

ORDINANCE NO. ____:2019

AN ORDINANCE OF THE CITY OF MOREHEAD, KENTUCKY RELATING TO CODE ENFORCEMENT AND AMENDING TITLE 3, ADMINISTRATION, CHAPTER 34, BOARDS AND COMMISSIONS, OF THE CITY OF MOREHEAD CODE OF ORDINANCES PERTAINING TO THE CODE ENFORCEMENT BOARD BY DELETING THE PRESENT ORDINANCE AND ADOPTING NEW CODE ENFORCEMENT BOARD REGULATIONS IN ACCORDANCE WITH THE KENTUCKY REVISED STATUTES; AND AMENDING THE PENALTY SECTION OF ALL ORDINANCES WHICH IMPOSE A CIVIL PENALTY FOR VIOLATION OF AN ORDINANCE OF THE CITY OF MOREHEAD, KENTUCKY

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 City by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective and inexpensive method of ensuring compliance with the ordinances in force within the City; and

WHEREAS, the City of Morehead, Kentucky Board of City Council established the Code Enforcement Board in July 1997 and it is the Board's desire to continue to utilize the authority granted in KRS 65.8801 to 65.8839 by amending the Code Enforcement Board ordinance to be in compliance with current state laws and the penalty sections of all ordinances imposing a civil fine and being enforcement by the Code Enforcement Board:

NOW, THEREFORE, be it ordained by the Board of City Council of the City of Morehead, Kentucky as follows:

SECTION ONE

Title 3 Administration, Chapter 34 Boards and Commissions, Sections 34.120 - 34.132 Code Enforcement Board shall be deleted in its entirety and replaced as follows:

[Section 34.120 DEFINITIONS.

~~_____The following words, terms and phrases when used in this subchapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~

~~———"CODE ENFORCEMENT BOARD." An administrative body created and acting under the authority of the Local Government Code Enforcement Board Act.~~

~~———"CODE ENFORCEMENT OFFICER." A city police officer, safety officer, citation officer, building inspector, assistant building inspector, fire chief or other public law enforcement officer with the authority to issue a citation.~~

~~———"ORDINANCE." An official act of a city legislative body, which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.~~

~~Section 34.121 CREATION; MEMBERSHIP.~~

~~——— There is hereby created, pursuant to KRS 65.8801 to KRS 65.8839, within the city, a Code Enforcement Board which shall be composed of seven (7) members, all of whom shall be residents of the city for a period of at least one (1) year prior to the creation of the Board and shall reside there throughout the term in office.~~

~~Section 34.122 APPOINTMENT; TERM OF OFFICE; VACANCY; REMOVAL FROM OFFICE; OATH; COMPENSATION.~~

~~——— (A) Appointment. Members of the Code Enforcement Board shall be appointed by the Mayor of the city, subject to the approval of the City Council.~~

~~——— (B) Term of office. The initial appointments to a member Code Enforcement Board shall be as follows:~~

~~——— (1) Two (2) members appointed to a one (1) year term.~~

~~——— (2) Three (3) members appointed to a two (2) year term.~~

~~——— (3) Two (2) members appointed to a three (3) year term.~~

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

~~——— (C) Vacancy. Any vacancy on the Board shall be filled by the Mayor, subject to approval of the City Council within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Board members shall fill the vacancy.~~

~~——— (D) Removal from office. A Code Board member may be removed from office by the Mayor for misconduct, inefficiency, or willful neglect of duty. The Mayor must submit a written statement to the member and the City Council setting forth the reasons for removal.~~

~~——— (E) Oath. All members of the Code Enforcement Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.~~

~~——— (F) Compensation. No member of the Code Enforcement Board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the city.~~

~~Section 34.123 POWERS; DUTIES.~~

~~——— The Code Enforcement Board shall have the following powers and duties:~~

~~——— (A) To adopt rules and regulations to govern its operations and the conduct of its hearings.~~

~~—— (B) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.~~

~~—— (C) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any Code Enforcement Officer.~~

~~—— (D) To take testimony under oath. The chairman 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 a city ordinance or code provision which the Board is authorized to enforce.~~

~~—— (F) To issue remedial orders and impose civil fines, as authorized, on any person found to have violated an ordinance which has been classified as a civil offense over which the Board has jurisdiction.~~

~~—— (G) The Code Enforcement Board shall not have the authority to enforce any ordinance, the violation of which constitutes an offense, under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.~~

~~Section 34.124 ORGANIZATION; MEETINGS; QUORUM; ALTERNATE BOARD MEMBERS.~~

~~—— (A) The Board shall annually elect a chair from among its members. The chairman shall be the presiding officer and a full voting member of the Board.~~

