

## ORDINANCE NO. 80-731

AN ORDINANCE TO ADD CHAPTER 2.5 TO THE CODE OF ORDINANCES RELATING TO ESTABLISHING AN ADMINISTRATIVE HEARINGS BUREAU; TO AMEND CHAPTER 1 OF THE CODE OF ORDINANCES RELATING TO GENERAL PENALTIES; AND TO AMEND VARIOUS ORDINANCES IN ORDER TO DESIGNATE THEM AS BLIGHT VIOLATIONS.

THE CITY OF WARREN ORDAINS:

**SECTION 1.** That the Code of Ordinances of the City of Warren, Michigan, is hereby amended by adding a chapter, to be numbered 2.5, which shall read as follows:

### **Chapter 2.5 – ADMINISTRATIVE HEARINGS BUREAU**

#### **Sec. 2.5-1. Purpose.**

The purpose of this Chapter is to ensure compliance with the Warren Code of Ordinances designated as blight violations. Previous enforcement mechanisms were not ensuring blight violation code compliance.

#### **Sec. 2.5-2. Definitions.**

*Blight violation.* A violation of a provision of the Code of Ordinances, including Appendices, that is designated as a blight violation.

*Bureau.* The Administrative Hearings Bureau.

*Credit Union Organization.* A cooperative, nonprofit entity organized for the purposes of encouraging thrift among its members, providing a variety of financial services to its members, and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition, including credit unions organized pursuant to: the Credit Union Act, MCL 490.101 to 490.601; the laws of another state or territory of the United States; or the laws of the United States.

*Financial Institution.* A state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office in the state of Michigan under the laws of the state of Michigan or the United States.

*Government-Sponsored Enterprise.* That term as defined in 2 USC 622(8), or the Michigan State Housing Development Authority created under the State Housing Development Authority Act of 1966, MCL 125.1401 to 125.1499c.

*Mortgage Servicer.* A person that, directly or indirectly, services or offers to service mortgage loans, as defined by MCL 445.1651a.

*Rules Committee.* A committee comprised of the City Attorney, the Public Service Director, and the Director of Property Maintenance, or their representatives.

*Rules of Procedure.* Set of rules establishing the Administrative Hearings Bureau's procedures, including procedures for: issuing written violation notices, default and admission of responsibility, conducting administrative hearings to determine responsibility, issuing final decisions and orders, and appeals.

*Violator.* A person who the Administrative Hearings Officer has found responsible for a blight violation.

**Sec. 2.5-3. Jurisdiction.**

- (a) Except as provided in Section 2.5-3(b), the Bureau has exclusive jurisdiction to make determinations of responsibility and to impose penalties for blight violations.
- (b) The Bureau does not have jurisdiction over:
  - (1) A foreclosing governmental unit as defined by MCL 211.78; or
  - (2) An authority created under the Land Bank Fast Track Act, MCL 124.751-124.774.

**Sec. 2.5-4. Administrative Hearings Officer.**

- (a) Appointment.
  - (1) The Mayor shall appoint the Administrative Hearings Officer.
- (b) Qualifications.
  - (1) The Administrative Hearings Officer shall be:
    - i. A current 37th District Court Magistrate; and
    - ii. Qualified as required by MCL 117.4q(11).
- (c) Duties.
  - (1) The Administrative Hearings Officer shall:
    - i. Conduct administrative hearings as provided for by the Rules of Procedure;
    - ii. If the alleged violator was served proper notice and the alleged violator fails to appear at the scheduled hearing, enter an order of default finding an alleged violator responsible for the violation;
    - iii. Propose necessary Rules of Procedure changes to the Rules Committee, as provided in Section 2.5-5(a)(2);
    - iv. Issue written responsibility determinations as provided for by the Rules of Procedure; and
    - v. Impose penalties consistent with Section 2.5-7 of this Chapter.

**Sec. 2.5-5. Rules of Procedure.**

- (a) Adoption and Amendment.
  - (1) The Rules Committee shall adopt Rules of Procedure that govern the operation of the Administrative Hearings Bureau.
  - (2) The Rules of Procedure shall be amended by the following procedure:
    - i. The Administrative Hearings Officer proposes changes to the Rules of Procedure through a written petition to the Rules Committee;
    - ii. The Rules Committee votes on each proposed change. A majority vote determines whether each proposed change is adopted.

