

TITLE	DATE	ORIGINATING DEPT./DIV.
<b>AN ORDINANCE TO AMEND CHAPTERS 2, 25, 34, 38.5, 78 AND 94 OF THE CODE OF ORDINANCES BY ABOLISHING THE COMPREHENSIVE ENVIRONMENTAL BOARD OF APPEALS; AND TO OTHERWISE PROVIDE WITH RESPECT THERETO</b>	7/30/21	<b>DEPARTMENT OF ENGINEERING AND ENVIRONMENTAL SERVICES SPONSOR OR COUNCIL MEMBER</b>

**PURPOSE**

This ordinance abolishes the Comprehensive Environmental Board of Appeals ("CEBA") and clarifies that parties contesting administrative orders, fines and/or violation notices issued by the city for environmental violations may instead utilize the environmental court process to contest such action.

This Ordinance or Resolution will have direct impact on Council District: **All**

**BACKGROUND INFORMATION**

The CEBA was created in 2006 as a means to ensure due process rights were granted to parties who are issued administrative orders or fines by City departments for violations of the City's environmental ordinances, including storm water and industrial pretreatment ordinances. The CEBA process has only very seldom been utilized; however, it is still essential to have a hearing process in place for parties wishing to contest such actions. Chapter 38.5 of the City's Code of Ordinances created a new administrative adjudication hearing procedure which is available to those charged with violating an environmental ordinance, providing a much more effective and efficient way to ensure due process rights are granted to such parties than was provided via the CEBA process. Accordingly, the Comprehensive Environmental Board of Appeals is no longer necessary. This ordinance abolishes the Board and makes other needed changes to the ordinances to clarify that parties in receipt of environmental administrative orders, fines or violation notices may utilize the environmental court's hearing process in order to contest such actions. Departments would still be able to take administrative enforcement action against violators, including levying fines; however, parties wishing to contest such actions and receive a hearing could do so through the environmental court process.

**TIMETABLE**

Introduction: **August 10, 2021**  
 Final Passage: **August 24, 2021**

**SPECIAL PROCEDURAL REQUIREMENTS**

FINANCES	SOURCE OF FUNDS
N/A	N/A

**CONCLUSION**

This ordinance is recommended for adoption

**FACT SHEET PREPARED BY:** Wes Wyche, Environmental Services Manager, Department of Engineering and Environmental Services

**ORDINANCE NO. \_\_\_\_\_ OF 2021**

**AN ORDINANCE TO AMEND CHAPTERS 2, 25, 34, 38.5, 78 AND 94 OF THE CODE OF ORDINANCES BY ABOLISHING THE COMPREHENSIVE ENVIRONMENTAL BOARD OF APPEALS AND TO OTHERWISE PROVIDE WITH RESPECT THERETO**

By:

WHEREAS, the Comprehensive Environmental Board of Appeals (“CEBA”) was created in 2006 as a means to ensure that due process rights are guaranteed to parties who are issued administrative orders, fines or violation notices by City Departments for environmental infractions;

WHEREAS, Chapter 38.5 of the City’s Code of Ordinances was recently adopted, establishing an administrative adjudication hearing procedure (“Environmental Court”) for those charged with, inter alia, violating environmental ordinances of the City;

WHEREAS, the hearing process created by Chapter 38.5 will be a more effective and efficient way to ensure that parties wishing to contest an environmental administrative orders, fines or notices can receive a hearing and be assured of sufficient due process protection; and

WHEREAS, the CEBA is therefore no longer necessary, and revisions to various sections of the City’s Code of Ordinances are needed in order to abolish the CEBA and to clarify that parties contesting environmental administrative orders, fines or notices issued by the City can utilize the environmental court process established by Chapter 38.5;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Shreveport, in due, legal and regular session convened, that Chapter 2, Article III, Division 4 of the City’s Code of Ordinances be repealed, and Sections 25-6, 25-7, 34-100(1), 34-127(2), 34-243(1), 38.5-7(d), 78-346(a)(2)d. and 94-142(a)(9) be amended to read as follows:

**Sec. 25-6. – Requests for Hearing.**

Any person aggrieved by a decision or determination in regard to any matter subject to the requirements of this chapter shall, within 15 days from the date such decision is rendered, file with the city attorney a written request for a hearing through the environmental court process provided in Chapter 38.5. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken which are determined by the city attorney to be necessary in order to prevent imminent or substantial endangerment to the health or welfare of persons or the environment.

**Sec. 25-7. – Penalty for violation of chapter.**

In the event of a violation of any provision of this Chapter, the City may issue an administrative fine to the violating party in an amount not to exceed \$500.00. Each day the violation continues to exist shall constitute a separate offense. Unpaid fines shall, after 30 calendar days, be assessed an additional penalty of one percent of the unpaid balance, and interest shall accrue thereafter at a rate of 12 percent per year. A lien against the violating party’s property will be sought for unpaid fines.

**Sec. 34-100. – Enforcement.**

(1) *Administrative fines and remedies.* In the event of a violation of any provision of this article, any stop work order issued pursuant to this article, or a notice to cease violation, the city, through the city engineer or his designee, may issue an administrative fine to the violating party in an amount not to exceed \$500 per day per violation, and/or may terminate the violating party’s water service. Every day any such violation continues shall constitute a separate violation for purposes of this paragraph. Unpaid fines shall, after 30 calendar days, be assessed an additional penalty of one percent of the unpaid balance, and interest shall accrue thereafter at a rate of 12 percent per year. A lien against the violating party’s property will be sought for unpaid fines. A party which has been cited under this subsection may contest the action by written request for a hearing, through the environmental court process provided in Chapter 38.5, filed with the city engineer within 15 days of receipt of notice of the action. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken which are determined by the city engineer to be necessary in order to prevent imminent or substantial endangerment to the health or welfare of persons or the environment.