~~—— (B) Regular meetings of the Code Enforcement Board shall be held on the first Monday of every month at 6:00 p.m. at City Hall, located at 105 East Main Street, Morehead, Kentucky. Meetings other than those regularly scheduled shall be special 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 held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.~~

~~—— (D) 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 each member on any issue decided by the Board shall be recorded in the minutes.~~

~~Section 34.125 CONFLICT OF INTEREST.~~

~~—— 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 in which he has an interest and shall not be counted for purposes of establishing a quorum.~~

~~Section 34.126 JURISDICTION.~~

~~_____ The Code Enforcement Board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions which specifically provide for Code Board enforcement.~~

~~Section 34.127 ENFORCEMENT PROCEEDINGS.~~

~~_____ The following requirements shall govern all enforcement proceedings before the Board:~~

~~_____ (A) Enforcement proceedings before the Code Enforcement Board shall only be initiated by the issuance of a citation by a Code Enforcement Officer.~~

~~_____ (B) Except as provided in subsection (C) below, if a Code Enforcement Officer believes, based upon his personal observation or investigation, that a person has violated a city ordinance, he shall issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy the violation without fine. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.~~

~~_____ (C) Nothing in this subchapter shall prohibit the city from taking immediate action to remedy a violation of its ordinance when there is reason to believe that 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.~~

~~_____ (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 date and time the offense was committed;~~

~~_____ (4) The facts constituting the offense;~~

~~_____ (5) The section of the code or the number of the ordinance violated;~~

~~_____ (6) The name of the Code Enforcement Officer;~~

~~_____ (7) The civil fine that will be imposed for the violation if the person does not contest the citation;~~

~~_____ (8) The maximum civil fine that may be imposed if the person does not 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 and that the determination the violation was committed shall be final.~~

~~_____ (E) After issuing a citation to the alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the Chairman of the Code Enforcement Board.~~

~~_____ (F) The person to whom the citation is issued shall respond within seven (7) days of the date of issuance by either paying the civil fine 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 and the determination that a violation was committed shall be considered final.~~

~~—— (G) If the alleged violator does not contest the citation within the time prescribed, the Code Enforcement Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.~~

~~Section 34.128 HEARING; NOTICE; FINAL ORDER.~~

~~—— (A) When a hearing has been requested, the Code Enforcement Board shall schedule a hearing.~~

~~—— (B) Not less than seven (7) days before the date of the hearing, the Code Enforcement Board shall notify the requester of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal deliver; 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.~~

~~—— (C) 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. The Code Enforcement Board will enter a final order determining the violation was committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served upon the person guilty of the violation.~~

~~—— (D) All testimony 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, but fundamental due process shall be observed and shall govern the proceedings.~~

~~—— (E) The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it determines that no violation was committed, an order dismissing the citation shall be entered. If the Board determines that a violation was committed, an order finding a violation shall be entered either imposing a fine up to the maximum authorized by this subchapter or other ordinance, or requiring the offender to remedy a continuing violation, or both.~~

~~—— (F) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth in subsection (B) above.~~

~~Section 34.129 LEGAL COUNSEL.~~

~~—— Each case before the Code Enforcement Board shall be presented by the Code Enforcement Officer who issued the citation. Should legal counsel be needed to present a case, the city shall employ independent legal counsel for said purpose. The City Attorney shall be counsel to the Code Enforcement Board.~~

~~Section 34.130 APPEALS; FINAL JUDGMENT.~~

~~—— (A) An appeal from any final order of the Code Enforcement Board may be made to the Rowan District Court 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 Code Enforcement Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.~~

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

~~Section 34.131 ORDINANCE FINE SCHEDULE.~~

~~—— Violations of ordinances that are enforced by the city Code Enforcement Board shall be subject to a schedule of civil fines as established by the City Council.~~

~~Section 34.132 LIEN; FINES, CHARGES, AND FEES.~~

~~—— (A) 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.~~

~~—— (B) 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.~~

~~—— (C) 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.~~

~~—— (D) In addition to the remedy prescribed in subsection (A), 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.]~~

34.120 Title:

The ordinance shall be known and may be cited as the "City of Morehead Code Enforcement Board Ordinance".

34.121 Definitions

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

(a) Abatement Costs means 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.

(b) Code Enforcement Board means an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to 65.8839.

(c) Code Enforcement Officer means a city police officer, safety officer, citation officer or other public law enforcement officer with the authority to issue a citation.

