

AN ORDINANCE ESTABLISHING A CODE ENFORCEMENT BOARD FOR
THE CITY OF TAYLORSVILLE

City of Taylorsville, Kentucky
Ordinance No. 441

WHEREAS, the City Commission of Taylorsville, Kentucky has deemed it appropriate and proper to establish a Code Enforcement Board for the City of Taylorsville whose purpose and function shall be the promotion of the general safety, welfare, and the peaceful use and enjoyment of their property by citizens of this Community.

NOW THEREFORE be it ordained by the City Commission of the City of Taylorsville as follows:

SECTION I:

That a new City of Taylorsville, Kentucky Ordinance establishing a Code Enforcement Board, and establishing the parameters of its operation, shall be created to read as follows:

CODE ENFORCEMENT BOARD

Section 1: CREATION.

There is hereby created within the City of Taylorsville, pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board.

Section 2: DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

“CODE ENFORCEMENT BOARD.” shall mean an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to KRS 65.8839.

“CODE ENFORCEMENT OFFICER.” shall mean a City police officer, safety officer, citation officer, or other public law enforcement officer, or such other City employee as may be designated by the City Commission, who has been granted authority to issue a citation.

“ORDINANCE.” shall mean an official action of a 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 the Code of Ordinances adopted by the Board of Council for the City of Taylorsville which embodies all or part of an ordinance.

"IMMINENT DANGER," shall mean a condition which is likely to cause serious or life-threatening injury or death at any time.

"ABATEMENT COSTS," shall mean a local government'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 local government ordinance.

"FINAL ORDER," shall mean any order:

- (a) Issued by the code enforcement board in accordance with KRS 65.8828(4) or (6),
- (b) Issued by an assigned hearing officer in accordance with KRS 65.8829(7) and that is not appealed to the code enforcement board as provided in KRS 65.8828(6),
- (c) Created because a violator neither paid nor contested the citation within seven (7) days as provided in KRS 65.8825(6), or,
- or
- (d) Created because of a failure of a violator to appear at a hearing the violator requested to contest the citation as provided in KRS 65.8828(1).

"OWNER," means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property; and (10) "Premises" means a lot, plot, or parcel of land, including any structures upon it.

Section 3: JURISDICTION, POWERS AND DUTIES OF THE BOARD.

(A) The Code Enforcement Board shall have jurisdiction to enforce those City ordinances and code provisions classified as "nuisances" in Ordinance 440, of the Code of Ordinances for the City of Taylorsville and such other City ordinances or codes which have been classified as "civil offenses" pursuant to KRS 65.8808 or which otherwise specifically provide for Code Enforcement Board enforcement.

(B) The City of Taylorsville Code Enforcement Board shall have the following powers and duties:

- (1) To adopt rules and regulations to govern its operations and the conduct of its hearings.
- (2) To conduct hearings, or assign a hearing officer to conduct a hearing, to determine if there has been a violation of an ordinance over which it has jurisdiction. Any board member, including the chairman, may also be assigned to conduct hearings on behalf of the board.
- (3) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the board may be served by any code enforcement officer.

(4) To take testimony under oath. The chairman, or an assigned hearing officer, shall have the authority to administer oaths for the purpose of taking testimony.

(5) 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.

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

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

Section 4: POWERS OF CODE ENFORCEMENT OFFICERS.

Code enforcement officers as defined herein and including but not limited to Citation/Enforcement Officers as established by City Ordinance 375, shall have the authority to enforce the ordinances and codes of the City including but not limited to the power to enter upon private property for purposes of inspection or enforcement; to obtain search warrants; to exercise discretion in allowing alleged violators time in which to cure violations; to file notices of liens against real estate and pursue enforcement of such liens; and to take all such other actions reasonably necessary to carry out the intent and purpose of this subchapter.

Section 5: APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; AND COMPENSATION.

(A) The members of the Board shall be appointed by a majority vote of the City Commission and may be comprised of either three (3) members or five (5) members, as determined by the Commission.

