

CITY OF HURSTBOURNE ACRES, KENTUCKY

ORDINANCE NO. 6, SERIES 2012

WHEREAS, the City Commission of the City of Hurstbourne Acres, Kentucky, has the authority pursuant to statute to enact Ordinances relating to the City, and

WHEREAS, it is necessary for the City of Hurstbourne Acres, Kentucky, to promote good and orderly development for the welfare of the residents in the City, and

WHEREAS, the City Commission of Hurstbourne Acres has decided that it is in the best interest of the citizens to adopt the county regulations:

Adoption of county regulations

(A) The Development Code, Zoning District Regulations and Metropolitan Subdivision Regulations for Jefferson County, Kentucky, and any amendments thereto, are adopted by reference and incorporated as if set out in full herein.

(B) The Comprehensive Plan for Louisville and Jefferson County, and any amendments thereto, is adopted by reference and incorporated as if set out in full herein.

(C) Copies of the referenced material will be maintained in the office of the City Clerk and will be available for public inspection during normal business hours.

(KRS 83A.060(5))

Definitions

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

BINDING ELEMENT. A binding requirement, provision, restriction, or condition imposed by the Planning Commission or its designee, or a promise or agreement made by an applicant in writing, in connection with the approval of a land use development plan or subdivision plan.

PLANNING COMMISSION. The Louisville and Jefferson County Planning Commission.

LAND USE ENFORCEMENT. A zoning enforcement officer employed by the Planning Commission.

CITY OF HURSTBOURNE ACRES CITATION OFFICER. A duly appointed

citation officer from the City of Hurstbourne Acres.

LAND USE ORDINANCE. An official action of the city which is a regulation of a general and permanent nature relating to the use and development of land within the city. It is enforceable as a local law and includes any provision of the City of Hurstbourne Acres Code of Ordinances which embodies all or part of an ordinance.

Enforcement of binding elements

The violation of any binding element, as defined herein, shall constitute a civil offense which may subject the violator to a civil fine and/or other remedial orders of the Planning Commission in accordance with procedures set forth in this chapter. ()

Authority of the Planning Commission

(A) The Planning Commission may issue remedial orders and impose civil fines as a method of enforcing a binding element when a violation of that binding element has occurred within the City of Hurstbourne Acres. If the violation of a binding element would also constitute an offense under any provision of the Kentucky Revised Statutes, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense, such a violation of a binding element shall not be a civil offense under this chapter but a criminal offense which may be prosecuted in the court of appropriate jurisdiction.

(B) In the exercise of its authority under this chapter, the Planning Commission shall have the power to:

- (1) Adopt rules and regulations to govern its operation and conduct of its hearing that are consistent with requirements of this chapter;
- (2) Conduct hearings to determine whether there has been a violation of a binding element;
- (3) Subpoena alleged violators, witnesses and evidence to its hearings and all such subpoenas issued by the Planning Commission may be served by any Land Use Enforcement or Citation Officer;
- (4) Take testimony under oath and the Chairman of the Planning Commission may administer such oaths to witnesses prior to their testimony before the Planning Commission on any matter;
- (5) Make findings and issue orders that are necessary to remedy any violation of a binding element;
- (6) Impose civil fines as authorized in this ordinance on any person found to have

violated any binding element that the Planning Commission is authorized to enforce.

Form citations and issuance

(A) Enforcement proceedings for the violation of a binding element shall be initiated by the issuance of a citation by either a Land Use Enforcement or Citation Officer from Jefferson County or the City of Hurstbourne Acres Citation Officer.

(B) When a Land Use Enforcement or Citation Officer, based upon personal observation or investigation, has reasonable cause to believe that a violation of a binding element has occurred, the officer may issue a warning notice and citation to the offender. Prior to issuing a citation, however, the officer shall issue a warning notice giving the offender ten days, Saturdays, Sundays and Holidays excluded, in which to remedy the violation. If the person to whom the notice is given fails or refuses to remedy the violation within the specified time, the Land Use Enforcement or Citation Officer may issue a citation. However, if the violation is a threat to the public safety, the Land Use Enforcement or Citation Officer immediately shall issue a citation without a prior warning notice.