(d) Final Order means any order:

1. Issued by the Code Enforcement Board following a hearing in accordance with Section 34.129 of this ordinance:

2. Created because a violator neither paid nor contested the citation within seven (7) days as provided in Section 34.128 of this ordinance; or

3. Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in Section 34.128 of this ordinance.

(e) Imminent Danger means a condition which is likely to cause serious or life-threatening injury or death at any time.

(f) Ordinance means 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.

(g) Owner means a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

(h) Premises means a lot, plot or parcel of land, including any structures upon it.

34.122 Creation and Membership

There is hereby created within the city pursuant to KRS 65.8801 to KRS 65.8839 a City of Morehead Code Enforcement Board (hereinafter "Code Enforcement Board") which shall be composed of five (5) members, all of whom shall be residents of the city for a period of at least one (1) year prior to their appointment and shall reside there throughout the term in office.

34.123 Jurisdiction/Enforcement Powers

(a) The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing city ordinances when a violation of the ordinance has been classified as a civil offense.

(b) The Code Enforcement Board shall not have the authority to enforce any ordinance regulation conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

34.124 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 by the legislative body.

(b) All appointments shall be for a term of three (3) years. A member may be reappointment, subject to the approval of the legislative body. However, no member shall serve more than two (2) consecutive three (3) year terms.

(c) 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 if not filled within that time period, the remaining code enforcement board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(d) 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 to appeal to Circuit Court.

(e) 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.

(f) Members of the Code Enforcement Board shall not be compensated.

(g) 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.

34.125 Organization of board; meetings; quorum.

(a) The Code Enforcement Board shall annually elect a chair and vice-chair from among its members. The chair shall be the presiding officer and full voting member of the board. In the absence of the chair, the vice-chair shall be the presiding officer and full voting member of the board.

(b) Regular meetings of the Code Enforcement Board shall be held on the first Tuesday of every month. Regular meetings may be cancelled if there are no appeal requests. However, the Board shall meet at least twice year, once for the election of a chairperson and vice-chairperson and once for due process training. Meetings other than those regularly scheduled shall be special meetings or emergency meetings and 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 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.

34.126 Conflict of Interest

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, shall disqualify himself/herself from voting on the matter in which he/she has an interest, and shall not be counted for purposes of establishing a quorum.

34.127 Powers of the Code Enforcement Board

The City of Morehead Code Enforcement Board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions which specifically provide for code board enforcement. Additionally, the Board shall have the following powers and duties:

(a) To adopt rules and regulations to govern its operation and the conduct of its hearings which are consistent with the requirements of KRS 65.8801 to 65.8839 and ordinances of the City of Morehead.

(b) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction, including parking violation appeals in accordance with Chapter 71 of the City of Morehead Code of Ordinances.

(c) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any Code Enforcement Officer.

(d) To take testimony under oath. The Chairperson, Vice-Chairperson or any Notary 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 any city ordinance or code provision which the Board is authorized to enforce.

(f) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the Board has jurisdiction.

34.128 Enforcement Proceedings.

The following requirements shall govern all enforcement proceedings before the Code Enforcement Board:

(a) Enforcement proceedings before the Code Enforcement Board shall only be initiated by the issuance of a citation or parking violation notice by a Code Enforcement Officer.

(b) Except when immediate action is necessary pursuant to Section 34.134 of this Ordinance or with parking violations, if a Code Enforcement Officer believes, based on his/her personal observation or investigation, that a person has violated a city ordinance, he/she 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 a citation by one of the following methods:

1. Personal service to the alleged violator;
2. Leaving a copy of the citation with 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;
3. Mailing a copy of the citation by regular first-class mail to the last known recorded mailing address of the alleged violator; or
4. If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in sections (c)(1), (c)(2), or (c)(3) above is not possible, then the citation is properly served by posting a copy of the citation in a conspicuous place on the premises.

(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 number of the ordinance violated;
7. The name of the Code Enforcement Officer;
8. The civil fine imposed for the violation;
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 correct said violation and 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 was 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 secretary to the Board.

(f) 1. The person to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either correcting the violation and paying the civil fine or requesting, in writing, a hearing to contest the citation. Said request shall be mailed or delivered to City Hall, ATTN: Code Enforcement Officer, 314 Bridge Street, Morehead, Kentucky 40351. 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 and the determination that a violation was committed shall be considered final. In this event, the citation was 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 the 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 a leaving a copy of the order 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 order.

Section 34.129 Hearing; Notice; Final Order

(a) When a hearing has been requested, the 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 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 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.

(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 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 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.