(B) Terms of office:

(1) Five member Board: the members shall serve three (3) year terms except that in the case of a five (5) member Board, the initial appointments for one (1) member shall be for one (1) year, for two (2) members shall be for two (2) years, and for two (2) members shall be for three (3) years.

(2) Three member Board: in the case of a three (3) member Board, the initial appointments for one (1) member shall be for one (1) year, for one (1) member shall be for two (2) years, and for one (1) member shall be for three (3) years.

(3) Subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the City Commission. The Commission may appoint two (2) alternate members to serve on the board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the board.

(C) Any vacancy shall be filled by the Commission within sixty (60) days of the vacancy. If the vacancy is not filled within that time, the remaining members shall fill the vacancy.

(D) A member may be removed from office by the City Commission for misconduct, inefficiency, or willful neglect of duty. The Commission submit a written statement to the member setting forth the reasons for removal.

(E) Members shall receive no salary or compensation but may be reimbursed for any actual expenses incurred in the performance of their duties.

(F) No member may hold any elected or nonelected office, paid or unpaid, or any position of employment with the City.

(G) All members of the board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

(H) Members of the board shall obtain four (4) hours of training annually on topics pertinent to their duties as Code Enforcement Board members. Training may be provided by the Taylorsville City Attorney; such other person or entity approved by the City Commission or in any manner that is required by applicable statute or regulation.

Section 6: ORGANIZATION OF BOARD; MEETINGS; QUORUM; AND ALTERNATE BOARD MEMBERS.

(A) CHAIRMAN. The Board shall annually elect a chairperson from among its members who shall be its presiding officer and a full voting member. If the chairman is not present, the board shall select one of its members to preside in place of and exercise the powers of the chairman.

(B) MEETINGS. The Board shall hold regularly scheduled meetings once per month and may hold such special meetings as are from time to time required. All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 65.8815(5) and with the Kentucky Open Meetings Act.

(C) QUORUM. A majority of the Board shall constitute a quorum of the Board and an affirmative vote of a majority of the quorum shall be necessary for the Board to act.

(D) MINUTES. Minutes shall be kept of all meetings of the Board and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

(E) CONFLICT OF INTEREST. Any member of the 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 or herself from voting on the matter and shall not be counted for purposes of establishing a quorum on that matter.

Section 7: ENFORCEMENT PROCEEDINGS.

(A) Enforcement proceedings before the Board shall only be initiated by the issuance of a citation by a Code Enforcement Officer, Police Officer or other City employee designated by the City Commission. The Officer is authorized to issue a citation by:

- (1) Personal service to the alleged violator;

(2) Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or

(3) Posting a copy of the citation in a conspicuous place on the premises and mailing a copy 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.

(B) Except as provided in subsection (C) of this section, if a Code Enforcement Officer reasonably 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 specifies period of time to remedy the violation without fine or sanction. If the offender fails or refuses to remedy the violation within that time period, the Code Enforcement Officer shall issue a citation.

(C) Nothing in this ordinance shall prohibit the City 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, or welfare, or 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:

(1) The date and time of issue;

(2) The name and address of the person to whom it is issued;

(3) The date and time the violation was committed or discovered;

(4) The facts constituting the violation;

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

(6) The name and signature of the Code Enforcement Officer;

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

(8) The maximum civil fine which may be imposed for the violation if the person contests the citation;

(9) The procedure to follow to pay a civil fine or to contest a citation; and

(10) A statement that if the person fails to pay the civil fine or contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the Board and its determination of the violation shall be final.

(E) After issuing a citation, the Code Enforcement Officer shall deliver a copy of the citation to the City Clerk, the City Attorney, or such other person as may be designated by the Board who shall inform the chairperson of the Board.

