

COMMISSIONERS' ORDINANCE NO. 0-16-20

AN ORDINANCE AMENDING SECTIONS OF CHAPTER 152 OF THE COVINGTON CODE OF ORDINANCES TO UPDATE CITY DEPARTMENT AND STAFF REFERENCES, UPDATE ENFORCEMENT PROCEDURES, UPDATE FINE AMOUNTS FOR VIOLATIONS, AND REMOVE A REDUNDANT SUBCHAPTER.

* * * *

WHEREAS, certain sections of Chapter 152 of the Covington Code of Ordinances sets forth various regulations concerning building code enforcement and incorporation of the International Property Maintenance Code; and

WHEREAS, City staff proposes various updates to sections of Chapter 152 to reflect updated staff references, update enforcement procedures, update civil fine amounts for violations, and remove a redundant subchapter.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 152.02 of the Covington Code of Ordinances is hereby amended to read as follows:

§ 152.02 BUILDING OFFICIAL.

(A) The administration of this subchapter shall be the responsibility of the [~~Director of Code Enforcement~~] ***City Manager, or his or her designee***, in close cooperation with the Fire Chief, the County Health Department, and other officials and agencies; he or she may seek written opinions concerning the conditions of dwellings or other buildings.

(B) The [~~Director of Code Enforcement~~] ***City Manager, or his or her designee***, and his or her assistants shall be free from personal liability for acts done in good faith in the performance of official duties.

(C) The [~~Director of Code Enforcement~~] ***City Manager, or his or her designee***, or any one of his or her assistants shall not have a financial interest in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, except where he or she is the owner, and shall not act as an agent for real estate sales, leases, or rentals.

(D) *Powers and duties.*

(1) The [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, is authorized to conduct surveys and make inspections in any area of the community to determine compliance with this subchapter or other ordinance he or she is empowered to enforce.

(2) The [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, shall investigate all complaints whether they be verbal, written, or in the form of a petition alleging or charging that a violation of this subchapter exists or that a building or dwelling is unfit or unsafe for human habitation or other occupancy.

(3) For the purpose of making such surveys, inspections, and investigations, the [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, and his or her assistants are authorized, on identification and statement of purpose, to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m., or at any time if an emergency exists, or if requested by the owner or occupant, all buildings, dwellings, dwelling units, rooming units, and general premises. The owner or occupant of every building, dwelling, dwelling unit, rooming unit and general premises, or the person in charge thereof, shall give the [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, free access to such building, dwelling, dwelling unit, rooming unit, or general premises for the purpose of such inspection, survey, or investigation.

(E) *Records and reports.* The [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, shall keep records of all complaints received, inspection reports, orders and complaints issued, and of other actions taken. The records shall be available for public inspection. He or she shall prepare an annual report including statistics based on the records kept.

Section 2

Section 152.04 of the Covington Code of Ordinances is hereby amended to read as follows:

§ 152.04 CERTIFICATE OF OCCUPANCY.

(A) After the effective date of this subchapter, for any vacant building or building which is ordered vacant, where a notice of violation of this subchapter has been issued by the [~~Director of Code Enforcement~~] **City Manager, or his or her designee**, no person shall re-occupy or let to another to re-occupy any dwelling, dwelling unit, rooming house, or rooming unit in the building until a certificate of occupancy has been issued.

(B) The city, **or its agent or designee**, shall issue a certificate of occupancy in the name of the owner as defined herein for every building in the city inspected and found to be in conformity with this subchapter and other local and state housing and building requirements

(C) A certificate of occupancy shall be issued within seven days after application therefore or a statement shall be given, in writing, specifying the reasons why a certificate of occupancy cannot be issued.

(D) Whenever any building is found to contain violations of this subchapter, the [~~Director of Code Enforcement~~] ***City Manager, or his or her designee***, shall give notice that unless the violations are corrected within a reasonable period of time, the certificate of occupancy will be revoked, subject to appeal before the Local Board of Housing, Building, and Construction Appeals.

Section 3

Section 152.21 of the Covington Code of Ordinances is hereby amended to read as follows:

§ 152.21 AMENDMENTS TO CODE.