**Sec. 2.5-6. Fine Schedule.**

- (a) City Council shall adopt a fine schedule of civil fines and costs for blight violations.
- (b) City Council shall update the fine schedule as needed.

**Sec. 2.5-7. Penalties.**

- (a) Fines, costs, and other remedies.
  - (1) The Administrative Hearings Officer shall impose on the violator:
    - i. Civil fines and costs, pursuant to the fee schedule; and
    - ii. A justice system assessment, as provided for by MCL 117.4q(13).
  - (2) The Administrative Hearings Officer may also order the violator to:
    - i. Take corrective action to remedy the blight violation;
    - ii. Reimburse the City for documented enforcement costs; and
    - iii. Take any other appropriate legal or equitable action.
  - (3) The Administrative Hearings Officer may waive a fine for a blight violation if he/she finds that the violator:
    - i. Is the owner-occupier of the dwelling where the blight violation occurred;
    - ii. Is a first-time offender of a blight ordinance; and
    - iii. Has corrected the violation.
- (b) An Administrative Hearings Officer shall not impose:
  - (1) A penalty of incarceration; or
  - (2) A civil fine in excess of \$10,000.

**Sec. 2.5-8. Failure to Obey Administrative Hearings Officer's Order.**

- (a) Failure to pay civil fines and costs under Sec. 2.5-7(a)(1) as a separate offense; exemptions; penalties.
  - (1) Except as provided in Section 2.5-8(a)(2), a violator is guilty of a separate offense if:
    - i. The Administrative Hearings Officer imposes a civil fine and costs of \$1,000.00 or more on the violator; and
    - ii. The violator fails to pay the civil fine and costs within 30 days of the Administrative Hearings Officer's responsibility determination.
  - (2) A violator is exempted from Sec. 2.5-8(a)(1) if the violator:
    - i. Became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure; and is a government-sponsored enterprise, a financial institution, a mortgage servicer, or a credit union service organization; or
    - ii. Is the owner of the property; and at the time that the Administrative Hearings Officer imposed the civil fine and costs had filed, pursuant to MCL 211.7cc(2), a valid principal residence exemption affidavit for the current year certifying that the property is owned and occupied as a principal residence by the owner.
  - (3) Penalties.
    - i. A violator found guilty of failing to pay civil fines and costs under 2.5-8(a)(1) is subject to the following penalty:

1. For a first violation, the violator is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.
  2. For a subsequent violation, the violator is guilty of a misdemeanor punishable by incarceration for not more than 93 days or a fine of not more than \$500.00, or both.
- (b) Failure to obey the Administrative Hearings Officer's order under Sec. 2.5-7(a)(2) as a separate offense.
- (1) If a violator fails to obey the Administrative Hearings Officer's order to correct the blight violation and/or pay the City for enforcement costs under Sec. 2.5-7(a)(2), that violator is guilty of a misdemeanor punishable by incarceration for not more than 90 days or a fine of not more than \$500, or both.
- (c) Lien, garnishment, or other collection methods authorized by law.
- (1) If the Administrative Hearings Officer imposes a civil fine and costs on a violator, and the violator fails to pay within 30 days of the Administrative Hearings Officer's responsibility determination, the Property Maintenance Director or his/her representative may pursue any collection method authorized by law including filing a lien on the property involved in the blight violation, pursuant to MCL 117.4r; or filing a writ of garnishment, pursuant to MCL 600.4027, but not both.
- (d) Zoning and Building Authorizations.
- (1) As provided for in Chapter 9, Section 9-1 of the Code of Ordinances and Appendix A, Article XXIII, Section 23.02(b), the City may prohibit a violator with unpaid Administrative Hearings Bureau civil fines or costs from applying for building permits, certificates of compliance, variances, rezoning approvals, site plan approvals, planned unit development approvals, and other zoning and building authorizations.

**Sec. 2.5-9. Chapter not inconsistent.**

This Chapter applies to administrative adjudication proceedings conducted by the Bureau to the extent that it is not inconsistent with the existing Code.

