

- iv. That an agreed abatement plan must be reached with the Police Chief or Code Enforcement Officer within thirty (30) days from the date of the notice of determination of Chronic Nuisance Property at subsection (C)(2) above.
 - v. That if the Nuisance Activities are not abated and Good Cause for failure to abate is not shown, a Citation under Chapter 101 of the City's Municipal Code may be issued.
 - vi. That permitting the existence of a Chronic Nuisance Property is a violation of this Section.
 - vii. That the above remedies are in addition to those otherwise provided by law.
 - d. The notice may be delivered in person, or sent registered mail with return receipt requested. The notice may be delivered to the Property itself, or to the mailing address of the owner of the Property as listed on the City tax roll, or to any other address that is likely to give the Person in Charge notice of the determination of the Police Chief or Code Enforcement Officer.
 - e. The failure of any person to receive notice shall not invalidate or otherwise affect the proceedings under this Section.
2. The Police Chief or Code Enforcement Officer may issue a Citation when:
- a. The Person in Charge fails to respond within ten (10) calendar days from the date of the notice of determination of Chronic Nuisance Property by the Police Chief or Code Enforcement Officer; or
 - b. No agreeable written abatement plan is reached within thirty (30) calendar days from the notice of determination of Chronic Nuisance Property by the Police Chief or Code Enforcement Officer, and the Person in Charge fails to establish one of the affirmative defenses provided in subsections (C)(6) or (7) of this Section; or
 - c. The Person in Charge fails to abate the Nuisance Activities from the Property as required by the agreed abatement plan; or
 - d. The Person in Charge fails to comply continuously with all conditions of the written abatement plan for a period of one (1)

year from the date the Police Chief or the Code Enforcement Officer approves the abatement plan by signing the plan.

3. If the Person in Charge is both a Person with actual or constructive possession of the Property and a legal owner of the Property, then both Persons must agree to any proposed abatement plan within the time allotted under subsection (1)(c)(iv) of this Section. Failure of both to agree to a proposed abatement plan shall result in a finding by the Police Chief or Code Enforcement Officer that the abatement plan is not agreeable under subsection (2)(b) of this Section.
4. Failure to respond, failure to abate the Nuisance Activities, or failure to propose an abatement plan shall be *prima facie* evidence of lack of cooperativeness of the Person in Charge. Failure to execute or comply with any abatement plan shall be *prima facie* evidence of lack of good faith in mitigating or correcting deficient conditions on the Property.
5. When a Person in Charge makes a response to the Police Chief or Code Enforcement Officer, as required in subsection (C)(1)(c)(iii) of this Section, conduct or statements made in connection with the response do not constitute an admission that any Nuisance Activities have occurred or are occurring. This subsection does not require exclusion of any evidence that is otherwise admissible or offered for any other purpose.
6. Residential Landlord Affirmative Defense: A Residential Landlord has an absolute defense to a charge under this ordinance if it establishes by a preponderance of the evidence that the basis for the charge is the actions or omissions of its tenant(s), and the Residential Landlord establishes all of the following:
 - a. That the Residential Landlord undertakes a reasonably appropriate screening process for prospective tenants including diligence into the criminal background of prospective tenants and the Residential Landlord did not knowingly rent to a tenant with a felony conviction or conviction involving drugs or violence. A Residential Landlord's employment of a screening process vendor approved by the City of Park Hills results in a rebuttable presumption that the Landlord undertook a reasonably appropriate screening process. No provision in this Chapter requires landlords to violate federal or state fair housing laws.

- b. That the Residential Landlord includes language in its leases providing that violations of federal, state, or local laws by tenants or their guests is a ground for eviction with 30 days or less notice;
 - c. That the Residential Landlord, upon written notice by the City that a Nuisance Activity has occurred on their Property within the prior thirty days, commences an eviction action against the tenant whose action or omission forms the basis of the charge, and diligently prosecutes that action to completion, irrespective of any ultimate ruling by a court on the merits of that action. A Residential Landlord shall not be responsible for prosecuting a forcible entry and detainer action against the tenant or their guests whose action or omission forms the basis of the charge if the City fails to give the notice provided in this section.
- 7. Good Cause Affirmative Defense: Any Person charged under this Section has an absolute defense to any such charge if it establishes by a preponderance of the evidence that:
 - a. The Person charged has taken all appropriate actions to deter and prevent the Nuisance Activity forming the basis of the charge on its Property;
 - b. The Nuisance Activity that forms the basis of the charge was not the result of the actions or omissions of Person charged, their authorized guests, or any other Person residing in their household; and
 - c. The Nuisance Activity that forms the basis of the charge was not permitted by the Person charged.
- D. Procedure – Resident Enforcement. Any Park Hills resident adversely affected by an alleged Chronic Nuisance Property may provide a sworn complaint to the Police Chief or a Code Enforcement Officer that may be used by the Chief of Police or Code Enforcement Officer in their enforcement of this Section.
- E. Commencement of Actions; Remedies; Burden of Proof.
 - 1. In the event a Citation is issued for a Chronic Nuisance Property, the Person in Charge shall have those rights and shall otherwise be subject to the procedures and provisions set forth in Chapter 101 of the Municipal Code, or any interlocal cooperation agreement incorporated into the Code. If the Code Enforcement Board, or a Joint Board under an Interlocal Agreement for Code Enforcement, determines that the Property is a Chronic Nuisance Property, then

it shall issue such fine and/or take such other action consistent with the provisions of Chapter 101 of the Municipal Code.

2. In addition, whenever the Code Enforcement Board, or a Joint Board under an Interlocal Agreement for Code Enforcement, determines that a Chronic Nuisance exists, the Board shall forward such determination to the Mayor of the City. Based on such determination, the Mayor may suspend or revoke the occupational license of any Person conducting any business upon the Property where the Chronic Nuisance exists.

- F. Summary Closure. The City, through its City Attorney, may also initiate a summary closure proceeding in the Kenton County District and/or Circuit Court. Such an action shall be based on evidence showing that Nuisance Activities exist or have occurred on the Property and that action is necessary to avoid a threat to the health, safety, or public welfare. Proceedings to obtain an order of summary closure shall be governed by the provisions of applicable Kentucky law for obtaining temporary restraining orders. In the event of summary closure, the City is not required to comply with the notification procedures set forth in subsection (C)(1) of this Section. As part of any Summary Closure Order, the District/Circuit Court may also revoke or suspend the occupational license of any Person conducting any business upon the Property where the Chronic Nuisance exists.

Section Two. That Section 92.99 of The City of Park Hills Code of Ordinances, entitled *Civil Fines and Penalties*, is hereby amended as follows:

92.99 CIVIL FINES AND PENALTIES.

A violation of this Chapter constitutes a civil offense. Any individual or entity violating any provision of this Chapter shall be liable for civil fines and penalties promulgated within Chapter 101 of this Code, as well as being ordered to perform remedial measures.

A maximum civil fine of \$500 may be imposed for each violation of the ordinance. A minimum civil fine of \$250 will be imposed for each offense provided the person who has committed the offense does not contest the citation.

Section Three. That if any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.


Section Four. That all other ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of the conflict.

Section Five. That this Ordinance shall take full force and effect upon publication as required by KRS Chapter 424 and other applicable law. This Ordinance shall be published in summary form pursuant to KRS §83A.060(9) and other applicable law.



Don Catchen, Mayor

ATTEST:



City Clerk

First Reading: 4/14/14

Second Reading: 5/14/14

Passed: 5/14/14