The following sections and subsections are hereby revised as stated below:

Section 101.1. Title. Insert “City of Covington, Kentucky” for name of jurisdiction.

Section 102.3 Application of other codes. This subsection is replaced as follows:

“Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with procedures and provisions of the Kentucky Building Code, Kentucky Residential Code, Kentucky Plumbing Code, Kentucky Mechanical Code, Kentucky Standards of Safety, National Fire Code, and the National Electric Code, as well as any other codes adopted by the Commonwealth of Kentucky now and in the future. Nothing in this Code shall be construed to cancel, modify, or set aside any provision of the Zoning Code for the City of Covington, Kentucky.”

Section [~~102.4~~]102.7 Referenced Codes and Standards. This subsection is replaced as follows:

“The codes and standards referenced in this code shall be those that are listed in 107.1 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Section 103.1 General. This subsection is replaced as follows:

“The City of Covington [~~Code Enforcement Department~~] ***Neighborhood Services Department*** shall be responsible for the enforcement of the Property Maintenance Code. [~~The Code Enforcement Department Director and~~] Code Enforcement Officers ***who have been designated appropriately under state and local laws*** shall be known as “code officials” under this Code.”

Section 103.2 Appointment. This subsection is not adopted.

Section 103.3 Deputies. This subsection is not adopted.

~~[Section 103.4 Restriction of employees. This subsection is renumbered as Section 103.2 and adopted in its entirety.]~~

~~[Section 103.5 Liability. This subsection is renumbered as Section 103.3 and adopted in its entirety.]~~

Section ~~[103.6]~~103.5 Fees. This subsection is not adopted. See [~~§ 150.12~~] **§92.99** for a fee schedule.

~~[SECTION 106 VIOLATIONS. This heading is replaced with the following heading: “SECTION 106 VIOLATIONS OF CITY PROPERTY MAINTENANCE CODE”]~~

Section 106.2 Notice of violation. The heading of this subsection and the subsection itself are replaced as follows:
“Section 106.2 Violations of the Property Maintenance Code; notice of violation, citations, appeals, and liens.

~~[(1) When a code official, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of the Property Maintenance Code, the official is authorized to issue a citation to the offender. When authorized, a code official 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 code enforcement officer is authorized to issue a citation.~~

~~(2) If the code official 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.~~

~~(3) The notice required by this section shall be in plain language and shall:
—— (a) Be in writing;
—— (b) Include a description of the real estate sufficient for its identification;
(c) Include a statement of the reason or reasons why the notice of violation is being issued; and
(d) Include a correction order allowing a reasonable amount of time for the correction of any and all violations.~~

~~(4) Any citation issued by the code official for a violation or violations of the Property Maintenance Code shall be in a form prescribed by the City and shall contain, in addition to any other information required by ordinance or rule of the board, the following information:
(a) The date and time of issuance;
(b) The name and address of the person to whom the citation is issued;~~

- ~~(c) The date and time the offense or violation was committed;~~
 - ~~(d) The facts constituting the offense or violation;~~
 - ~~(e) The section of the code or number of the ordinance violated;~~
 - ~~(f) The name of the code official;~~
 - ~~(g) The civil fine that will be imposed for the violation if the person does not contest the citation.~~
 - ~~(h) The maximum civil fine that may be imposed if the person elects to contest the citation.~~
 - ~~(i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and~~
 - ~~(j) 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 a violation was committed shall be final.~~
- ~~(5) Any citation that is issued for the violation or violations of the Property Maintenance Code must be served upon the owner of the property or any individual with a legal interest in the property by:~~
- ~~(a) Personal delivery to the alleged violator;~~
 - ~~(b) 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~~
 - ~~(c) Mailing a copy of the citation by regular first class mail to the last known recorded mailing address of the alleged violator; or~~
 - ~~(d) If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in divisions (a) to (c) of this division is not possible, then the citation is properly served by posting a copy of the citation in a conspicuous place on the premises.~~
- ~~(6) After issuing a citation to an alleged violator of the Property Maintenance Code, the code official shall notify the Code Enforcement Board by delivering the citation to the administrative official designated by ordinance or by the Code Enforcement Board.~~
- ~~(7) When a citation for a violation or violations of the Property Maintenance Code is issued, the person to whom the citation is issued shall respond to the citation within seven (7) 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 (7) days, the person 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 considered 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.~~