Cross references – Buildings and Building Regulation, Chapter 9; Garbage and Rubbish, Chapter 16; Nuisances, Chapter 21, excluding noise-based and smoking nuisances described in Article II and Article V; Property Maintenance, Chapter 28; Sign Erectors and Sign Permit Fees, Chapter 31; Vegetation, Chapter 38; and generally Appendix A, Zoning.

State law references – MCL 117.4q, MCL 117.4r, and MCL 600.4027

**SECTION 2.** That Chapter 1, Division 1, Section 1-8 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 1-8. - General penalty.**

(a) The district court shall punish a person found guilty of a misdemeanor ordinance violation, as follows:

- (1) If the ordinance specifies a punishment:
  - a. The stated punishment; and/or
  - b. Reasonable court costs of not more than one thousand dollars (\$1,000.00), irrespective of any reference to court costs in the ordinance;
- (2) If the ordinance does not specify a punishment:
  - a. By a fine not exceeding five hundred dollars (\$500.00);
  - b. Imprisonment for a term not exceeding ninety (90) days; and/or
  - c. Reasonable court costs of not more than one thousand dollars (\$1,000.00), irrespective of any reference to court costs in the ordinance.
- (b) The district court shall punish a person found responsible of a municipal civil infraction ordinance violation, as follows:
  - a. A fine of not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation; and/ or
  - b. Costs; assessments; and damages and expenses, as provided by MCL 600.8727(3).
- (c) The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.
- (d) Any person under the age of seventeen (17) years who is charged with:
  - (1) A misdemeanor shall be referred to the juvenile division of the probate court, or as otherwise prescribed by the laws of the state.
  - (2) A municipal civil infraction is within the jurisdiction of the district court.
- (e) In addition to the penalties provided in this section, any condition a person causes or permits to exist in violation of an ordinance:
  - (1) Is a new and separate offense each day that the condition continues to exist; and
  - (2) May be abated by the city as a nuisance.

**SECTION 3.** That Section 9-1, Article I, Chapter 9 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 9-1. Penalty.**

- (a) The violation of a provision of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.
- (b) A violator with any unpaid civil fines or costs imposed under Chapter 2.5 of the Warren Code of Ordinances may be ineligible to apply for a building permit, certificate of compliance, or a variance, except if:
  - (1) The person (1) became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure and (2) is a government-sponsored enterprise, a

financial institution, a mortgage servicer, or a credit union service organization, as defined by Chapter 2.5, Section 2.5-2; or  
(2) The person shows that the permit, certificate, or variance will correct, in whole or in part, the blight violation that was the subject of the unpaid fines, costs, or justice system assessments.

State law reference – MCL 125.1509c

**SECTION 4.** That Section 16-10, Chapter 16 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 16-10. Penalty.**

The violation of a provision of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 5.** That Section 21-8, Article I, Chapter 21 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 21-8. Penalty.**

The violation of a provision of Article I, III, or IV of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 6.** That Section 21-36, Article II, Chapter 21 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 21-36. Penalty.**

The violation of a provision of Article II of this Chapter is a municipal civil infraction. The district court shall punish a person found responsible of a violation of Article II of this Chapter with a fine of not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation; and/ or costs; assessments; and damages and expenses, as provided by MCL 600.8727(3).

**SECTION 7.** That Section 28-2(g), Article I, Chapter 28 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

(g) Section 106.4 is hereby amended to read as follows:

**Violation penalties.** The violation of the International Property Maintenance Code is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 8.** That Section 28-32, Article II, Chapter 28 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 28-32. Penalty.**

The violation of a provision of Article II of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 9.** That Section 28-65, Article III, Chapter 28 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 28-65. Penalty.**

The violation of a provision of Article III of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 10.** That Section 31-6, Article I, Chapter 31 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 31-6. Penalty.**

The violation of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 11.** That Section 38.18, Chapter 38 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

**Sec. 38-18. Penalty.**

The violation of a provision of Article II of this Chapter is a blight violation. The Administrative Hearings Bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, Chapter 2.5, Section 2.5-7.

**SECTION 12.** This Ordinance shall take effect on October 12, 2015.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-731 was adopted by the Council of the City of Warren at its meeting held on August 11, 2015.

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PAUL WOJNO  
City Clerk

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