(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, but fundamental due process shall be observed and shall govern the proceedings.

(e) The 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. If it is determined that a violation was committed, an order may be issued upholding the citation and ordering the offender to do either or both of the following:

(1) Pay a civil fine up to the maximum authorized by ordinance; and/or

(2) Remedy a continuing violation.

(f) (1) Every final order following a hearing 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.

(2) If the person named in the citation is not present when the final order is issued, the order shall be delivered to the person 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.

Section 34.130 Presentation of cases.

Each case before the Code Enforcement Board shall be presented by an attorney selected by the city, a code enforcement officer for the city or by a member of the city's administrative staff. The city attorney may either be counsel for the Code Enforcement Board or may present cases before the code enforcement board, but shall in no case serve in both capacities.

Section 34.131 Appeals; Final Judgment

(a) An appeal from a final order of a Code Enforcement Board following a hearing conducted pursuant to this Ordinance may be made to the Rowan County District court within thirty (30) days of the date the order is issued. The appeal shall be initiated by filing of a complaint and a copy of the final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

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

Section 34.132 Ordinance Fine Schedule

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

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Garbage (Ch. 50)	\$ 10.00	\$ 25.00	\$ 50.00
Animals (Ch. 90)	\$ 25.00	\$ 50.00	\$ 100.00
Noise (Ch. 91)	\$ 25.00	\$ 50.00	\$ 100.00
Nuisances – (Ch. 92)			
Structure & Building	\$100.00	\$125.00	\$ 150.00
Junk & Garbage	\$ 10.00	\$ 25.00	\$ 50.00
Streets/			
Sidewalks (Ch. 93)	\$100.00	\$125.00	\$ 150.00
Motor Vehicles (Ch.118)	\$100.00	\$125.00	\$ 150.00
Building Requirements			
(Ch. 150)	\$100.00	\$125.00	\$ 150.00
Mobile Homes (Ch. 152)	\$50.00	\$75.00	\$ 100.00
Lot Numbering &			
Street Naming (Ch.153)	\$10.00	\$25.00	\$ 50.00
Zoning Code (Ch. 154)	\$100.00	\$125.00	\$ 150.00
Property			
Maintenance			
(Ch. 157.02)	\$100.00	\$125.00	\$ 150.00

<u>Historic</u>			
<u>Preservation</u>			
(Ch. 158.00)	\$100.00	\$125.00	\$ 150.00

Section 34.133 Liens, Fines, Charges and Fees.

1. The city shall possess a lien on property owned by the person found by a final, non-appealable final order as defined by KRS 65.8805(8), or by a final judgment of the court, to have committed a violation of a City ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the City 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 the regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

2. 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 continue for ten (10) years following the date of the nonappealable final order or final court judgment.

3. The lien shall take precedence over all other liens, except state, county, school board and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

4. In addition to the remedy prescribed in subsection (a) of this Section, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the city in connection with the enforcement of this 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.

Section 34.134 Abatement and Immediate Action

1. All violations of ordinances and codes enforced under this Division shall be remedied by the violator within the time period specified in the citation and/or final order of the Board. In the absence of a specified time period the time period for remedy of a violation shall not exceed then (10) days, however the Code Enforcement Officer or Code Enforcement Board may grant an extension of this time period. However, nothing in 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 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. The city shall have a lien for all abatement costs.

2. If the property owner so served does not abate the violation within the applicable time period, the city may proceed to abate such violation, keeping an account of the expense of abatement. The abatement costs, including 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 the City Ordinances shall be charged to and paid by the property.

3. Contesting a citation or filing an appeal of a final order shall serve to toll the city's abatement of the violation, unless the Code Enforcement Officer has reason to believe that the existence of the violation presents imminent danger, a serious threat to public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible. In the event the Board or a hearing officer determines that the violation contested did occur, the Board or hearing officer may order that the abatement proceed immediately or within a specified time period not to exceed 30 days.

4. The City shall possess a lien for all costs in accordance with Section 34.133.

SECTION TWO

Title 5, Chapter 50, Section 50.99 Penalty (Garbage; Solid Waste) is amended as follows:

~~[(A) Any person, firm, or corporation, violating this chapter may be issued a Notice of violation. The notice shall specify a period of time the Offender has to remedy the violation. If the offender fails or refuses to remedy the violation, the offender shall be issued a citation by a Code Enforcement Officer of the city. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of violation. If the citation is not contested by the person, firm, or corporation charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 50.]~~

<u>(1)</u>	<u>First Offense:</u>	<u>\$10.00</u>
<u>(2)</u>	<u>Second Offense:</u>	<u>\$ 25.00</u>
<u>(3)</u>	<u>Third Offense:</u>	<u>\$50.00</u>

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

_____	(1) First Offense:	_____	\$75.00
_____	(2) Second Offense:	_____	\$150.00
_____	(3) Third Offense:	_____	\$250.00

~~(C) In addition to the penalties in this section, any person becoming more than sixty(60) days in default on any payment due the City for garbage collection shall have his/her water service terminated forthwith, without notice, which service will not be reconnected until all delinquent garbage service charges have been paid in full.]~~

(A) Violation of this Ordinance shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.