~~(8) When a hearing before the Code Enforcement Board has been requested, the Code Enforcement Board, through its clerical staff and administrative staff, shall schedule a hearing. Not less than seven (7) days before the date set for the hearing, the Code Enforcement Board shall notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing shall be given in the same manner as set forth in subsection (5) above.~~

~~(9) 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 shall an attorney serve in both capacities.~~

~~(10) All testimony at the Code Enforcement Board hearings shall be under oath and shall be recorded. The Code Enforcement Board shall take testimony from the code official(s), the alleged offender and any witnesses to the alleged violation offered by the code officials(s) or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.~~

~~(11) At the hearing, the Code Enforcement Board shall 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 shall be entered. When the Code Enforcement Board determines that a violation has been committed, it shall 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, 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.~~

~~(12) Every final order be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy of the order shall 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 shall 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 eighteen (18) years of age or older and who is informed of the contents of the order.~~

~~(13) An appeal from any final order issued by the Code Enforcement Board may be made to the Kenton County 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 Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the Code Enforcement Board.

~~(14) A judgment of the Kenton County District Court may be appealed to the Kenton County Circuit Court in accordance with the Rules of Civil Procedure.~~

~~(15) 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 shall be deemed final for all purposes.~~

~~(16) The City of Covington shall 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 the Property Maintenance Code 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 shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall take precedence over all other liens, except state, county, school board and city taxes if all legal requirements are satisfied, and may be enforced by judicial proceedings.~~

~~(17) In addition to the remedy prescribed in subsection (16) above, 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.”]~~

A code official shall carry out all Property Maintenance Code actions in accordance with the legal requirements adopted by the City of Covington regarding code enforcement procedures, set forth in Chapter 92 of the City of Covington Code of Ordinances and based on applicable Kentucky laws.

Section 106.3 Prosecution of violation. [The heading of this subsection and the **This** subsection [itself are] **is** replaced as follows:

[“Section 106.3 Penalties for violation of Property Maintenance Code.

~~(1) A violation of this code shall constitute a civil offense, and any person, firm, or corporation who violates any provision of this subchapter shall be subject to a civil fine [of \$100.00 per day per violation, or the cost to the City of Covington to abate the violation, or both. Each date that a violation of this code continues after due notice has been served in accordance with the terms of this Code shall be deemed a separate offense to a maximum of \$10,000 per citation, if the citation is contested. If the citation is uncontested, the specific fine contained within the~~

citation shall be payable as set forth within the citation and in accordance with this Chapter and applicable Kentucky law.

~~(2) As an additional alternative remedy to the above penalty, any violator who violates any provision of the city Property Maintenance Code and/or Nuisance Code and has been previously issued two or more citations of violations of the Covington Code of Ordinances related to the same property within a 12-month period may be assessed additional civil penalties of \$500 per day per violation to a maximum of \$20,000 per citation.~~

~~(3) The City of Covington shall possess a lien on property 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 shall be superior to and have priority over all other liens, except state, county, school board, and city taxes if all legal requirements are satisfied.]~~

A code official shall carry out all Property Maintenance Code actions in accordance with the legal requirements adopted by the City of Covington regarding code enforcement procedures, set forth in Chapter 92 of the City of Covington Code of Ordinances and based on applicable Kentucky laws.

Section 106.4 Violation penalties. [~~This subsection is not adopted.~~] This heading and subsection are replaced with the following:

“Section 106.4 Penalties for violation of Property Maintenance Code.

(1) A violation of this code shall constitute a civil offense, and any person, firm, or corporation who violates any provision of this subchapter shall be subject to a civil fine identified in Section 92.99 of the Covington Code of Ordinances, or the cost to the City of Covington to abate the violation, or both.