(F) The person to whom a citation is issued shall respond, within seven (7) business days, either by paying the civil fine or presenting a written request for a hearing to contest the citation before the Board to the City Clerk's office. Failure to respond to a citation within seven (7)

business days shall be deemed waiver of the right to a hearing and the Board's determination that a violation was committed shall be final.

(G) If the alleged violator does not contest the citation within the time prescribed, the 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 in the manner prescribed herein.

Section 8. HEARING, NOTICE, AND FINAL ORDER.

(A) When a hearing has been requested by the alleged violator, the Board shall schedule a hearing. The board shall conduct the hearing. In addition, any board member, including the chairman, may be assigned to conduct the hearing on behalf of the board.

The code enforcement officer shall notify the alleged violator of the date, time, and place of the hearing at least seven (7) calendar days prior to the date of the hearing. Notice may be given by certified mail, return receipt requested, personal delivery, or by leaving the notice at the person's usual place of residence with any individual residing there who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(B) Any alleged violator failing to appear at a requested hearing before the Board 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 of the Board that a violation was committed shall be final. The Board shall enter a final order determining that the violation was committed and shall impose the civil fine set forth in the citation plus costs as set forth below and shall serve the order upon the violator as set forth in subsection (A) of this section.

(C) All testimony shall be taken under oath and shall be recorded. The board shall take testimony from the Code Enforcement Officer and the alleged violator and any witnesses they wish to present. The Board may within the bounds of due process limit the number of witnesses or the length of testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(D) After the board conducts the hearing, the board shall, based on the evidence, determine whether a violation was committed. If the board determines that no violation was committed, an order dismissing the citation shall be entered. If the board determines that a violation was committed, the board shall issue an order upholding the citation and either imposing a fine up to the maximum authorized by this or another ordinance, or requiring the offender to remedy a continuing violation within a specified time, or both.

(E) All orders of the Board shall be reduced to writing, which shall include the findings and conclusions of the board and 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 that person by certified mail, return receipt requested; by personal delivery; or by 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.

(F) Each case before the Code Enforcement Board shall be represented by an attorney selected by the City or by a Code Enforcement Officer for the City. The City Attorney may either be counsel to the board or may present cases before the board, but in no case serve in both capacities.

Section 9. APPEAL.

(A) A final order of the Board may be appealed to the Spencer District Court within thirty (30) days of the date upon which the order was issued. The appeal shall be initiated by filing a complaint and a copy of the Board's final order in the same manner as a civil action under the Kentucky Rules of Civil Procedure. The Board shall be named as a party. A judgment of the Spencer District Court may be appealed to the Spencer Circuit Court in accordance with the Kentucky Rules of Civil Procedure.

(B) If a final order of the Board is not appealed within thirty (30) days of the date upon which it is issued, it shall be deemed final for all purposes.

Section 10. FINE SCHEDULE.

(A) (1) If a citation is not contested by the person charged with the violation, the civil penalties established for uncontested violations, as are set forth in the "Penalty" section of each individual ordinance, shall apply to a violation of that Individual ordinance. However, the board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the board determines that such waiver will promote compliance with the ordinance in issue.

(2) In the event that an ordinance does contain specific penalty provisions, and the citation issued for the enforcement thereof is not contested, then the following civil penalties shall apply for such section of the ordinances or codes violated:

<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
\$10.00 to \$100.00	\$25.00 to \$250.00	\$50.00 to \$1,000.00

(B) (1) If a citation is contested and a hearing is held by the Board, the civil penalties established for contested violations, as are set forth in the "Penalty" section of each individual ordinance, shall apply to a violation of that individual ordinance. However, the board may waive all or any portion of a penalty for a contested violation, if in its discretion, the board determines that such waiver will promote compliance with the ordinance in issue.

(2) In the event that an ordinance does contain specific penalty provisions, and the citation issued for the enforcement thereof is contested, then the following civil penalties shall apply for such section of the ordinances or codes violated:

<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
\$25.00 to \$250.00	\$50.00 to \$500.00	\$100.00 to \$2,000.00

(C) Each section of a code or ordinance violated shall constitute a separate offense subject to fine. If two (2) or more sections of a code or ordinance are violated, the fines shall be cumulative and may be enforced under the same citation. Each day's continued violation shall constitute a separate offense.

