

The following ordinance was moved for adoption by Mr. Clint Hardy, seconded by Mrs. Jackie Balmer.

PROPOSITION NO. 303 ORDINANCE NO. 805

Section 2-201

- A. In addition to the remedies already provided herein, the Town of Welsh may utilize the administrative adjudication hearing procedures set forth below, in accordance with La. R.S. 13:2575, to seek findings that there are violations of public health, housing, fire code, environmental, and/or historic district ordinances, and/or to seek a determination that the vacant residential or commercial property at issue is “blighted,” as defined by R.S.33:1374(B)(1), or “abandoned,” as defined by R.S. 33:4720.59(D)(2).
- B. 1. Appointment of Hearing Officer**
- a. Administrative adjudication proceedings under this article shall be conducted before hearing officers who have been licensed to practice law in Louisiana for at least two years.
 - b. Hearing officers shall be appointed by the mayor and shall serve at the pleasure of the mayor.
 - c. Hearing officers shall be sworn before the municipal attorney to uphold the Constitution, the laws and constitution of the State of Louisiana, and the Charter and ordinances of the Town of Welsh, and to abide by the provisions of the Louisiana Code of Governmental Ethics and the Town of Welsh Code of Ethics.
- 2. Hearing officers who have been appointed** and sworn in accordance with this Ordinance have the authority to hear and decide any and all Code and ordinance violations.
- 3. The hearing officer shall have the power to:**
- a. administer oaths and affirmations;
 - b. issue orders compelling the attendance of witnesses, respondents, alleged violators, and violators and the production of documents;
 - c. determine whether or not an alleged violator is liable or guilty of code violations;
 - d. determine whether vacant residential or commercial property is “blighted,” as defined by R.S. 33:1374(B)(1), or “abandoned,” as defined by R.S. 33:4720.59(D)(2);
 - e. levy fees, costs, and penalties;
 - f. order violators to correct violations within a stipulated time;
 - g. take any and/or all necessary and lawful measures to effect corrections of the violation if the violator fails to do so within the time allocated by the hearing officer; and
 - h. record orders, judgments, notice of judgments, or liens in the mortgage records.
- 4. Procedure for Hearing**
- a. Whenever the Town of Welsh determines that a violation of a code or ordinance exists, a notice of violation(s) shall be provided to all interested parties as defined by La. R.S. 13:2575 by certified mail at least thirty (30) days in advance of the administrative hearing.
 - b. A notice of violation(s) shall:
 - (i) be in writing;
 - (ii) provide the municipal address of the cited property;
 - (iii) provide the date of the inspection;
 - (iv) provide notice of alleged violation(s) at the cited property;
 - (v) provide the mailing address and telephone number of the enforcement agency;
 - (vi) provide the time, date and location of the administrative hearing whereby the alleged violation shall be adjudicated;

- (vii) provide notice that the failure to appear at the hearing shall be considered an admission of liability for the charged violation(s);
 - (viii) provide the risk of fees, penalties, costs, and liens that may be imposed for continued violation(s);
 - (ix) provide the risk of remedial measures that may be ordered by a hearing officer to correct or abate violation(s); and
 - (x) if the purpose of the hearing is to determine whether the property is “blighted” or abandoned” as defined in paragraph B(3)(d) herein, the notice shall provide that the purpose of the hearing is to decide whether the subject property is “blighted” or abandoned” according to the relevant laws.
- c. The date of the postmark shall be deemed to be the date of delivery. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. Proof of notification and attempts at service shall be entered in the record for each case prior to the hearing.
- d. In addition to the service provided in Section, a copy of the notice of violation shall be affixed in a prominent location on the property upon which violations are alleged or, if safe access to the property is not reasonably practicable, on some prominent fixture on the adjacent public right-of-way as near as possible to the property at least five (5) days in advance of the date of hearing. It shall be unlawful for any person other than an agent of the town to remove a notice posted on the public right-of-way prior to the commencement of the hearing.
- e. any person charged with violation(s) herein may present any relevant evidence and testimony at such hearing and may be represented. An alleged violator’s physical presence shall not be required at the hearing if documentary evidence, duly verified by such person, is submitted to the hearing officer via the agency of the Town of Welsh having a responsibility for the enforcement the code violation(s), prior to the date of the hearing. Nothing contained herein shall be construed to limit the authority or the ability of a hearing officer to determine an alleged violator’s liability or guilt based solely upon submitted documentary evidence.
- f. Any order compelling the attendance of witnesses or the production of documents may be enforced by the municipal court or by any other court of competent jurisdiction.
- g. Any administrative adjudication hearing held under the provisions of this Ordinance shall be conducted in accordance with the rules of evidence of the Administrative Procedure Act. R.S. 49:950 et seq. Testimony of any person shall be taken under oath and shall be recorded.
- h. The hearing officer shall issue a final order, judgment, or notice of judgement within 30 days of the hearing, excluding legal holidays. The hearing officer shall simultaneously send a copy of the final order, judgment, or notice of judgment to all interested parties by certified U.S. mail. The order, judgment, or notice of judgment shall:
- (i) be signed by the hearing officer;
 - (ii) state whether or not the alleged violator is liable or guilty of each violation and any specific determinations thereto;
 - (iii) provide the amount of fees, costs, and penalties assessed for each violation;
 - (iv) provide the defects to be corrected and the extent by which each violation shall be corrected, repaired, and/or abated;
 - (v) provide the reasonable period of time by which each violation shall be corrected, repaired and/or abated;
 - (vi) notify the violator(s)’ of their right to appeal; and
 - (vii) notify the violator that the town may act to abate violation(s) if the violator fails to act in accordance with the order, judgment, or notice of judgment, where applicable.
- i. The town may enforce any order assessing fees, costs, and penalties, and/or stipulating a required correction, repair, or abatement measure.