(2) The City of Covington shall possess a lien on property 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 shall be superior to and have priority over all other liens, except state, county, school board, and city taxes if all legal requirements are satisfied.

~~[Section 106.5. Abatement of violation. This subsection is renumbered as Section 106.4 and adopted in its entirety.]~~

SECTION 107 NOTICES AND ORDERS. This heading is replaced with the following heading:

“SECTION 107 VIOLATIONS OF STATE CODES”

Section 107.1 Notice to ~~owner or to~~ person ~~or persons~~ responsible. The heading of this subsection and the subsection itself are replaced as follows:

Section 107.1 Violations of the state codes; citation, appeals, and liens.

“Code officials may issue citation(s) for violation(s) of the Kentucky Building Code, Kentucky Standards of Safety, Kentucky Plumbing Code, Kentucky Residential Code, Kentucky Mechanical Code, National Fire Code, and the National Electric Code (“state codes”). Citations shall be issued in the same manner as set forth in subsection 106.2(4) and (5) and penalties may be imposed as set forth in subsection 106.3. To appeal a citation finding a violation of a state code, the alleged violator may appeal the citation pursuant to ~~[§ 152.03]~~ **Chapter 92 of the Covington Code of Ordinances.**”

Section 107.2 Form. This section is not adopted.

Section 107.3 Method of service. This section is not adopted.

Section ~~107.4~~107.5 Penalties. This section is not adopted.

~~[Section 107.5. Transfer of ownership. This subsection is renumbered as Section 107.2 and adopted in its entirety.]~~

Section 108.3 Notice. This subsection is replaced as follows:

~~“Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 106.2(2) and served on the owner or responsible person in accordance with Section 106.2(5). However, if the whereabouts of a person is unknown and it cannot be ascertained by a code official in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the code official shall make an affidavit to that effect, and thereafter, further notice may be served on such persons by sending a copy of same by regular U.S. mail to the person's last known mailing address, if known, and by newspaper publication, pursuant to KRS Chapter 424.”]~~

A code official shall give notice of any enforcement actions arising from the Property Maintenance Code in accordance with the legal requirements adopted by the City of Covington regarding code enforcement procedures, set forth in Chapter 92 of the City of Covington Code of Ordinances and based on applicable Kentucky laws.

Section 108.4 Placarding. This subsection is replaced as follows:

“With respect to structures that violate this subsection, upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises a placard bearing the following language:

This building is unfit for human habitation, occupancy, or use; the use or occupation of this building for human habitation, occupancy, or use is prohibited and unlawful.

With respect to defective equipment, upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the equipment a placard that the equipment is defective and should not be used and/or may have the equipment rendered inoperable until such time as it complies with this Code.”

Section 108.4.1 Placard Removal. This subsection is replaced as follows:

“The code official shall remove the above-referenced placard whenever the defect or defects upon which the placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be deemed guilty of a class “A” misdemeanor and subject to immediate arrest and applicable fines.”

Section 108.5 Prohibited occupancy. This subsection is replaced as follows:

“Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be deemed guilty of a class “A” misdemeanor and subject to immediate arrest and applicable fines.”

Section 109.5 Costs of emergency repairs. This subsection shall be revised to read as follows:

“Cost incurred in the performance of emergency work shall be paid by the City. The City may recover these costs by filing a lien on the property on which the emergency work was performed and it may recover these costs by foreclosing on this lien or by taking other appropriate legal action.”

Section 109.6 Hearing. This subsection is replaced as follows:

“Any person ordered to take emergency measures shall comply with such order immediately **in accordance with the City of Covington Code of Ordinances and applicable Kentucky law**. Any affected person **may** [shall, within 7 days after an order is issued under this Section,] appeal **a citation and [the] order to take emergency measures** to the Code Enforcement Board pursuant to Chapter 92 of the Covington Code of Ordinances **and any applicable Kentucky law**. All relevant portions of Chapter 92 of the Covington Code of Ordinances shall apply with regard to the filing and hearing of an appeal to the Code Enforcement Board and any subsequent appeal authorized by law.”