(B) The penalties for violations of this Ordinance shall be set forth in Section 34.132 of the City of Morehead Code Enforcement Board Ordinance.

(C) Notwithstanding the penalties set forth in the City of Morehead Code Enforcement Ordinance, any person becoming more than sixty (60) days in default of any payment due the City for garbage collection shall have his/her water service terminated forthwith, without notice, which service will not be reconnected until all delinquent garbage service charges have been paid in full.

SECTION THREE

Title IX, General Regulations, Chapter 90 Animals, Section 90.99 is amended as follows:

~~[(A) Any person violating any provision of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer of the City. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the person charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty in its discretion, if the Code Enforcement Board determines that such waiver will promote compliance with Chapter 90.]~~

_____	(1) First Offense:	_____ \$25.00
_____	(2) Second Offense:	_____ \$50.00
_____	(3) Third Offense:	_____ \$100.00

~~_____ (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:~~

_____	(1) First Offense:	_____ \$100.00
_____	(2) Second Offense:	_____ \$200.00
_____	(3) Third Offense:	_____ \$300.00

~~_____ (C) (1) Any person found to be in violation of Sections 90.01 through 90.07 shall, in addition to impoundment, be issued citation. If the citation is not contested by the offender, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Section 90.01 through 90.07.]~~

_____ (A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.

_____ (B) In addition to impoundment set forth in Section 90.07, the penalties for violations of this Ordinance shall be set forth in Section 34.132 of the City of Morehead Code Enforcement Board Ordinance.

SECTION FOUR

Title IX, General Regulations, Chapter 91 Noise Control, Section 91.99 is amended as follows:

~~[(A) Any person violating any provision of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer of the City. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the person charged with the violation, the following penalties shall apply; however,~~

~~the Code Enforcement Board may waive all or any portion of said penalty in its discretion, if the Code Enforcement Board determines that such waiver will promote compliance with Chapter 91.~~

_____	(1) First Offense:	_____	\$25.00
_____	(2) Second Offense:	_____	\$50.00
_____	(3) Third Offense:	_____	\$100.00

~~(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:~~

_____	(1) First Offense:	_____	\$100.00
_____	(2) Second Offense:	_____	\$200.00
_____	(3) Third Offense:	_____	\$300.00

~~(A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.~~

~~(B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.~~

SECTION FIVE

Title IX, General Regulations, Chapter 92, Nuisances, Sections 92.03 – 92.05 and 92.99 is amended as follows:

92.03 Enforcement

~~(A) The code Enforcement officer is responsible for enforcing this chapter. He shall continuously inspect all property within the city for the existence of nuisances as defined in 92.01. Upon discovery of a nuisance, he shall issue the owner and occupant, or person having control of the proper, a Notice of Violation allowing the offender five (5_ days to remedy the violation without a fine. The notice shall be sent first-class mail to the property owner and occupant, if different. Further any notice for excessive growth of grass or weeds shall be posted on the main structure located on the property. The notice of Violation shall state specifically the situation which needs to be remedied and the action the city will take for non-compliance.~~

~~(B) The Code Enforcement Officer shall inform the Code Enforcement Board at its regular meeting of any notice that has been sent and the status of the notice.~~

~~92.04 Abatement Authorized; Fee~~

~~(A) Abatement of excessive growth of grass or weeds. If the owner occupancy or person control of the property upon which there is an excessive growth of grass or weeds fails to remedy the situation within five days of the date of the Notice, the Code Enforcement Officer shall have the authority to send city employees or a private contractor upon the property to bring the property into compliance. A fine of one hundred (\$100), plus the actual cost of labor, materials and machinery used in bringing the property into compliance, shall be assessed to the property owner in the form of a lien against the property. The lien shall be recorded in the office of the Rowan County Clerk and shall be notice to all persons from the recording time and shall bear interest at six percent (6%) per annum thereafter until paid. A copy of the lien shall be sent to the property owner of records. Invoices evidencing the cost of labor, materials and machinery used in bringing the property in compliance shall be maintained by the Code Enforcement Officer.~~

