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(Do Not Write Above This Line) 04-O-2027

Committee
Date
Chair
Referred To

☐ 2nd ☐ 1st & 2nd Readings ☐ 3rd

☐ Consent ☐ V Vote ☐ RC Vote

AN ORDINANCE BY
COUNCIL MEMBER MARY NORWOOD

AN ORDINANCE TO CREATE SECTION 8-1004, ARTICLE A, CHAPTER 1 OF PART III CODE OF ORDINANCES - LAND DEVELOPMENT CODE TO PROVIDE FOR THE ESTABLISHMENT OF THE CITY OF ATLANTA CODE ENFORCEMENT BOARD; AND FOR OTHER PURPOSES.

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Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
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CERTIFIED

☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☑ PERSONAL PAPER REFER

Date Referred 11/01/04
Referred To: CD/HR
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Referred To:

MAYOR'S ACTION

04- O -2027

AN ORDINANCE BY

COUNCIL MEMBER MARY NORWOOD

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WHEREAS, the City of Atlanta has a responsibility to create and preserve a safe, healthy, attractive, and economically sound urban environment; and

WHEREAS, the City of Atlanta is committed to maintaining decent, safe, and sanitary environmental conditions within its neighborhoods and commercial corridors; and

WHEREAS, the City of Atlanta recognizes that property that is not kept in a manner conducive to public health and safety contributes to the decline of community spirit and physical appearance of neighborhoods and commercial corridors; and

WHEREAS, in order to promote, protect and improve the health, safety and welfare of the citizens of Atlanta, it is the intent of this ordinance to create an administrative board with authority to impose administrative fines and other non-criminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the City, where a pending or repeated violation continues to exist.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA that Section 8-1004 is created to read as follows:

Section 8-1004. City of Atlanta Code Enforcement Board

The City of Atlanta Code Enforcement Board is hereby established as authorized by § 36-74-1, et seq. of the Official Code of Georgia.

Section 8-1004.1 Intent.

It is the intent of this Ordinance to promote, protect and improve the health, safety and welfare of the citizens of Atlanta by the creation of an administrative board with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the City, where a pending or repeated violation continues to exist.

Section 8-1004.2. Definitions.

As used in this Ordinance, the term:

(1) "Code Enforcement Officer" means any authorized agent or employee of the City of Atlanta whose duty it is to assure code compliance.

(2) "City" means the City of Atlanta, Georgia.

(3) "City of Atlanta codes and ordinances" means City of Atlanta zoning ordinances and resolutions, ordinances and resolutions enacting subdivision regulations, environmental ordinances and resolutions, state minimum standard codes provide for in O.C.G.A. § 8-2-25, ordinances and resolutions enacted pursuant to Code Section 8-2-25, other ordinances and resolutions regulating the development of real property, and ordinances and regulations providing for control of litter and debris, control of junked or abandoned vehicles, and control of overgrown vegetation. Notwithstanding the above, the term "City of Atlanta codes and ordinances" shall not include:

(A) Those codes and ordinances requiring a permit, unless the alleged violator has failed to secure all necessary valid permits under said codes and ordinances; or

(B) Any local amendments to the state minimum standard codes provided for in O.C.G.A. § 8-2-25 that have not been adopted in conformity with the requirements of Subsection (c) of O.C.G.A. § 8-2-25.

(4) "Enforcement Board" means the City of Atlanta Code Enforcement Board.

(5) "Mayor and Council" means the Mayor and Council of the City of Atlanta.

(6) "Violation involving the health or safety of a third party" means a violation that creates a legitimate concern for the health and safety of a third party occupant of a dwelling place or that creates an immediate and substantial danger to the environment.

Section 8-1004.3. Organization of the Code Enforcement Board.

(a) The Enforcement Board shall consist of seven members to be appointed as follows:

i. The Mayor shall appoint two members.
ii. The President of Council shall appoint one member who shall be a neighborhood representative.
iii. Councilmembers shall appoint three members who shall be lay Persons in the following manner:
   1. Districts 1, 2, 3, 4, and At-large Post 1
   2. Districts 5, 6, 7, 8, and At-large Post 2
   3. Districts 9, 10, 11, 12, and At-large Post 3
iv. The Atlanta Planning Advisory Board (APAB) shall appoint one member.