Section 110.2 Notices and orders. This section is replaced as follows:

[“All notices and orders shall be issued and served in the same manner as is set forth Section 108.3.”]

A code official shall give notice of any enforcement actions arising from the Property Maintenance Code in accordance with the legal requirements adopted by the City of Covington regarding code enforcement procedures, set forth in Chapter 92 of the City of Covington Code of Ordinances and based on applicable Kentucky laws.

110.4. Salvage materials. This section is replaced as follows:

“When any structure has been ordered demolished and removed, the City Board of Commissioners or other designated officer under said contract or arrangement shall have the right -- but is not required -- to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal and after the payment of any liens, fines, or taxes owed on the property, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.”

Section 111 Means of appeal. This section and all following subsections or subchapters shall not be adopted.

Section 202 GENERAL DEFINITIONS.

The definition of “CODE OFFICIAL” is revised to read as follows:

“CODE OFFICIAL. A code enforcement officer or other official who is charged with the administration and enforcement of this code, or any duly authorized representative.”

Section ~~[303-14]~~304.14 Insect screens. The two dates to be inserted in this subsection are April 30th and October 31st.

Section ~~[305]~~308 RUBBISH AND GARBAGE.

Section ~~[305-3.3]~~ ~~No person shall place any garbage, trash, or refuse for collection on or adjacent to any public way in the city, except on the calendar day designated by the city. Garbage cans can be set out no earlier than 6:00 p.m. the evening before the day set for collection. Garbage bags or non-containerized garbage, trash, or refuse can be set out no earlier than 6:00 a.m. in the morning of the day set for collection. All garbage cans and trash containers must be removed from the curb by 12:00 p.m. (noon) the day following trash collection.]~~ **308 is hereby replaced with the following:**

All owners and occupants in the City shall follow applicable solid waste and recycling rules and regulations, as set forth in Chapter 95 of the Covington Code of Ordinances.

Section ~~[306-3]~~309.3 Single occupant. This subsection is replaced as follows:

“**Section ~~[306-3]~~ 309.3 Single occupant.** Both the owner and the occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be jointly and severally liable and/or responsible for extermination on the premises.”

Section ~~[306-5]~~ 309.3 Occupant. This subsection is replaced as follows:

“Section [306.5] 309.3 Occupant. Both the owner and the occupant of any structure shall be jointly and severally liable and/or responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be solely responsible for extermination.”

Section 601.1 Scope. This subsection is replaced as follows:

“Section 601.1 Scope. The provisions of this subchapter, Chapter 150 of the City Code of Ordinances, and Appendix “A” to Chapter 150 of the Code all shall govern the minimum mechanical and electrical facilities and equipment to be provided.”

Section 602.1 Facilities Required. This heading and subsection are replaced as follows:

Section 602.1 Heating Facilities. Heating facilities shall be provided in structures as required by this section. Every residential and commercial occupancy shall have a permanent heat source. A permanent heat source is one in which the power source is either hard wired or piped into the appropriate utility.

Section 602.3 Heat supply. The two dates to be inserted in this subsection are September 30 and May 31.

Section 602.4 Occupiable work spaces. The two dates to be inserted in this subsection are September 30 and May 31.

Section 604.2 Service. This subsection is replaced as follows:

“The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electric Code. Dwelling units shall be served by a three wire, 120/140 volt, single phase electrical service having a rating of not less than 60 amperes.”

Section 701.1 Scope. This subsection is replaced as follows:

“Section 701.1 Scope. The provisions of this subchapter and Chapter 151 of the City Code of Ordinances shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.”