~~(B) Abatement of all other nuisances. If the owner, occupant or person having control of the property upon which a nuisance exist fails to comply with the Notice of Violation as set out in Section 92.03, the Code Enforcement Officer shall issue a citation. If the citation is not contested by the owner, occupant or person having control charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive any and all portion of the monetary penalty, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 92:~~

~~(1) Structure and building violations:~~

(a)	First Offense:	Compliance and \$100.00 Fine
(b)	Second Offense:	Compliance and \$125.00 Fine
(c)	All others:	Compliance and \$150.00 Fine

~~(2) Junk and Garbage Violations~~

(a)	First Offense:	Compliance and \$10.00 Fine
(b)	Second Offense:	Compliance and \$25.00 Fine
(c)	All Others:	Compliance and \$50.00 Fine

~~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:~~

~~(1) Structure and Building Violations:~~

(a)	First Offense:	Compliance and \$500.00 Fine
(b)	Second Offense:	Compliance and \$750.00 Fine
(c)	All others:	Compliance and \$1,000.00 Fine

~~_____ (2) Junk and Garbage Violations~~

_____ (a)	First Offense:	Compliance and \$75.00 Fine
_____ (b)	Second Offense:	Compliance and \$125.00 Fine
_____ (c)	All others:	Compliance and \$200.00 Fine

~~_____ (C) If the owner, occupant, or person in control does not remedy the violation after being issued a citation and appearing before the Code Enforcement Board, the Code Enforcement Officer is authorized to send city employees or a private contractor upon the property to bring the property into compliance with this chapter. The city has the power to demolish any unfit or unsafe structure which is a public nuisance under Section 92.01.~~

~~_____ (D) If this action in Section 92.04 (c) becomes necessary, a fee for correction, as well as the fine, shall be assessed to the property owner in the form of a lien against the property. The fee shall be a minim of one hundred (\$100.00) plus the actual cost of labor, materials and machinery used n brining the property into compliance.~~

~~_____ (E) The Code Enforcement Officer shall prepare an affidavit asserting the compliance with the notice requirements of this chapter, the amount expended by the city to bring the property into compliance and shall set forth all other relevant information concerning the abatement of the specific nuisance. The Code Enforcement Officer shall attach to this affidavit copies of relevant invoices.~~

~~_____ (F) The affidavit of the Code Enforcement Officer constitutes prima facie evidence of the amount of the lien and the regularity of the proceedings under this chapter ran shall be recorded in the office of the Rowan County Clerk as a Lien against the subject real estate. The lien shall be notice to all persons from the recording time and shall bear interest at six percent (6%) per annum thereafter until paid.~~

~~_____ (G) The Code Enforcement Officer shall inform the Code Enforcement Board at their regularly scheduled meeting, of any and all action which has been taken to abate any nuisances.~~

~~92.05 APPEALS~~

~~_____ An appeal from any final order of the Code Enforcement Board may be made to the Rowan County District Court within (30) days of the date of the final order. The appeal shall be initiated by the filing of a complaint and a copy of the Code Enforcement Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.~~

~~92.99 PENALTY~~

~~_____ (A) Any person in violation of Sections 92.10 and 92.11 shall be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time~~

~~to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer. If the citation is not contested by the offender, the following penalties shall apply: however, the Code Enforcement Board may waive all or any portion of said penalty if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 92:~~

_____	(1) First Offense:	_____	\$75.00
_____	(2) Second Offense:	_____	\$100.0
_____	(3) All Others:	_____	\$150.00

~~_____ (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:~~

_____	(1) First Offense:	_____	\$100.00
_____	(2) Second Offense:	_____	\$150.00
_____	(3) All Others:	_____	\$250.00

~~_____ (A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.~~

~~_____ (B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.~~

SECTION SIX

Title IX, General Regulations, Chapter 93 Streets and Sidewalks, Section 93.99 is amended as follows:

~~_____ [(A) Any person violating any provision of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer of the City. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the person charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty in its~~

discretion, if the Code Enforcement Board determines that such waiver will promote compliance with Chapter 93.

(1)	First Offense:	\$100.00
(2)	Second Offense:	\$125.00
(3)	Third Offense:	\$150.00

(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:

(1)	First Offense:	\$300.00
(2)	Second Offense:	\$400.00
(3)	Third Offense:	\$500.00

(A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.

(B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.

