

ORDINANCE NO. **BG2018 - 46**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 2 (ADMINISTRATION), CHAPTER 15 (BUSINESS AND GENERAL REGULATIONS) AND CHAPTER 17 (PERSONNEL POLICIES) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO RESCIND LANGUAGE RELATED TO THE ADMINISTRATIVE APPEALS BOARD AND TO REVISE LANGUAGE PROVIDING FOR APPEALS TO THE BOARD

WHEREAS, the Board of Commissioners adopted Chapter 2 (Administration), Subchapter 2-21 (Administrative Appeals Board), Chapter 15 (Business and General Regulations), Subchapter 15-1 (Alarms) and Chapter 17 (Personnel Policies), Subchapter 17-1 (Personnel Merit System) of the City of Bowling Green Code of Ordinances; and,

WHEREAS, these subchapters included language establishing an Administrative Appeals Board to hear appeals related to alarm permits, personnel appeals and grievances and any other matters referred to by ordinance or municipal order; and,

WHEREAS, it is in the best interest of the City to rescind language related to the Administrative Appeals Board and to provide for other means of appeal in other sections of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 2 (Administration) is hereby amended as follows:

...

~~[2-21—ADMINISTRATIVE APPEALS BOARD.]~~

~~[2-21.01—Created.]~~

~~[There is hereby established the Administrative Appeals Board. The Board shall have such duties as assigned to it by ordinance, and shall hear appeals from the following decisions of:]~~

~~[a. The City Manager regarding alarm permits (Chapter 15);]~~

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~~[b. The City Manager and/or Board of Commissioners regarding personnel appeals and grievances (Chapter 17); and,]~~

~~[c. Any other matters referred to it for review by ordinance or municipal order.]~~

~~[2-21.02 — Membership, Terms, Vacancies.]~~

~~[The Board shall consist of five (5) members to be appointed by the Mayor, with approval of the Board of Commissioners. Members shall serve for three-year terms and vacancies shall be filled for the remainder of the term by appointment by the Mayor, with the approval of the Board of Commissioners. Members may be reappointed for successive terms. In making the initial appointments, two (2) members shall be appointed for a term of three (3) years, two (2) members for a term of two (2) years, and one (1) member for a term of one (1) year.]~~

~~[2-21.03 — Meeting, Quorum, Attendance.]~~

~~[The Administrative Appeals Board shall meet as often as necessary to handle any matters filed with it for review. Meetings may be called by the Chairperson or by any two (2) members. Three (3) members shall constitute a quorum, and a majority of the members present at any meeting shall be required to pass any motion or to render any decision. Any member missing three (3) meetings in a row, without an excuse presented in writing and approved by the remainder of the Board, shall be deemed to have abandoned his membership. A vacancy shall exist in the position until it is filled in a manner provided for filling vacancies.]~~

~~[2-21.04 — Officers.]~~

~~[The Board shall select from among its members a Chairperson, a Vice-Chairperson and a Secretary to serve for terms of one (1) year. The Chairperson shall preside at meetings. The Vice-Chairperson shall preside in the absence of the Chairperson. When the Chairperson is away from the City or incapacitated, the Vice-Chairperson shall have the authority to call meetings. The Secretary shall keep minutes of meetings, provided that the minutes may be in the form of a written summary or may~~

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~~be in the form of transcript made electronically on tape or by other means. The Secretary shall make a written record of each decision of the Board, showing the vote of each member on the decision.]~~

~~[2-21.05 — City Responsibilities.]~~

~~[The City Manager shall make available to the Board, at no cost to the Board, a meeting room, paper and written materials, and secretary or clerical help to the extent such help is feasible.]~~

~~[2-21.06 — Duties.]~~

~~[The Board shall hear such matters as are submitted to it for review. Duties shall include hearing appeals and requests for review assigned to it by ordinance. The Board may ask the advice of the City Attorney on any procedure or on any question of law or application of law before the Board.]~~

~~[2-21.07 — Informal Filing Procedure.]~~

~~[Procedure for filing a request for review or an appeal shall be informal. A written statement, signed by the person requesting the review or by his attorney, shall briefly state the decision to be reviewed, the name or title of the officer or employee who made the decision and the decision desired. The applicant shall also briefly state the reasons why the applicant believes the decision should be changed.]~~

~~[2-21.08 — Hearing.]~~

~~[As soon as possible after receiving a request for review, or as otherwise specifically provided by ordinance, the Chairperson of the Board or any two (2) members shall set a date for a hearing. The person requesting the hearing shall be notified at least five (5) days before the hearing, provided that less than five (5) days notice may be given if the person requesting review is told he can demand five (5) days notice but does not object to the notice actually given. The Board shall make a written decision within twenty (20) days of the date that all necessary information has been received by the Board.]~~

~~[2-21.09 — Appeals.]~~

~~[Except for personnel appeals and grievances, any person aggrieved by a decision of the~~

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~~Administrative Appeals Board may appeal that decision to the Warren Circuit Court, unless otherwise provided specifically by ordinance. Any such appeal shall be filed within twenty (20) days of the date of the decision of the Administrative Appeals Board, unless otherwise provided specifically by ordinance. Decisions of the Board related to personnel appeals and grievances shall be advisory only and are not appealable to Warren Circuit Court.]~~

2. Chapter 15 (Business and General Regulations) is hereby amended as follows:

15-1 ALARMS.