Section 4

Sections 152.40 through 152.44 of the Covington Code of Ordinances, which read as follows, are repealed:

[HOUSING DISCRIMINATION

~~§ 152.40 DEFINITIONS.~~

~~For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**CANVASSING.**—Door to door solicitation, or solicitation by the use of circular advertisements or any other means where the canvasser or his or her employer has not been requested by the owner, as defined herein, to obtain a listing of any housing accommodation or to confer with the owner regarding a transaction involving a housing accommodation.~~

~~**COMMISSION.**—The Covington-Kenton County Commission on Human Rights.~~

~~**COMMISSIONER.**—A member of the Commission.~~

~~**COMMITTEE.**—The Covington Fair Housing Strategy Committee consisting of the Neighborhood Services Coordinator, the Housing Development Director, the Section 8 Supervisor, and the EEO/Contract Compliance Officer.~~

~~**DISABLED INDIVIDUAL.**—Any person who:~~

~~(1) Has a physical or mental impairment which substantially limits one or more of the person's major life activities;~~

~~(2) Has a record of the impairment; or~~

~~(3) Is regarded as having an impairment but the term does not include current, illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802). "Life activities" may be considered to include communication, ambulation, self care, socialization, education, vocational training, employment, transportation and adapting to housing.~~

~~**DISCRIMINATION.**—Any difference in treatment based on race, color, religion, ancestry, national origin, disability, sex, place of birth, or familial status and includes segregation.~~

~~**FAMILIAL STATUS.**—One or more individuals who have not attained the age of 18 years being domiciled with:~~

~~(1) A parent or another person having legal custody of the individual or individuals; or~~

~~(2) The designee of the parent or other person having custody, with the written permission of the parent or other person.~~

~~The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.~~

~~**FINANCIAL INSTITUTION.**—Any person, as defined herein, engaged in the business of lending money or guaranteeing losses.~~

~~**HOUSING ACCOMMODATION.**~~

~~(1) Any parcel or parcels of real property or lands, or any interest therein, whether contiguous or noncontiguous, located in the city, used for the building of one or more housing or rooming units owned by, or otherwise subject to the control of, one or more persons;~~

~~(2) Any real property, or any interest therein, located in the city;~~

~~(3) Any single family dwelling or multiple family dwelling, or any portion thereof, including a housing unit or a rooming unit, or any interest therein, located in the city, which is used or occupied, or intended, arranged, assigned or designated to be used or occupied, as the home, homesite, residence or sleeping place of one or more persons.~~

~~**HOUSING UNIT.**— A single room, suite of rooms or apartment containing cooking and kitchen facilities, occupied or intended for occupancy as living quarters by a person, by a family or by a group of persons living together.~~

~~**MEMBER.**— A member of the Covington Fair Housing Strategy Committee.~~

~~**MEMBER OF HIS OR HER FAMILY.**— The owner and his or her spouse and any son, daughter, parent or grandparent of the owner or his or her spouse.~~

~~**OWNER.**— A lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession or the right to sell, rent or lease any housing accommodation.~~

~~**PERSON.**— An individual and any group of one or more natural persons such as, but not limited to, labor unions, joint apprenticeship committees, partnerships, associations, corporations, unincorporated organizations, mutual companies, joint stock companies, trusts, legal representatives, trustees in bankruptcy, receivers, any individuals acting in a financial or representative capacity, either appointed by a court or otherwise, the city or any of its agencies, and any other legal, governmental or commercial entity, as well as a natural person or persons. The term **PERSONS**, when applied to any of the foregoing, includes members, representatives, officers and directors.~~

~~**PURCHASER.**— Any occupant, prospective occupant, lessee, prospective lessee, sublessee, prospective sublessee, tenant, prospective tenant, assignee, prospective assignee, buyer, prospective buyer or any other person seeking the right of ownership or possession, or any agent of any of these.~~

~~**REAL ESTATE BROKER or REAL ESTATE SALESPERSON.**— An individual, whether licensed or not, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, exchanges, rents or leases any housing accommodation, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer or any housing accommodation, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he or she undertakes to promote the sale, purchase, exchange, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.~~

~~**REAL PROPERTY.** Buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal.~~

~~**ROOMING UNIT.** Any room or group of rooms forming a single, habitable unit used for living or sleeping, but which does not contain cooking and kitchen facilities.~~

~~**§ 152.41 POLICY.**~~

~~It is the policy of the city to safeguard all individuals within the city from discrimination because of race, color, religion, ancestry, national origin, disability, sex, place of birth or familial status in connection with housing, thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the city their full productive capacities, to secure the city against strife and unrest which would menace its democratic institutions, and to preserve the public safety, health, and general welfare.~~

