

CITY OF WEST POINT, KENTUCKY
ORDINANCE 2007-03

AN ORDINANCE THAT CREATES THE CITY OF WEST POINT, KENTUCKY CODE ENFORCEMENT BOARD WITH THE AUTHORITY TO ISSUE REMEDIAL ORDERS AND IMPOSE CIVIL FINES IN ORDER TO PROVIDE AN EFFECTIVE METHOD OF ENSURING COMPLIANCE WITH CITY OF WEST POINT ORDINANCES AND CODES.

WHEREAS, the Local Government Code Enforcement Board Act, KRS 65.8801 et seq., provides for the creation of administrative boards for local governments that have the authority to issue remedial orders and impose civil fines in order to enforce ordinances and codes; and

WHEREAS, the City of West Point desires to create the City of West Point Code Enforcement Board to provide for the effective, equitable, expeditious, inexpensive and cost effective enforcement of ordinances and codes.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF WEST POINT, HARDIN COUNTY, KENTUCKY:

Section 1: Purpose

The purpose of this ordinance is to create the City of West Point Code Enforcement Board that shall have the power to issue remedial orders and impose civil fines when a violation of an ordinance has been classified as a civil offense.

Section 2: Powers

The City of West Point Code Enforcement Board shall have all powers and duties granted pursuant to KRS 65.8801 to 65.8839 and related statutes, and all powers and duties granted in this City of West Point Code Enforcement Board ordinance and related ordinances.

The 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.

The board shall also have the following powers: To adopt rules and regulations to govern its operations and conduct of its hearings; to conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction; to subpoena alleged violators, witnesses and evidence to its hearings (subpoenas issued by the board may be served by any code enforcement officer or as otherwise provides in the Kentucky Rules of Civil Procedure); to take testimony under oath; 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.

Section 3: Board membership

The City of West Point Code Enforcement Board shall consist of three members appointed by the Mayor with the approval of the City Council.

The terms of the members on the board shall be for three years.

However, the terms of the board members shall be staggered as follows: One (1) member shall be appointed for a term of one (1) year; One (1) member appointed for the term of two (2) years; One (1) member appointed for a term of three (3) years.

Membership requirements, vacancies, removal and oaths of members shall be as required by statute. Board members must take the oath of office prescribed in Section 228 of the Kentucky Constitution and as required by KRS 68.8811.

The City Council may provide compensation, reimbursement for the expenses and education of members as it may from time to time order.

A board member may be removed from office by the executive authority for misconduct, inefficiency or willful neglect of duty.

No member of the board may hold any elected or non-elected office, paid or unpaid, or any position of employment with city.

Section 4: Meetings; organization of the board

a. Meetings. The board meetings shall be held as necessary to enforce all civil offenses.

The Mayor may assign a monthly date and time for the board to meet on the routine basis; or meetings may be scheduled as required by the business of the board.

b. Organization of the board. The Mayor shall appoint a chairperson for the board. The chairperson shall be the presiding officer and a full voting member of the board.

An affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

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

Section 5: Enforcement proceedings

The following requirements shall govern all enforcement proceedings before the board:

a. Enforcement proceedings before the 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 on his or her personal observation or investigation that a person has violated a city ordinance or code provision, a Notice of Violation may be issued to the violator allowing the violator a specified period to remedy the violation without fine or sanction. If the offender fails or refused to remedy the violation within the time specified, the Notice of Violation shall serve as a citation.

c. Nothing in this ordinance shall prohibit West Point from taking immediate action to remedy a violation of its ordinances or codes 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 the issuance;
2. The name and address of the person to whom the citation is issued;
3. The date and time the offense was committed or discovered;
4. Brief facts constituting the offense;
5. The section of the code or the ordinance number 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 violation.
8. The maximum civil fine that may be imposed if the person elects to contest the citation;
9. The procedure for the reason 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 that the violation was committed shall be final.

e. After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board and City of West Point by delivering a copy of the citation to the City Clerk's Office.

f. The person to whom the citation is issued shall respond to the citation within seven 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. The request for a hearing shall be delivered to the City Clerk's Office. The request shall include the name and address of the person requesting the hearing so the City of West Point may notify the person of the hearing. If the person fails to respond to the citation within seven 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 shall impose the appropriate civil fine set forth for such violation. A copy of the final order shall be served on the person found in violation of a city code or ordinance.