All nominations shall be confirmed by a majority of council members present and voting on these nominations.

(b) "Members of the Enforcement Board shall be residents of the City of Atlanta. In making appointments to the Enforcement Board, the Mayor and Council shall make good faith efforts to appoint one or more individuals who have experience or expertise relevant to one or more of the municipal codes that are within the subject matter

jurisdiction of the Enforcement Board, including individuals with real estate, landscape, urban planning, legal, architectural, property management and litter control experience; provided, however, that the authority and jurisdiction of the Enforcement Board shall not in any way be limited due to the absence from its membership of one or more individuals with such experience or expertise.

(c) (1)The initial appointments to the Enforcement Board shall be as follows: three members appointed by the Mayor and Council President for a term of two years each; and four members appointed for a term of four years each.

(2) Upon the expiration of the initial terms specified above, all terms shall be for three years.

(3) An appointment to fill any vacancy on the Enforcement Board shall be for the remainder of the unexpired term of office.

(4) The members shall serve in accordance with the policies and procedures of the City and may be suspended and removed for cause. The Mayor and Council may, with or without cause, refuse to reappoint any member of the Enforcement Board at the expiration of his or her term of office.

(d) ***The Enforcement Board shall hold an organization meeting in January of each year or at the appropriate time for the initial board to elect a chair and a vice-chair, each for a term of one year.*** The presence of four or more members shall constitute a quorum of the Enforcement Board. Members shall be reimbursed for such travel, mileage, and perdiem expenses as may be authorized by the Mayor and Council or as otherwise provided by law.

Section 8-1004.4. Enforcement Procedures.

(a) It shall be the duty of the Code Enforcement Officer to initiate enforcement proceedings pursuant to the various codes; however, no member of the Enforcement Board shall have the power to initiate such enforcement proceedings.

(b) Except as provided in Subsections (c) and (d) of this Ordinance, if a violation of any code or ordinance is found, the Code Enforcement Officer shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall proceed with enforcement through the appropriate court or shall proceed with enforcement through the Enforcement Board. If the Code Enforcement Officer proceeds through the Enforcement Board, the Code Enforcement Officer shall notify the Enforcement Board and request a hearing. The Enforcement Board shall schedule a hearing, and written notice of such hearing shall be hand delivered or made as provided in Section **8-1004.9** to said violator. At the option of the Enforcement Board, notice may additionally be served by publication as provided in Section **8-1004.9**. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Enforcement Officer, the case may be presented to the Enforcement Board even if the violation has been corrected prior to the hearing, and the notice shall so state.

(c) If a repeat violation is found, the Code Enforcement Officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Enforcement Board and request a hearing. The Enforcement Board shall schedule a hearing and shall provide written notice pursuant to Section **8-1004.9**. The case may be presented to the Enforcement Board even if the repeat violation has been corrected prior to the hearing, and notice shall so state.

(d) If the Code Enforcement Officer has substantial reason to believe a violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator and may immediately notify the Enforcement Board and request a hearing.

Section 8-1004.5. Conduct Hearing.

(a) ***Hearings of the Enforcement Board shall be held on the date and time designated by the board members.*** A hearing also may be called by written notice signed by at least five members of the Enforcement Board. ***The Bureau of Housing and Code Compliance in the City of Atlanta shall be deemed the office of the board for filing and public records purposes. The Executive Branch shall provide such staff and resources as are required for efficient operation of the board.***

(b) Each case before the Enforcement Board shall be presented by the City Attorney or by the Code Enforcement Officer or other member of the administrative staff.

