\$ 400.00

SECTION 14. LIENS, FINES, CHARGES, AND FEES.

(a) The county shall possess a lien on property owned by the person found by a non-appealable final order as defined by Section 2(c) of this ordinance, or by a final judgment of the court, to have committed a violation of a county ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the county in connection with the enforcement of the ordinance, including abatement costs. An affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

(b) The lien shall be recorded in the office of the County Clerk. The lien shall serve as notice to all persons from the time of its recording and shall bear interest until paid. The lien

- (e) Within ten (10) days of the issuance of a final order pursuant to this ordinance, the county shall update its code enforcement records to reflect the issued final order.
- (f) The county shall maintain the records created under this Section for ten (10) years following their issuance.

SECTION 16. LIENS.

- (a) A lienholder of record who has registered pursuant to Section 15(b) of this ordinance may, within forty-five (45) days from the date of issuance of notification under Section 15(d) of this ordinance:
 - (1) Correct the violation, if it has not already been abated; or
 - (2) Pay all civil fines assessed for the violation, and all charges and fees incurred by the county in connection with enforcement of the ordinance, including abatement costs.
- (b) Nothing in this Section shall prohibit the county from taking immediate action, if necessary, under Section 17 of this ordinance.
- (c) The lien provided by Section 14 of this ordinance shall not take precedence over previously recorded liens if:
 - (1) The county failed to comply with the requirements of Section 15 of this ordinance for notification of the final order; or
 - (2) A prior lienholder complied with subsection (a) of this Section.
- (d) A lien that does not take precedence over previously recorded liens under subsection (c) of this Section shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except liens for state, county, school board and county taxes.
- (e) The county may record a lien before the forty-five (45) day period established in subsection (a) of this Section expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the county shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.
- (f) Failure of the county to comply with Sections 15 and 16 of this ordinance, or failure of a lien to take precedence over previously filed liens as provided in subsection (c) of this Section, shall not limit or restrict any other remedies the county has against the property of the violator.