

Article 15. Penalties and Enforcement

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Section 15.01 General

15.01.01 Zoning Enforcement Officer

The provisions of this zoning ordinance are to be administered and enforced by one or more zoning enforcement officers designated by the City Manager. Designated enforcement personnel have the power and duty to:

- A. make inspections of any premises necessary to carry out the enforcement of this zoning ordinance; and
- B. issue citations for violations of this zoning ordinance in accordance with the provisions of KRS 100.991, the procedures as set forth in KRS 431.015, and the procedures set forth in this article.

15.01.02 Right of Entry

Upon representation of official credentials, including a legally authorized search warrant, if required, or by consent, any zoning enforcement officer may enter premises within the jurisdiction of this zoning ordinance, during reasonable hours, for the purposes of determining compliance with the provisions of this zoning ordinance or conditions established at the time of development approval.

15.01.03 Compliance Required

All buildings and land used and all buildings and structures erected, converted, enlarged, reconstructed, moved, or structurally altered must comply with all applicable provisions of this zoning ordinance.

15.01.04 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the city constitutes a separate violation of this zoning ordinance for purposes of calculating cumulative penalties.

15.01.05 Liability

The owner, tenant, or occupant of any land or structure, will be presumed to know of activity occurring on the premises and thus will be charged with a violation of this zoning ordinance for any zoning violation found on the premises. Where an architect, contractor, builder, agent, or other person appears to have participated directly in a violation of this zoning ordinance, the zoning enforcement officer may also charge such person

with a violation of this zoning ordinance. Any person charged with a violation of this zoning ordinance is entitled to personal notice of the violation. All persons found to be responsible for the actions or inaction leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

Section 15.02 Activities Constituting Violations

Unless otherwise expressly stated by this zoning ordinance or state law, any violation of this zoning ordinance, including but not limited to the following, will be subject to the remedies and penalties provided for in this article:

15.02.01 to use land or buildings in any way inconsistent with the requirements of this zoning ordinance;

15.02.02 to engage in development activity in any way inconsistent with the requirements of this zoning ordinance.

15.02.03 to install or use a sign in any way inconsistent with the requirements of this zoning ordinance.

15.02.04 to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits or approvals under this zoning ordinance without obtaining all such required permits or approvals;

15.02.05 to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits under this zoning ordinance in any way inconsistent with any such permit or approval or any conditions imposed thereon;

15.02.06 to violate the terms of any permit or approval granted under this zoning ordinance or any condition imposed on such permit or approval;

15.02.07 to obscure, obstruct, or destroy any notice required to be posted or otherwise given under this zoning ordinance; or

15.02.08 to violate any lawful order issued by any person or entity under this zoning ordinance.

Section 15.03 Remedies and Enforcement Powers

The zoning enforcement officer may use any of the remedies and enforcement powers set forth in this section.

15.03.01 Withhold Permits and Approvals

The zoning enforcement officer will deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements thereon:

- A. upon which there is an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the city; and
- B. owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the city.

15.03.02 Approval of Permits

Instead of withholding or denying a permit or other authorization, the official with authority to approve the permit or authorization may grant such authorization if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety, or general welfare.

15.03.03 Revoke Permits and Approvals

- A. Any permit or other form of authorization required under this zoning ordinance may be revoked by the zoning enforcement officer or by any official with authority to issue such permit when the zoning enforcement officer or other authorized official determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the permit, (2) that the development permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of this zoning ordinance are being violated.
- B. Where permits are mistakenly issued, an applicant will be entitled to appeal the permit revocation to the Board of Adjustment.
- C. The Building Inspector is authorized to issue or post, in a prominent location, a notice of revocation and order requiring the use or construction to stop immediately. Upon receipt of the notice of revocation, the property owner or his authorized agent, or the user or occupant of the property must immediately stop the use or activity.

15.03.04 Stop Work

- A. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired or any other work is being conducted in violation of this zoning ordinance, the zoning enforcement officer may order the work to be immediately stopped.
- B. The stop-work order must be in writing and directed to the person doing the work. The stop-work order must state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- C. Violation of a stop-work order constitutes a misdemeanor.

15.03.05 Revoke Plans or Related Approvals

Where a violation of this zoning ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the city may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition to ensure strict compliance with this zoning ordinance, or require the provision of financial security to ensure that construction is completed in compliance with approved plans, or impose such other reasonable conditions. Any required financial security must be in a form approved by the city.

15.03.06 Forfeiture and Confiscation of Signs

Any sign installed or placed on public property, except in full compliance with the regulations of Article 10, will be subject to forfeiture to the city and to confiscation. In addition to other remedies and penalties of this section, the city has the right to recover from the sign owner or person who placed the sign, the full costs of sign removal and disposal.

15.03.07 Legal Relief

- A. The City may commence a civil action or proceeding in court to stop any violation of this zoning ordinance or of a permit, certificate, or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation.
- B. The relief sought pursuant to this section may include:
 - 1. an injunction or other equitable relief;
 - 2. an order in the nature of mandamus or abatement;

3. a declaratory judgment action;
4. a judgment or order enforcing any requirement of, or under, this zoning ordinance to pay a fee or reimburse or compensate the city, including when the city is required or authorized to take specified action at the expense of the landowner; or
5. any other judgment or order available under Kentucky law.