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15-1.07 Revocation and Denial of Permits.

a. The Police Chief or Fire Chief may revoke or deny an alarm permit for the following reasons:

1. Any false statement or material misrepresentation on the alarm permit application;
2. Violation of this Subchapter by the permit holder or alarm system user;
3. Non-payment of the permit fee or civil penalties for false alarms, including failure or refusal of a banking institution to honor the pay[er]'s check for such fees or charges; or,
4. The occurrence of excessive false alarms is deemed to be a nuisance even though proper payment has been received for civil penalties.

b. An appeal [hearing] may be requested in writing within ten (10) days following said denial or revocation by any person to whom an alarm permit has been denied or revoked. A hearing shall be scheduled within fifteen (15) days following the receipt of said request, and said hearing shall be conducted by the City Manager.

~~[15-1.08—Appeals.]~~

~~[Any appeal from the decision of the City Manager shall be made to the Administrative~~

~~Appeals Board pursuant to the provisions set forth in Chapter 2 of this Code of Ordinances.]~~

15-1.0[9]8 Refusal to Accept Notice.

The refusal by any person to accept any notification specified under this Subchapter by personal service or certified mail shall be tantamount to acceptance as if notice had been actually received.

15-1.[4]09 Deactivation of Alarm System.

In the event the City notifies any authorized alarm system user, permit holder, their agent, designee or person in charge of the alarm site to deactivate an audible alarm system, that person shall comply with the request within a reasonable time, but in no event longer than thirty (30) minutes following the request. Failure to comply with said request shall constitute a violation of this Subchapter by the alarm system user and/or permit holder.

15-1.1[4]0 Prohibited Alarms.

It shall be a violation for any person to use, operate or cause to be used or operated any telephone device or telephone attachment that automatically selects a public telephone trunk-line, and then reproduces any prerecorded message to report any burglary or any other emergency situation directly by use of said telephone lines to law enforcement or fire personnel for the City of Bowling Green.

15-1.1[2]1 Promulgation of Regulations.

The City Manager, Police Chief, Fire Chief and Assistant City Manager / Chief Financial Officer shall each promulgate any and all regulations necessary to implement the duties assigned to their respective departments by this Subchapter, including but not limited to the registration of alarm protective service personnel, issuance of permits, collection of fees, determination of false alarms, revocation and denial of permits, and appeals.

3. Chapter 17 (Personnel Policies) is hereby amended as follows:

17-1 PERSONNEL MERIT SYSTEM

...

17-1.03 City Manager Responsible for Personnel Program; Specific Responsibilities, Duties Enumerated.

The City Manager shall have the basic responsibility for the personnel program as set forth in this Chapter. He specifically shall:

- a. Be responsible for effective personnel administration.
- b. Recommend the Human Resources Director for appointment by the Board of Commissioners.
- c. Appoint, remove, suspend and discipline all officers and employees of the City subject to the policies set forth in this Chapter, and those in State law; or he may, at his discretion, authorize the head of the departments and offices.
- d. Fix and establish the number of employees in the various City department and offices and determine the duties and compensation in accordance with the policies set forth in this Chapter and subject to the approval of the Board of Commissioners and budget limitations.
- e. Except as prohibited by law and set out in City policies, be the final decision-maker on personnel grievances.
- [e]f. Perform such other duties and exercise such other powers in personnel administration as may be prescribed by law and this Chapter.

~~[17-1.04—Appeals and Grievances.]~~

~~[All appeals from decisions of the City Manager and/or the Board of Commissioners shall be filed with and heard by the Administrative Appeals Board. The Board shall investigate and hear appeals submitted by non probationary employees in classified service as to: (1) disciplinary action,~~

~~except when members of the Police and Fire departments choose to resolve their grievances through applicable sections of the state code; (2) the proper application or interpretation of personnel policies, procedures, rules and regulations; (3) in the case where an employee has filed a grievance and has followed the grievance procedures outlined in the Administrative Personnel Policy and Procedures Manual; and (4) appeals alleging acts of reprisal for using the grievance procedure, or for participation in the grievance of another employee. The Board shall submit a written statement of facts, findings and recommendations to the City Manager and the members of the Board of Commissioners. The Board's recommendations shall be advisory only. The City Manager and/or Board of Commissioners may implement any or all of the Board's recommendations. Otherwise, the action taken by the City Manager and/or Board of Commissioners shall be final and conclusive. The hearing shall be opened to the public pursuant to the Kentucky Open Meetings Law.]~~

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4. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

5. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

6. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on November 20, 2018, and given final reading on December 4, 2018, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

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ADOPTED: December 4, 2018

APPROVED: Bruce Wilkerson
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson
City Clerk

SPONSORED BY: Bruce Wilkerson, Mayor, 11/14/2018, 8:20 a.m.