(c) The Enforcement Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Enforcement Board shall take a testimony from the Code Enforcement Officer and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(d) At the conclusion of the hearing, the Enforcement Board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this Ordinance. The findings and conclusions shall be by motion approved by a majority of those members present and voting, except that at least ***four*** members of the Enforcement Board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the City, Fulton County, and ***DeKalb County*** and shall constitute notice to any sequent purchasers, successors in interest, or assigns. If the violation concerns real property and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchases, successors in interest, or assigns. If an order is recorded in the public records pursuant to this Subsection and

the order is complied with by the date specified in the order, the Enforcement Board shall issue and order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

Section 8-1004.6. Powers.

The Enforcement Board shall have the power to:

(1) Adopt rules for the conduct of its hearings, which rules shall, at a minimum, ensure that each side has an equal opportunity to present evidence and argument in support of its case;

(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the municipal code or ordinance. Subpoenas may be served by an officer of the Police Department or by any other individual not less than eighteen (18) years of age;

(3) Subpoena evidence to its hearings in the same way as provided in Paragraph (2) of this Section, with the approval of the court with jurisdiction over a criminal violator of the municipal code or ordinance;

(4) Take testimony under oath; and

(5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Section 8-1004.7. Administrative Fines and Liens.

(a) The Enforcement Board, upon notification by the Code Enforcement Officer that an order of the Enforcement Board has not been complied with by the set time may order the violator to pay an administrative fine in an amount specified in this Section.

(b) (1) An administrative fine imposed pursuant to this Section for a violation involving the health or safety of a third party shall not exceed one thousand dollars ($1,000.00) per day.

(2) An administrative fine imposed pursuant to this Section for a violation that is not a violation involving the health or safety of a third party shall not exceed a total of one thousand dollars ($1,000.00).

(3) In determining the amount of the fine, if any, the Enforcement Board shall consider the following factors

(A) The gravity of the violation;

(B) Any actions taken by the violator to correct the violation; and

(C) Any previous violations committed by the violator.

(4) The Enforcement Board may reduce a fine imposed pursuant to this Section.

(c) A certified copy of an order imposing an administrative fine may be recorded in the public records of any county and thereafter shall constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator. Upon petition to the Superior Court, such order may be enforced in the same manner as the court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing of any such lien which remains unpaid, the Enforcement Board may request the City Attorney to foreclose on the lien.

Section 8-1004.8. Appeals.

An aggrieved party, including the City, may appeal a final administrative order of the Enforcement Board to the Superior Court. Such an appeal shall be a hearing de novo. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Section 8-1004.9. Notices.

(a) All notices required by this Ordinance shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by any law enforcement officer, Code Enforcement Officer, or other person designated by the City; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice.
(b) In addition to providing notice as set forth in Subsection (a) of this Section, at the option if the Enforcement Board, notice may also be served by publication, as follows:

(1) Notice may be published once during each week for four (4) consecutive weeks (four publications being sufficient) in the newspaper in which the sheriff's advertisements are printed in Fulton County and ***Dekalb County***. Proof of publication shall be made affidavit of a duly authorized representative of the newspaper;

(2) Notice of publication may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under Subsection (a) of this Section. Evidence that an attempt has been made to hand deliver or mail notice as provided in Subsection (a) of this Section, together with proof of publication as provided in Subsection (b) of this Section, shall be sufficient to show that the notice requirements of this Section have been met, without regard to whether or not the alleged violator actually received such notice.

Section 8-1004.10. Provisions Supplemental.

It is the intent of this Ordinance to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in this Ordinance shall prohibit the City through its Code Enforcement Officer from enforcing its codes by any other lawful means including criminal and civil proceedings; provided, however, that the City shall not pursue a specific instance of an alleged violation of an ordinance against one violator before both the Enforcement Board and a magistrate, municipal or other court authorized to hear ordinance violations.

Section 8-1004.11. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

Section 8-1004.12. Repeal.

All ordinances and parts of ordinances in conflict with this Ordinance are repealed.

Section 8-1004.13. Code of Atlanta.

This Ordinance shall be part of the Code of the City of Atlanta.

ADOPTED AND APPROVED this _____ day of _____, 2003.

CITY OF ATLANTA, GEORGIA

By:_____
Mayor