(C) The citation issued by the Land Use Enforcement or Citation Officer shall be in a form prescribed by the Planning Commission and shall contain, in addition to any other information required by the Planning Commission:

- (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 violation of the binding element was committed;
- (4) The facts constituting the violation of the element violated;
- (5) The name of the Land Use Enforcement or Citation Officer;
- (6) The civil fine that will be imposed for the violation if the person does not contest the citation;
- (7) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
- (8) A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the Planning Commission to contest the citation, and that the determination that a violation was committed shall be final.

(D) All citations issued shall be hand delivered to the alleged violator. After issuing a citation to an alleged violator, the Land Use Enforcement or Citation Officer shall notify the Planning Commission by delivering the citation to the administrative

official designated by the Planning Commission.

(E) When a citation is issued, the person to whom the citation is issued shall respond to the citation within 14 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 Planning Commission to contest the citation. If the person fails to respond to the citation within 14 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 Planning Commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

Hearings before the Planning Commission

(A) When a hearing before the Planning Commission has been requested, the Planning Commission, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within 30 days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed 30 days. All continuances must receive the approval of the Planning Commission. Not less than seven days before the date set for the hearing, the Planning Commission shall notify the person who requested the hearing of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by 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. Any person requesting a hearing before the Planning Commission 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 Planning Commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(B) Each case before a Planning Commission shall be presented by an attorney who shall be counsel to the Planning Commission.

(C) All testimony before the Planning Commission shall be under oath and shall be recorded. The Planning Commission shall take testimony from the Land Use Enforcement or Citation Officer, the alleged offender, and any witnesses to the alleged violation offered by the Land Use Enforcement or Citation Officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(D) After the hearing, the Planning Commission shall determine, based on the evidence presented, whether a violation was committed. When the Planning Commission determines that no violation was committed, an order dismissing the citation shall be entered. When the Planning Commission 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 in an amount up to the maximum authorized by this chapter, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized herein.

(E) Every final order of the Planning Commission shall be reduced to writing, which shall include the date the order was issued, and 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 of the Planning Commission 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 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.

Appeal of Planning Commission orders

Any final order issued by the Planning Commission with respect to a citation for the violation of a binding element may be appealed in conformity with KRS 100.413.

Payment of fines

The person or entity found to have committed a violation of a binding element shall be responsible for the amount of all fines assessed for the violation. A Planning Commission may file a civil action in its name against the person or entity and shall have the remedies provided in KRS 100.415.

Civil action by the city

Nothing contained in this chapter shall prohibit the city from taking immediate action in the court of appropriate jurisdiction to remedy a violation of a binding element when there is reason to believe that the existence of the binding element violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the binding element violation will be irreparable or irreversible.

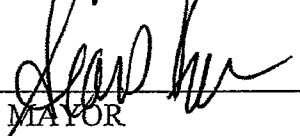
Penalties

Any person who violates a binding element shall be subject to a fine of not less than \$100 nor more than \$500 and shall comply with such remedial orders as may be issued by the Planning Commission. Each day during which the binding element violation exists after the period granted by §152.04(B) to remedy the violation shall be deemed a separate offense.

This Ordinance shall become effective upon its passage and publication.

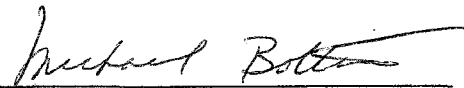
FIRST READING: 9/13/12

SECOND READING: 10/11/12



SEAN FORE, MAYOR
CITY OF HURSTBOURNE ACRES, KENTUCKY

ATTEST:



CITY CLERK
CITY OF HURSTBOURNE ACRES, KENTUCKY

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