~~**§ 152.42 EXEMPTIONS.**~~

~~(A) The rental or lease of any housing units in a housing accommodation which contains not more than two housing units, if the owner or a member of his or her family resides in the housing accommodation;~~

~~(B) The rental or lease of any rooming units in a housing unit, if the owner or a member of his or her family resides in the housing unit;~~

~~(C) The rental or lease of any rooming units in a house in which the owner of the entire house or member of his or her family resides.~~

~~(D) (1) Nothing in this title limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.~~

~~(2) As used in this section, **HOUSING FOR OLDER PERSONS** means housing:~~

~~(a) Provided under any state or federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);~~

~~(b) Intended for, and solely occupied by, persons 62 years of age or older;~~

~~(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this division, the Secretary shall develop regulations which require at least the following factors:~~

~~1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or if the provision of such facilities and services is not practicable, that~~

~~such housing is necessary to provide important housing opportunities for older persons;~~

~~2. That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit;~~

~~3. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.~~

~~(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:~~

~~(a) Persons residing in such housing as of the date of enactment of this act who do not meet the requirements of division (D)(2)(b) or (D)(2)(c), provided that new occupants of such housing shall meet the age requirements of division (D)(2)(b) or (D)(2)(c);~~

~~(b) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of division (D)(2)(b) and (D)(2)(c).~~

~~(E) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.~~

~~§ 152.43 UNLAWFUL PRACTICES: SALE OR RENTAL OF PROPERTY.~~

~~*Unlawful practices.* In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, exchange, rental or lease of any housing accommodation, it shall be a prohibited, unlawful practice for a person, owner, financial institution, real estate broker or real estate salesperson, or any representative of the above, to:~~

~~(A) Refuse to sell, purchase, exchange, rent or lease, or otherwise deny to or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, national origin, disability, sex, place of birth or familial status;~~

~~(B) Discriminate against a person in the terms, conditions, or privileges of the sale, purchase, exchange, rental, or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith;~~

~~(C) Refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent, or lease any housing accommodation from or to a person because of his or her race, color, religion, ancestry, national origin, disability, sex, place of birth, or familial status;~~

~~(D) Refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing accommodation to a person because of his or her race, color, religion, ancestry, national origin, disability, sex, place of birth or familial status;~~

~~(E) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, exchange, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect any housing accommodation, because of his or her race, color, religion, ancestry, national origin, disability, sex, place of birth or familial status;~~

~~(F) Print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, exchange, rental, or lease or financing of any housing accommodation, or to make a record or inquiry in connection with the prospective sale, purchase, exchange, rental, lease or financing of any housing accommodation, which indicates, directly or indirectly, any discrimination or any intent to make discrimination;~~

~~(G) Offer, solicit, accept, or use a listing of real property for sale, purchase, exchange, rental, or lease with the understanding that an individual may be subjected to discrimination in connection with such sale, purchase, exchange, rental or lease, or in the furnishing of facilities or services in connection therewith;~~

~~(H) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, national origin, disability, sex, place of birth or familial status in the area to be affected by such sale, purchase, exchange, rental or lease will or may result in:~~

~~(1) The lowering of property values in the area;~~

~~(2) An increase in criminal or antisocial behavior in the area;~~

~~(3) A decline in the quality of the schools serving the area;~~

~~(I) To make any misrepresentations concerning the listing for sale, purchase, exchange, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, exchange, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce any such listing or any of the above transactions;~~

~~(J) To place a sign purporting to offer for sale, purchase, exchange, rental or lease any housing accommodation that is not, in fact, so offered;~~

~~(K) To advertise for sale, purchase, exchange, rental or lease any housing accommodation which is nonexistent, or which is not actually being offered for any of the above;~~

~~(L) To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation;~~

~~(M) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this subchapter, or because he or she has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding, hearing or conference under this subchapter;~~

~~(N) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this subchapter, or to obstruct or prevent any person from complying with the provisions of this subchapter;~~