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**Sec. 34-127. – Inspection and enforcement**

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(2) *Administrative fines and remedies.* In the event of a violation of the permit, any provision of this article, or a stop work order or notice of violation, the city, through the city engineer or his designee, may revoke the permit; issue an administrative fine to permittee in an amount not to exceed \$500.00 per day per violation; and/or terminate water service to permittee. Every day any such violation continues shall constitute a separate violation for purposes of this paragraph. Unpaid fines shall,

after 30 calendar days, be assessed an additional penalty of one percent of the unpaid balance, and interest shall accrue thereafter at a rate of 12 percent per year. A lien against the permittee's property will be sought for unpaid fines.

The permittee may contest the action by written request for a hearing, through the environmental court process provided in Chapter 38.5, filed with the city engineer within 15 days of receipt of notice of the action. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken which are determined by the city engineer to be necessary in order to prevent imminent or substantial endangerment to the health or welfare of persons or the environment.

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**Sec. 34-243. - Enforcement.**

- (1) *Administrative fines and remedies.* In the event of a violation of this article or a notice to cease violation, the city, through the city engineer, may issue an administrative fine to the violating party in an amount not to exceed \$500.00 per day per violation, and/or may terminate the violating party's water service. Every day any such violation continues shall constitute a separate violation for purposes of this paragraph. Unpaid fines shall, after 30 calendar days, be assessed an additional penalty of one percent of the unpaid balance, and interest shall accrue thereafter at a rate of 12 percent per year. A lien against the violating party's property will be sought for unpaid fines.

A party which has been cited under this subsection may contest the action by written request for a hearing, through the environmental court process provided in Chapter 38.5, filed with the city engineer within 15 days of receipt of notice of the action. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken which are determined by the city engineer to be necessary in order to prevent imminent or substantial endangerment to the health or welfare of persons or the environment.

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**Sec. 38.5-7. – Penalties**

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- (d) Environmental Court Fines.

Type of Violation	Amount of Fine
1 <sup>st</sup> Offense—High grass & weeds	\$150.00
2 <sup>nd</sup> Offense—High grass & weeds	300.00
1 <sup>st</sup> Offense—Inoperable vehicle	75.00
2 <sup>nd</sup> Offense—Inoperable vehicle	300.00

1 <sup>st</sup> Offense—Littering/illegal dumping/ discarded items	75.00
2 <sup>nd</sup> Offense—Littering/illegal dumping/ discarded items	300.00
1 <sup>st</sup> Offense—Derelict/unsecure structure	75.00
2 <sup>nd</sup> Offense—Derelict/unsecure structure	300.00

The amount of fines for violations of Chapter 25, Article I; Chapter 34, Articles III, IV and IV; Chapter 78, Article VIII and Chapter 94, Articles IV and VI shall be set in accordance with the applicable articles.

All other first offense nuisance violations not listed above shall be set at \$75.00 per violation or less.

All other second offense nuisance violations not listed above shall be set at \$300.00 per violation or less.

Except with regard to violations of Chapters 25, 34, 78 and 94, any subsequent violation following a second offense violation shall be set at \$500.00 or less.

Daily fines shall not exceed \$75.00 per day per violation for residential properties and \$300.00 per day per violation for commercial properties (except with regard to violations of Chapters 25, 34, 78 and 94). Fines for residential properties shall not exceed \$5,000.00. Upon proof of age, all senior citizens, 65 and older, shall be given an additional 30 days prior to enforcement under subsection 38.5-8(b).

**Sec. 78-346. – Penalties and enforcement. j**

(a) *Administrative enforcement.*

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(2) *Administrative fines and charges.*

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d. Persons desiring to dispute such fines and/or charges must file a written request for hearing, through the environmental court process provided in Chapter 38.5, with the city engineer within 15 days of being notified of the fine and/or charge. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken which are determined by the city engineer to be necessary in order to prevent imminent or substantial endangerment to the health or welfare of persons or the environment.

**Sec. 94-142. – Enforcement. 127. - Inspection and enforcement.**

(a) *Administrative enforcement.*

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(9) *Requests for hearing of administrative enforcement actions.* Users desiring to dispute any enforcement actions must file a written request for hearing, through the environmental court process provided in Chapter 38.5, with the director of the department of water and sewerage within 15 days of being notified of the fine and/or charge. A timely and properly filed request for hearing shall suspend the effect of the action which is the subject of the hearing until the hearing officer has ruled on the hearing, except for actions taken in order to stop an actual or threatened discharge determined by the director of the department of water and sewerage to present or cause imminent or substantial endangerment to the health or welfare of persons, the operation of the POTW, or the environment.

**BE IT FURTHER ORDAINED** that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications; and, to this end, the provisions of this ordinance are hereby declared severable.

**BE IT FURTHER ORDAINED** that all ordinances or parts thereof in conflict herewith are hereby repealed.

APPROVED AS TO LEGAL FORM:

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City Attorney's Office