

## **ORDINANCE NO. 23, 2016**

### **AN ORDINANCE OF THE CITY OF PARK HILLS, IN KENTON COUNTY, KENTUCKY, AMENDING THE CITY'S NUISANCE CODE CONTAINED IN CHAPTER 91 OF THE CODE OF ORDINANCES**

**WHEREAS**, House Bill 422 consolidated various nuisance statutes under one statutory scheme, found in KRS § 65.8840, and entitled, "Abatement of nuisance – Exceptions – Enforcement Ordinance – Lien – Personal liability of property owner – Right to farm exception;"

**WHEREAS**, KRS § 65.8840(6) permits a local government to establish by ordinance reasonable standards and procedures for enforcement of the nuisance statute;

**WHEREAS**, the City of Park Hills City Council desires to amend its Nuisance Code to reflect the changes made by House Bill 422;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY, AS FOLLOWS:**

#### **SECTION 1**

§ 91.10 STATUTORY AUTHORITY shall be amended as follows:

[This chapter is a nuisance code within the meaning of the "Local Government Nuisance Code Enforcement Act" at KRS 82.700 through 82.725] The purpose of this Chapter is to establish a nuisance ordinance under KRS § 65.8840(6).

#### **SECTION 2**

§ 91.11 DEFINITIONS shall be amended as follows:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ABATEMENT COSTS." Has the meaning provided in [~~KRS 82.700(1)~~] KRS § 65.8840(1).

"ANYBODY." Any human being, or any organization or combination thereof, in the form of a corporation, partnership, limited liability company, joint venture, unincorporated association or otherwise.

"BANNER SIGN." Any commercial sign composed of any pliable plastic or cloth, without a rigid supporting frame.

"BUILDING." Any relatively permanent enclosure consisting of no less than three connected walls covered by a roof.

"CITY." The City of Park Hills.

"CODE ENFORCEMENT OFFICER." Has the same meaning provided in [~~KRS 65.8801~~]  
KRS § 65.8840(1).

"COMMERCIAL SIGN." Any sign which includes any information, message or identification which is, in any way, related to the promotion of any business or commerce.

"CONTROL." To exercise restraint or direction over.

"DELIVER." Includes any manner of delivery that conforms to the federal and state constitutional requirements for procedural due process.

"EVERYBODY." Every human being, and every organization or combination thereof, in the form of a corporation, partnership, limited liability company, joint venture, unincorporated association or otherwise.

"FOWL." Any hen, rooster, chicken, duck, turkey, pheasant or any of several other, usually gallinaceous, birds.

"FRONT YARD." That portion of a lot or parcel of real estate that extends from the street upon which the principle building on that lot or parcel fronts, for the full width of that lot or parcel, back to every part of the front (as distinguished from the sides and back) of that principle building.

"GRAFFITI." Any display of words, letters, numbers, design or symbols scrawled, by hand or otherwise, in any ink, paint, chalk, dye or any other medium on any building or structure, without the consent or authority of the owner thereof, and which is within view from any public property or right of way.

"IMMINENTLY DANGEROUS." A condition which could cause serious or life threatening injury or death.

"INOPERABLE MOTOR VEHICLE." A motor vehicle that is:

- (1) Wrecked or otherwise in a state of disrepair or disassembly;
- (2) Mechanically inoperable; or
- (3) Legally inoperable on public streets and highways.

"LIVESTOCK." Animals of the bovine, ovine, porcine, caprine, equine, camelide and cervid species, including, without limitation, horses, cattle, sheep, swine and goats.

"MUNICIPAL SOLID WASTE." Has the same meaning provided in KRS 224.01-010(31)(a)(4).

"MUNICIPAL SOLID WASTE CONTAINER." A clean, covered, rigid metal or plastic container with a capacity of no less than 30 gallons and no more than 96 gallons.

"NOBODY." No human being, or any organization or combination thereof, in the form of a corporation, partnership, joint venture, unincorporated association or otherwise.

"OUTSIDE." An area of a lot or parcel of real estate that is not enclosed within a building.

"RECREATIONAL VEHICLE." Has the same meaning provided in KRS 227.550(12).

"RUBBISH." Worthless, discarded material.