~~(O) To obstruct or prevent a person from complying with the provisions of this subchapter, or any order issued thereunder;~~

~~(P) To resist, prevent, impede or interfere with the Committee, or any of its members or representatives, in the lawful performance of its or their duty under this subchapter;~~

~~(Q) To, by canvassing, do any of the unlawful practices prohibited by this subchapter;~~

~~(R) To otherwise deny to or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, disability, sex, national origin, place of birth or familial status;~~

~~(S) To fail to reasonably accommodate a disabled person as required by the Federal Fair Housing Law, as amended.~~

~~§ 152.44 UNLAWFUL PRACTICES; FINANCIAL INSTITUTIONS.~~

~~No person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these shall:~~

~~(A) Discriminate against an individual because of the race, color, religion, or national origin of the individual or the present or prospective owner, tenant, or occupant of that real property or of a member, stockholder, director, officer, employer, or representative of any of these, in the granting, withholding, extending, modifying, or renewing the rates, terms, conditions, or privileges of other provisions of financial assistance, or in the extension of services in connection therewith; or~~

~~(B) Use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, or national origin or an intent to make such a limitation, specification, or discrimination.]~~

Section 5

Section 152.99 of the Covington Code of Ordinances is amended to read as follows:

§ 152.99 PENALTY.

(A) Any person who violates any, provision, rule or regulation made under § 152.04, or who induces another to violate any provision, rule or regulation of this section, on conviction shall be deemed guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$500, or confined in the county jail for not more than 60 days, or both. Each day such violations exist shall, in the discretion of the courts, be considered as a separate offense.

~~[(B) If the Committee finds that any person has committed an unlawful practice as defined in §§ 152.40 et seq., it may subject such person to a fine not exceeding \$100. The Committee may, if the person refuses to pay the fine, file an action in the county circuit court for the collection thereof.]~~

~~[(C) If a real estate broker, a real estate salesperson or an employee thereof has failed to comply with any order issued by the Committee, or has been found to have committed an unlawful practice in violation of §§ 152.40 et seq., the Committee shall so notify in writing the State Real Estate Commission.]~~

~~[(D) Should the Committee determine at any time that a complaint filed with it alleging a violation of §§ 152.40 et seq. was filed in bad faith, the Committee shall forthwith issue an order requiring the complainants to pay to the respondent the amount of the reasonable expenses caused the respondent by the filing of the complaint, including reasonable attorney's fees; and the order may be enforced in the same manner as any other order issued by the Committee pursuant to the provisions of §§ 152.40 et seq.]~~

~~[(E)]~~ ***(B) It shall be unlawful for any*** [Any] owner, resident, user or occupier of a house or tenement in the city [failing] to ***fail to*** comply with the provisions of § 152.80 [or any person removing, defacing or altering an identifying house number as provided in § 152.80(D) shall be deemed guilty of a violation and shall be fined the sum of \$10 for each violation. Each and every day on which the violation continues shall constitute a separate offense]. ***Any violation of § 152.80 shall be a civil offense, subject to enforcement through Chapter 92 of the Covington Code of Ordinances and the penalties and processes enumerated therein.***

~~[(F)]~~ ***(C)*** In addition to or in the alternative of the penalty set forth in division (A) above, the city may impose a civil penalty of not less than \$250 or more than \$500 on any person,

firm, or corporation violating the provisions of this chapter, as authorized under KRS 83.065, and for purposes of calculating the civil penalty, each day that the person, firm or corporation violates this or any provision thereof may be deemed a separate offense.

Section 6

This Ordinance shall take effect and be in full force from and after its passage, publication, which may be in summary form, and recording, according to the law.

Joseph U Meyer
MAYOR

ATTEST:

Margaret M Hyhan
CITY CLERK

Passed: 8-11-20 (Second Reading)

7-21-20 (First Reading)



Meeting Date:		ORD.: 1ST	2ND	OR:		Yeas	Nays	Present, not Voting
						✓		
					Rowman	✓		
					Downing	✓		
					Smith	✓		
					Williams	✓		
					Meyer	✓		