SECTION SEVEN

Title XI, Business Regulations, Chapter 112 Occupational License Tax, Section 112.99 Penalty is amended as follows:

(A) The Code Enforcement Officer shall be notified quarterly of those businesses who have refused to make a return or to purchase a license, or to pay any fee or tax required by this chapter. Upon receipt of this information, the Code enforcement Officer may proceed with any enforcement option set forth herein.

(B) (1) A business entity subject to tax on net receipts may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

(a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(2) The total penalty levied pursuant to this section shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).

(C) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section 112.05 of this chapter may be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this section shall not exceed twenty-five percent (25% of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).

(D) In addition to the penalties prescribed in this section, any business entity or employer shall pay as part of the tax an amount equal to twelve percent (12%) per annum simple interest on the tax shown due but unpaid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(E) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, personal debt of the taxpayer to the city.

(F) The City may enforce the collection of the occupational tax due under Section 112.03 of this chapter and any fees, penalties, and interest as provided in divisions (A), (B), (C), and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter or through the Code Enforcement Board. Should the City choose to enforce said violation through its Code Enforcement Board, it shall do so according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.

~~[(1) Upon receipt of notice of a violation, the Code Enforcement Officer may issue a Notice of Violation to the offender. The notice shall specify a period of time the offender has to remedy the violation. If the offender fails or refuses to remedy the violation, the offender shall be issued a citation by the Code Enforcement Officer. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Office may issue a citation without a notice of violation. If the citation is not contested by the business, the following penalties shall apply: however, the Code Enforcement Board may waive all or any portion of a penalty for an uncontested violation if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with this chapter:~~

_____ (a) First Offense _____ \$50

(b)	Second Offense	\$75
(c)	All others:	\$100

~~(2) If the citation is contested and hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:~~

(a)	First Offense	\$500
(b)	Second Offense	\$750
(c)	All others	\$1000]

(G) In addition to the penalties prescribe in this section, any individual or employee, business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A Misdemeanor.

(H) Any person who willfully aids or assists in, or procures, counsel or advised the preparation or presentation under or in connection with any matter arising under this ordinance of a return, affidavit, claim or other document which his fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim or document, shall be guilty of a Class A misdemeanor.

(I) A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the city and required to be filed with the city by the provisions of this chapter or by the rules of the city or by written request for information to the business entity by the city.

(J) Any person violating the provisions of Section 112.11 of this chapter by intentional inspecting confidential taxpayer information without authorization, shall be fined not more than five-hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.

(K) Any person violating the provisions of Section 112.11 of this chapter by divulging confidential taxpayer information shall be fined not more than one-thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

SECTION EIGHT

Title XI, Business Regulations, Chapter 118 Motor Vehicle Dealers, Section 118.99 Penalty is amended as follows:

~~[(A) Any person violating any provision of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be~~

~~issued a citation by a Code Enforcement Officer of the City. If the Code Enforcement Officer believes that 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, or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the person charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty in its discretion, if the Code Enforcement Board determines that such waiver will promote compliance with Chapter 93.~~

_____	(1) First Offense:	_____	\$100.00
_____	(2) Second Offense:	_____	\$125.00
_____	(3) Third Offense:	_____	\$150.00

~~_____ (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:~~

_____	(1) First Offense:	_____	\$200.00
_____	(2) Second Offense:	_____	\$250.00
_____	(3) Third Offense:	_____	\$300.00

~~_____ A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.~~

~~_____ (B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.~~

SECTION NINE

TITLE XV, Land Usage, Chapter 153, Lot Addressing and Street Names, Section 153.01(G) shall be amended as follows:

~~(G) A person violating any provision of this section may be issued a Notice of Violation by A code Enforcement Officer allowing the offender a specified item to remedy the violation without a fine. If the violation is no remedied, the offender shall be issued a citation by a Code Enforcement Officer. If the code Enforcement Officer believes that 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 or the violation is a repeat violation, the Code Enforcement Officer may issue a citation without a Notice of Violation.~~

~~_____ (1) If the citation is not contested by the person charged with the violation, the following penalties shall apply:~~

_____ (a)	First Offense	\$10.00
_____ (b)	Second Offense:	\$25.00
_____ (c)	Third Offenses:	\$50.00

~~_____ (2) If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed by the Code Enforcement Board:~~

_____ (a)	First Offense	\$30.00
_____ (b)	Second Offense	\$75.00
_____ (c)	Third Offense	\$150.00

~~_____ (3) The code Enforcement Board may waive all or any portion of said penalty in its discretion if the Code Enforcement Board determines that such waiver will promote compliance with this section.~~