5. Penalties

- a. The penalty for each violation shall not exceed the maximum that may be imposed by municipal court as provided in R.S. 13:2500.
- b. Each day that violation(s) continues after due notice has been served shall be deemed a separate offense.

c. A schedule of penalties may be established by ordinance providing penalty amounts, consistent with subpart (a), for specific Code violation(s).

6. Costs

a. Costs and expenses that may be recovered and enforced against a violator under this Section include, but are not limited to:

(i) the town's direct cost for abatement;

(ii) costs of salary and all applicable overhead of municipal staff and contract personnel involved in the investigation, enforcement, and/or remediation or abatement of a violation;

(iii) attorney's fees if and when applicable;

(iv) hearing and/or court costs including but not limited to hearing officer and witness fees;

(v) costs of engineering and other technical services and studies as may be required; and

(vi) any other fee, cost, or expense reasonably and rationally related to the town's enforcement action(s) to bring violation(s) into compliance or to abate and/or correct a violation of local, state or federal law.

b. At any point in the enforcement process after the time for voluntary compliance has expired, or following the conclusion of the enforcement/abatement action(s), the Town may notify the violator of the proposed full cost recovery against the real property that was the subject of enforcement/abatement action. The notice may be issued as a statement of costs, which shall provide a cost schedule and contain a provision for appealing to an administrative hearing officer the accuracy and reasonableness of the costs, within 30 days from the date of mailing. After compliance has been obtained and prior to the closure of the case, a final statement of costs may be calculated and sent to the violator.

c. If payment is not received within 30 days of the mailing of the notice or statement of costs, or following any appeal hearing upholding all or part of the costs, the town may issue a demand for payment. A demand for payment shall be mailed to a violator and provide notice that, if payment is not received by the date indicated in the demand, the town may lien the property that was subject to the enforcement/abatement action for all applicable costs.

7. Liens

a. The town shall have a lien and privilege against the immovable property in, on, or upon which violation(s) occurred. The lien and privilege shall secure all fines, fees, costs, and penalties that are assessed by the town and described in the order, judgment, or notice of judgment and the notice or statement of costs. The recordation of the order, judgment, or notice of judgment and the notice or statement of costs in the mortgage office of the parish shall constitute a lien and privilege against the land upon which violation(s) exists. Any lien and privilege recorded against an immovable property under this Ordinance shall be included in the next annual ad valorem tax bill.

b. Upon recordation of the order, judgment, notice of judgment, or lien, the town may:

(i) apply to the clerk of district court for issuance of a writ in accordance with Code of Civil Procedure Article 2253, under the authority of La. R.S. 13:2575 and 13:2576, upon describing with particularity the immovable property and the manner in which the writ is to be enforced; or

(ii) institute a suit against the owner of record in any court of competent jurisdiction to enforce the order, judgment, notice of judgment or lien.

c. In order for the lien and privilege to arise, the order, judgment, notice of judgment or lien shall be final and not subject to appeal when recorded in the mortgage office.

d. Any monies collected pursuant to this chapter shall first satisfy all outstanding municipal liens recorded against an immovable property and only when all outstanding municipal liens are satisfied in full shall monies be applied towards an immovable property's ad valorem taxes.