15.03.08 Violations of this Zoning Ordinance; Notice of Violation, Citations, Appeals, and Liens

- A. When a zoning enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of this zoning ordinance, the officer is authorized to issue a citation to the offender. When authorized, a zoning enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation can be remedied within a specified time period. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the zoning enforcement officer is authorized to issue a citation.
- B. If the zoning enforcement officer elects to give notice of violation in lieu of immediately issuing a citation, this notice should be sent to the offending party by regular first-class mail at the last known address of the party.
- C. The notice required by this section must be in plain language and must:
 1. Be in writing;
 2. Include a description of the real estate sufficient for its identification;
 3. Include a statement of the reason or reasons why the notice of violation is being issued; and
 4. Include a correction order allowing a reasonable amount of time for the correction of any and all violations.
- D. Any citation issued by the zoning enforcement officer for a violation or violations of this zoning ordinance must be in a form prescribed by the City and must contain, in addition to any other information required by ordinance or rule of the board, 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 or violation was committed;
 4. The facts constituting the offense or violation;
 5. The section of the code or number of the ordinance violated;
 6. The name of the zoning 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 elects to 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 will be deemed to have waived the right of a hearing before the Code Enforcement Board to contest the citation and that the determination that a violation was committed will be final.
- E. Any citation that is issued for the violation or violations of this zoning ordinance must be served upon the owner of the property or any individual with a legal interest in the property by:
1. Personal service to the alleged violator;
 2. Leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice; or
 3. 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 of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the citation is issued.
- F. After issuing a citation to an alleged violator of this zoning ordinance, the zoning enforcement officer must notify the Code Enforcement Board by delivering the citation to the administrative official designated by ordinance or by the Code Enforcement Board.
- G. When a citation for a violation or violations of this zoning ordinance is issued, the person to whom the citation is issued must respond to the citation within seven days of the date the citation is issued by either paying the civil fine set forth in the citation or

requesting, in writing, a hearing before the Code Enforcement Board to contest the citation. If the person fails to respond to the citation within seven days, the person will be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed will be considered final. In this event, the citation 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.

- H. When a hearing before the Code Enforcement Board has been requested, the Code Enforcement Board, through its clerical staff and administrative staff, must schedule a hearing. Not less than seven days before the date set for the hearing, the Code Enforcement Board must notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing must be given in the same manner as set forth in paragraph E above, except that service may also be achieved by sending the notice via certified mail, return receipt requested or by sending the notice via regular first-class mail without posting a copy of the subject property.
- I. Each case before the Code Enforcement Board may be presented by an attorney selected by the City of Covington or by a member of the administrative staff of the City of Covington. An attorney may either be counsel to the Code Enforcement Board or may represent the City of Covington by presenting cases before the Code Enforcement Board, but in no case may an attorney serve in both capacities.
- J. All testimony at the Code Enforcement Board hearings must be under oath and must be recorded. The Code Enforcement Board must take testimony from the zoning enforcement officer(s), the alleged offender, and any witnesses to the alleged violation offered by the zoning enforcement officer(s) or the alleged offender. Formal rules of evidence do not apply, but fundamental due process must be observed and must govern the proceedings.
- K. At the hearing, the Code Enforcement Board must determine, based on the evidence presented, whether a violation was committed. When the Code Enforcement Board determines that no violation was committed, an order dismissing the citation must be entered. When the Code Enforcement Board determines that a violation has been committed, it must issue an order upholding the citation and may order the offender to pay a civil fine, or may

order the offender to remedy a continuing violation within a specified period of time to avoid the imposition of the fine, or both. Any person requesting a hearing before the board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the citation as 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.

- L. Every final order of the Code Enforcement Board must be reduced to writing, which must include the findings and conclusions reached and the date the order was issued. A copy of the order must be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order must be delivered to that person by regular first-class mail; certified mail, return receipt requested; or by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the order.
- M. An appeal from any final order issued by the Code Enforcement Board may be made to the Kenton County District Court within 30 days of the date the order is issued. The appeal must 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 Rules of Civil Procedure. The appeal must be limited to a review of the record created before the Code Enforcement Board.
- N. A judgment of the Kenton District Court may be appealed to the Kenton Circuit Court in accordance with the Rules of Civil Procedure.
- O. If no appeal from a final order of the Code Enforcement Board is filed within the time period set forth in this section, the Code Enforcement Board's order will be deemed final for all purposes.
- P. The City of Covington must possess a lien on real property owned by the person found by a final order, or by final judgment of the court, to have committed a violation of this zoning ordinance for all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Code. The lien must be notice to all persons from the time of its

recording and must bear interest at the legal rate until paid. The lien must take precedence over all other subsequent liens, except state, county, school board and City taxes if all legal requirements are satisfied, and may be enforced by judicial proceedings.

- Q. In addition to the remedy prescribed in paragraph P above, the person found to have committed the violation will be held 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 will have the same remedies as provided for the recovery of a debt.

15.03.09 Penalties for Violation

- A. Any person, firm, corporation, or entity that violates any provision of this subchapter is subject to a civil fine or fines as set forth in Section 92.99 of these ordinances.
- B. The City of Covington must possess a lien for all fines, penalties, charges, attorney's fees and other reasonable costs associated with enforcing this code and placing of a lien on the parcel of real property pursuant to this code. The lien must be superior to and have priority over all other liens, except state, county, school board, and City taxes if all legal requirements are satisfied.

15.03.10 Abatement of Violation

The imposition of the penalties herein prescribed will not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises in violation of this zoning ordinance.