153.99 Penalty

~~_____ (A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.~~

~~_____ (B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.~~

SECTION NINE

Title XV, Land Usage, Chapter 157, Property Maintenance, Sections 157.99 Penalty shall be amended as follows:

Section 157.99 Penalty

~~_____ [(A) If the creditor fails to remedy the violation within the stated period, the city may issue a citation and impose penalties against the creditor for violation of any ordinance regulating a nuisance.~~

~~_____ (B) Any creditor that fails to register vacate residential or commercial property with the city shall be subject to a civil fine of one hundred dollars (\$100) payable to the City for each day of delinquency.]~~

~~_____ (A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.~~

~~_____ (B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.~~

SECTION NINE

Title XV, Land Usage, Chapter 158, Historic Preservation, Section 158.99 Penalties shall be amended as follows:

~~[(A) If the owner of the property upon which the violation exists fails to comply with the Notice of Violation, the Code Enforcement Officer shall issue a citation. If the citation is not contested by the owner, occupant or person having control charged with the violation, the following penalties shall apply; however, the Code Enforcement Board may waive any and all portion of the monetary penalty, in its discretion, if the Code Enforcement Board determines that such waiver will promote compliance:~~

~~_____ (1) Structure and building violations.~~

~~_____ (a) First Offense: _____ Compliance and \$100 fine~~

~~_____ (b) Second Offense: _____ Compliance and \$125 fine~~

~~_____ (c) Third Offense: _____ Compliance and \$150 fine~~

~~_____ (2) Weeds, junk, garbage violations.~~

~~_____ (a) First Offense _____ Compliance and \$10 fine~~

~~_____ (b) Second Offense _____ Compliance and \$25 fine~~

~~_____ (c) Third Offense _____ Compliance and \$50 fine~~

~~_____ (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:~~

~~_____ (1) Structure and building violations.~~

~~_____ (a) First Offense: _____ Compliance and \$500 fine~~

~~_____ (b) Second Offense: _____ Compliance and \$750 fine~~

~~_____ (c) Third Offense: _____ Compliance and \$1,000 fine~~

~~_____ (2) Weeds, junk garbage violations.~~

~~_____ (a) First Offense: Compliance and \$75 fine~~
~~_____ (b) Second Offense: Compliance and \$125 fine~~
~~_____ (c) Third Offense: Compliance and \$200 fine~~

~~_____ (C) If the owner, occupant, or person in control does not remedy the violation after being issued a citation and appearing before the Code Enforcement Board, the Code Enforcement Officer is authorized to send city employees or a private contractor upon the property to bring the property into compliance. The city has the power to demolish or repair any structure which remains in violation of this chapter or the downtown design guidelines.~~

~~_____ (D) If this action becomes necessary, a fee for correction, as well as the fine, shall be assessed to the property owner in the form of a lien against the property. The fee shall be a cost of \$100 plus the actual cost of labor, materials, and machinery used in bringing the property into compliance.~~

~~_____ (E) The Code Enforcement Officer shall prepare an affidavit asserting compliance with the notice requirements of this chapter and the amount expended by the city to bring the property into compliance and shall set forth all other relevant information concerning the abatement of the specific violation. The Code Enforcement Officer shall attach to this affidavit copies of all relevant receipts.~~

~~_____ (F) The affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien against and the regularity of the proceedings under this chapter and shall be recorded in the office of the Rowan County Clerk as a lien against the subject real estate. The lien shall be a notice to all persons from the recording time and shall bear interest at 6% per annum thereafter until paid.~~

~~_____ (G) The Code Enforcement Officer shall inform the Code Enforcement Board at their regularly scheduled meeting of any and all action that has been taken to correct any violation.~~

_____ (A) Violation of this Chapter shall constitute a civil offense which be enforced according to the procedures set forth in the City of Morehead Code Enforcement Board Ordinance by the Code Enforcement Board, Code Enforcement Officers, and other person duly authorized to investigate and enforce violations through investigation, inspection and issuance of citations.

_____ (B) The penalty for violations of this Chapter shall be as set forth in Section 34.132 of the Morehead Code Enforcement Board Ordinance.

INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened meeting of the Board of City Council of the City of Morehead, Kentucky held on this ____ day of _____ 2019.

INTRODUCED, SECONDED AND GIVEN SECOND READING at a duly convened meeting of the Board of City Council of the City of Morehead, Kentucky held on this ____ day of _____ 2019.

APPROVED:

ATTESTED:

LAURA WHITE-BROWN, MAYOR

CRISSY CUNNINGHAM, CITY CLERK