Section 11. LIEN, COSTS, AND FEES.

(A) Nuisance violations.

(1) The City shall possess a lien on property subject to a final non-appealable order of the Board, or final judgment of court, to have violated an ordinance or code, for all fines assessed for the violation and for all charges, fees, and abatement costs incurred by the City in enforcing this subchapter, including administrative hearing costs of One Hundred Dollars (\$100.00) per hearing requested or held.

(2) The lien shall be recorded in the office of the Spencer County Clerk and shall constitute notice to all persons from recording and shall bear interest at the judgment rate until paid. The lien shall take precedence over all other liens, except state, county school board, and City taxes, and may be enforced by judicial proceedings.

(3) In addition to the remedy prescribed in subsection (A)(1) of this section, the person found to have committed a violation of this subchapter shall be personally liable for all fines and costs assessed or incurred by the City in connection with the violation. The City may bring a civil action against the violator and shall have the all remedies provided for the recovery of debt.

(B) Other Code Violations.

(1) The City shall possess a lien on property owned by the person found by a final, non-appealable order of the board, or by a final judgment of the court, to have violated an ordinance or code, for all fines assessed for the violation and for all charges and fees incurred by the City in enforcing this subchapter, including administrative hearing costs of One Hundred Dollars (\$100.00) per hearing requested or held.

(2) The lien shall be recorded in the office of the Spencer County Clerk, and shall constitute notice to all persons from recording and shall bear interest at the judgment rate until paid. The lien shall take precedence over all other subsequent liens, except state, county, school board, and City taxes, and may be enforced by judicial proceedings.

(3) In addition to the remedy prescribed in subsection (i), 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.

OTHER REMEDIES.

(A) If a violator fails to take any remedial action required in a final order of the Board, the City may enter upon the real estate and take such action as is necessary to cure the violation and abate the nuisance.

(B) The remedies provided the City by this chapter shall be in addition to all other remedies available to it at law or in equity including but not limited to the right to seek injunctive relief and monetary damages.

INCORPORATION BY REFERENCE.

All of the terms, conditions, and procedures of KRS 65.8801 through 65.8839 are hereby adopted and incorporated herein by this reference as if fully set forth in this subchapter.

Section 12:

(A) Any violation of a provision of this chapter is hereby classified as a civil offense pursuant to KRS 65.8808 and nothing contained herein shall prohibit the enforcement of this chapter by any other means authorized by law.

(B) Whoever violates any provision of this chapter shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500) if the violation is not contested and not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000) if the violation is contested for each offense. Each day's continued violation shall constitute a separate violation.

SECTION II: This Ordinance shall be in full force and effect upon its adoption, recordation, and publication as required by Law.

PASSED AND APPROVED by the Board of Commission of the City of Taylorsville, Kentucky at a special called meeting on this the 24th day of October, 2023, with the Yea and Nay votes of the Board of Commission as follows:

	Yea	Nay
Karen Spencer, Mayor	<u> X </u>	<u> </u>
Diane Bowens	<u> X </u>	<u> </u>
Diana Hilbert	<u> X </u>	<u> </u>
Abbigail Nation	<u> X </u>	<u> </u>
Kathy Spears	<u> X </u>	<u> </u>

Given First Reading on:

The 17th day of October, 2023.

Given Second Reading and Passed on:

The 24th day of October, 2023.

Published in *The Spencer Magnet* on:

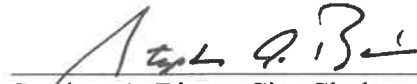
The 8th day of November, 2023.

Approved:

Attest:



Karen Spencer, Mayor
City of Taylorsville



Stephen A. Biven, City Clerk
City of Taylorsville