"UNLEASHED ANIMAL." Any animal that is not secured and controlled by the owner or custodian of that animal by means of a leash.

"UNSOLICITED WRITTEN MATERIAL." Any written material that is distributed to any lot or parcel of real estate in the city without the affirmative express invitation or permission of an owner or occupant of that lot or parcel of real estate.

### **SECTION 3**

§ 91.12 NUISANCES DESCRIBED AND PROHIBITED, shall be amended as follows:

~~[Pursuant to the requirements of KRS 82.710(1), the]~~ The following actions, omissions, behavior, conditions and occurrences upon any lot or parcel of real estate within the city are hereby declared to be public nuisances and violations of this chapter; and nobody, including, without limitation, landlords and tenants, shall, by either act or omission, conspire, cause, permit, encourage, aid, assist, allow or engage in any of them, or fail to exercise any authority to prevent the occurrence thereof, including, without limitation, the eviction of tenants who cause, permit, encourage, aid, assist, allow or engage in any of them.

Public nuisances include, but are not limited to:

(A) Any condition or use of any lot or parcel of real estate in the city or any structure thereon that is detrimental to the value, use or enjoyment of the property of others in the vicinity of that lot or parcel of real estate, including, without limitation:

- (1) Those in violation of the provisions of the International Property Maintenance Code, published by the International Code Council, Inc. as amended from time to time and enacted by city ordinance.

- (2) Those structures that are designed and intended for human habitation, occupancy or use that become unfit and unsafe for human habitation, occupancy or use or have conditions in them that are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures or other residents of the city;
  - (3) Those in violation of the standards of safety promulgated pursuant to KRS 227.300, which are hereby adopted by the city pursuant to the requirements of KRS 227.320; and
  - (4) Those in violation of the provisions of the NFPA 1 Uniform Fire Code published by the National Fire Protection Association, as amended from time to time and enacted by city ordinance.
- (B) The accumulation of any rubbish on any portion of any lot or parcel of real estate outside of any building.
- (C) Use of any portion of any residential lot or parcel of real estate outside of a building for the location of any broken, inoperable or otherwise non-functional vehicles, equipment, machinery or furniture or any parts thereof, or the location of any scrap or salvage material, or the location of any other tangible personal property.
- (D) The location of one or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or non-operative and which are not inhabited.
- (E) The growth of weeds or grass in excess of four inches above the surface of the ground on any lot or parcel of real estate that is less than four acres in area and developed with the public utilities of water, electricity and sewers.
- (F) The parking of any recreational vehicle, boat or trailer anywhere in any residential area except for only one of any such vehicles:
- (1) In the rear yard of any lot or parcel of real estate;
  - (2) In any area of a side yard that is continuously paved with blacktop or concrete, provided that no part of such vehicle is within one foot of any point in the nearest boundary line; or
  - (3) In any driveway during the period after May 1 and before October 15 in any calendar year, provided that:
    - (a) The area thereof occupied by any such vehicle is in addition to all off street parking areas required by this chapter;
    - (b) There is no more than one of any such vehicles parked, stored or otherwise located in any portion of any driveway on any one lot or parcel of real estate at any one time; and

- (c) No part of any such vehicle is within one foot of any point in the nearest boundary line.
- (4) Under no circumstance may any recreational vehicle, boat, or trailer be permitted to remain in a residential area more than five consecutive days and no more than a total of 25 days per year.
- (5) However, a recreational vehicle, boat or trailer less than twenty feet in length from tongue to bumper may remain indefinitely provided it rests on a paved surface behind the front-most portion of the home. The paved surface may also be in the rear of the house.
- (G) The accumulation of any municipal solid waste anywhere unless it is enclosed within a covered municipal solid waste container.
- (H) The location of any municipal solid waste container in the front yard of any lot or parcel of real estate in the city at any time other than that period of time that begins at 6:00 p.m. on the day before the day that municipal solid waste is scheduled by the city for collection from that real estate and ends at 6:00 a.m. on the following day.
- (I) The occurrence of any sound, odors or anything else from any animal or animals on any lot or parcel of real estate in the city that unreasonably interferes in any way with the occupation, use or enjoyment of any other lot or parcel of real estate in the city by any owner, tenant, occupant, resident or user thereof.
- (J) The location of any rubbish on any public sidewalk and the failure of those with any ownership or possessory interest in any lot or parcel of real estate abutting thereon to remove it within a reasonable period of time after such rubbish has been deposited thereon.
- (K) Any commercial sign that isn't in a condition of good repair, and in a clean, neat and safe and functional condition in compliance with all applicable laws, including, without limitation, all building and property maintenance codes.
- (L) The occurrence, existence or continuation of any graffiti.
- (M) The outside storage or other location of any equipment in any front or side yard where it may be seen from a public street, while that equipment is in a position or condition in which the design and purpose of that equipment may not be accomplished.
- (N) Any outdoor swimming pool in which:
  - (1) The water in the pool is contaminated with dangerous disease causing pathogens, including bacteria; however