Section 6: Hearing; notice; and, final order

a. When a hearing has been requested, the code enforcement board shall schedule a hearing. The hearing shall be conducted at the next regularly prescribed time for the board to meet or the subsequent meeting date.

b. The person requesting a hearing shall be notified of the hearing time and date at the address provided in the request for the hearing.

c. Failure to appear at the hearing may result in a default against the person requesting the hearing.

d. All testimony shall be taken under oath. Formal rules of evidence do not apply. The board shall receive only relevant and material evidence. All evidence received shall be given such weight as the board deems it is entitled after consideration of any objections that may be made. The board shall receive such evidence that a reasonable mind might accept as adequate to support a conclusion.

e. The hearing shall be recorded. A request for a copy of the recording of the hearing must be made in writing. The requesting party must pay a reasonable fee for the recording as determined by the City Clerk's Office. The board has no obligation to preserve recordings beyond 30 days of the hearing date.

f. The code enforcement board shall, based on the evidence, determine whether a violation has occurred. If it is determined that no violation has occurred, an order dismissing the citation shall be entered. If it determines that a violation was committed, an order shall be issued upholding the citation imposing the appropriate fine and/or remedy for the violation.

g. Every final order of the code enforcement board shall be reduced to writing and 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 to the violator at the address indicated in the request for a hearing.

Section 7: Appeals

a. An appeal from any final order of the code enforcement board may be made to the Hardin County District Court within 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 forth in subsection "a" above, the code enforcement board's order shall be deemed final.

Section 8: Ordinance civil fine schedule

Violations of ordinances that are enforced by the city code enforcement officer and board shall be subject to the following schedule of civil fines:

a. If a citation for violation of an ordinance is not contested by the person charged with the violation, the penalties set forth in this subsection and in accordance with the citation issued shall apply.

Each Section

<u>Violated</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
	\$10 to \$200	\$30 to \$600	\$90 to \$1800

b. Each section of a code or ordinance violated shall be considered a separate finable offense. If two or more sections of a code or ordinance are violated the fines shall be cumulative and be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation.

c. The City of West Point Code Enforcement board is hereby authorized and directed to determine within the By-laws and Rules of Procedure a civil penalty schedule within the civil penalty ranges shown in sections 8 (a) and 8 (b) herein.

Section 9: Liens, fines, charges and fees

a. City of West Point may, pursuant to KRS 65.8835, possess a lien on property owned by the person found by a final, non-appealable order of the City of West Point

Code Enforcement Board or by a final judgment of a court of law if the Board's decision has been appealed, to have committed a violation, for all fines assessed for the violation and for all charges and fees incurred by the City of West Point in connection with the enforcement.

b. The lien may 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 at the legal rate until paid.

c. The lien shall take precedence over all other subsequent liens, except state, court, school board and city taxes, and may be enforced by judicial proceedings.

Section 10: Civil remedies

In addition to the imposition of a lien, City of West Point may institute other civil action and seek an injunction or monetary damages to enforce its ordinances and collect the debts arising from the fines imposed by the City of West Point Code Enforcement Board.

Section 11: State statutes adopted by reference

All of the terms, conditions and procedures of KRS 65.8801 to 65.8839 relating to the organization and powers of the Board, enforcement, procedure, appeals and other matters are hereby adopted by the City of West Point and incorporated herein by reference as if fully rewritten.

Section 12: Severability

If any provision of this ordinance or related ordinances or statute or the application thereof is held invalid, such invalidity shall not affect other provisions of this ordinance.

Read at a meeting of the West Point City Council on the 9th day of April, 2007.

William C. Ash, Mayor

Jennifer L. Nevitt, City Clerk/Treasurer