8. Enforcement of Liens-Additional Requirements

a. Upon the town instituting legal proceedings to obtain a writ to cause the seizure and sale of a property with outstanding liens, pursuant to this Ordinance, the property shall also be unoccupied.

b. Unoccupied properties that maintain a valid homestead per article VII, sections 18(G)5 and 20(A)(10) of the Constitution of Louisiana, shall be exempt from this section upon

presentation of a signed affidavit from the assessor or his designee, attesting that the owner is approved for an extension of the special assessment level. This affidavit shall be renewed annually. The owner shall also submit, along with the aforementioned affidavit, a copy of their annual affidavit of intent to return and reoccupy the homestead that is filed with the assessor as required by article VII, section 20(A)(10) of the Louisiana Constitution. This provision shall expire on _____.

c. Any person with a legally protected interest in a property must be provided notice that is reasonably calculated to apprise them of the seizure and upcoming sale of the property.

9. Appeal

Any person determined by the hearing officer to be guilty of a Code violation may appeal the determination to the civil district court for the Parish of Jefferson Davis, 31st Judicial District Court. Such appeal shall be instituted by filing, within 30 calendar days of the mailing of the hearing officer's Order, a petition with the clerk of the civil district court along with payment of such costs as may be required by the clerk of court. After filing a petition for appeal, the clerk of court shall schedule a hearing and notify all parties of the date, time, and place of such hearing. Service of notice of appeal under this subsection shall not stay the enforcement and collection of the judgment unless the person who files the appeal furnishes security prior to filing notice of appeal with the town's department of finance in the amount fixed by the hearing officer sufficient to assure satisfaction of the finding of the hearing officer relative to the fine(s), fee(s), penalty/penalties, cost(s) of the hearing, and cost(s), if any, of correcting the violation(s).

10. Remedies Not Exclusive

The regulations, procedures, and remedies established by this Section of the Ordinance are nonexclusive and may be pursued independently of each other in addition to other remedies provided by law.

11. Record-keeping

a. At its commencement by notice of violation, every adjudication proceeding shall be assigned a docket number and a style in the form of "town versus" followed by the name of the alleged violator. The records pertaining to each proceeding shall be maintained as a separate file in a manner similar to the fashion in which the clerks of court maintain the records of civil cases.

b. Each agency charged with the enforcement of an Ordinance within the scope of this article shall, with the advice of the town Legal Department, maintain a log or index of all adjudication proceedings which shall set forth information, including but not limited to the following:

- (i) the style and docket number of the case and the date it was commenced;
- (ii) alleged Code violation(s);
- (iii) date of the alleged violation(s);
- (iv) address or other description of the property upon which the alleged violation(s) exist or have occurred;
- (v) date(s) of any hearings, trials or continuances and the dates of their commencement and/or termination and, if the case is terminated, of its final disposition;
- (vi) statement(s) as to the dates of any hearing and of any final order in the case and as to whether and when any lien was filed; and
- (vii) statement(s) as to the date of filing and disposition of any appeal.

12. Transfer of ownership

It is a violation for any property owner(s) to transfer a property that receives a notice of violation without notifying the enforcement agency of the city that sent said notice of violation. Anyone found in violation of this section shall be fined \$500.00.

(Code 20_____, _____, Ordinance no. _____)

THUS DONE AND PASSED at a regular meeting of the Mayor and Board of Aldermen for the Town of Welsh, Louisiana, held on 6th day of April 2021.

After public hearing was held on the above ordinance, the title having been read and the ordinance considered for adoption, the vote was taken and the following result was:

Vote by roll call follows:

Yeas: Andrea King, Ronnie Hayes, Lawrence Mier, Clint Hardy, Jackie Balmer

Nays: None

Absent: None

Abstaining: None

PASSED, APPROVED, AND ADOPTED by the Mayor and Board of Aldermen on this
__6th__ day of _April_____ 2021.

KARL ARCENEUX, MAYOR

ATTEST:

EVA C. KIBODEAUX, CLERK

I certify that the foregoing ordinance was presented to the Mayor by me on
_____, 2021.

EVA C. KIBODEAUX, CLERK

I acknowledge receipt of the above ordinance from the clerk on
_____, 2021.

KARL ARCENEUX, MAYOR

I hereby _____ the ordinance on this _____ day of _____, 2021.

KARL ARCENEUX, MAYOR

I certify the above ordinance was received by me from the Mayor on _____,
2021.

EVA C. KIBODEAUX, CLERK