- (2) Water may be retained and impounded in the pool to a depth of 24 inches or more at any one point; so long as the pool area is surrounded by a fence that is at least four feet in height. The fence must limit access to the pool, except that it may have one or more gates. Each gate must have an automatic self-closing mechanism.
- (O) Any fowl or livestock within 500 feet of any neighboring residence. Roosters are entirely prohibited.
- (P) The distribution or accumulation of any unsolicited written material on any portion of any lot or parcel of real estate in the city outside of a building other than:
  - (1) On a porch, if one exists, nearest to the front door;
  - (2) Securely attached to a door;
  - (3) Between an exterior door and an interior door; or
  - (4) Personally with any occupant of the lot or parcel of real estate.
- (Q) The use of any residential lot or parcel of real estate outside of a building for the storage or other location of any inoperable motor vehicles or any motor vehicle parts.
- (R) The use of any lot or parcel of real estate, or any portion thereof, including, without limitation, any building or any portion thereof located on that lot or parcel of real estate, for any criminal activity involving disorderly conduct, alcoholic beverages, firearms, menacing, physical injury to person or property, deadly weapons, gambling, prostitution, or controlled substances, or any other felony or misdemeanor to such an extent that there have been documented responses to any of them by peace officers or other personnel of the city on five (5) or more separate occasions within anyone (1) period of twelve (12) consecutive calendar months; provided that an owner of that lot or parcel of real estate has been notified at least once during that period of twelve (12) consecutive calendar months of the occurrence of any such criminal activity; and provided further that the eviction of any tenants of that lot or parcel of real estate who were involved in such criminal activity shall be a defense to any civil or criminal prosecution for a violation of this section.
- (S) The use of any paved area other than sidewalks within the right-of-way of any street within the city for any athletic or other recreational activity.
- (T) The location of any apparatus for the athletic or other recreational use of any area within the right-of-way of any street within the city, whether that apparatus is located within or outside of that right-of-way.



- (U) Any tree, shrub, or bush located on private property, which endangers any public street or highway, any vehicle or person, any public sidewalk or any public property.
- (V) The location of any motor vehicle in any manner that any portion of it is on or above any portion of any sidewalk in the city, potentially blocking the pedestrian use thereof.
- (W) The location of any inoperable motor vehicle anywhere within the right-of-way of any street in the city.
- (X) Being the owner of a dog, to permit or to allow his or her dog to do any of the following:
  - (1) To run at large within the City. "At large" means on or off the premises of the owner and not under the immediate effective control of the owner or custodian either by leash, cord, or chain, or effectively confined within a fenced area on the owner's premises.
  - (2) To trespass upon another person's real property or to in any manner injure or destroy any real or personal property belonging to another person.
  - (3) To bark, howl, cry, whine or make any other noise or do anything else in such a manner that it unreasonably interferes with the occupation, use and enjoyment of any other property in the City.

#### **SECTION 4**

§ 91.13 HEARING BOARD AND HEARING OFFICERS shall be amended as follows:

~~[Pursuant to the requirements of KRS 82.710(3):~~

~~(A)]~~ There is hereby established a hearing board consisting of one person appointed by the Mayor of the city for the purpose of conducting hearings pursuant to KRS 82.710, which shall be named and known as the Park Hills Nuisance Hearing Board; which shall be identified and referred to hereinafter simply as the "Board." The Board may appoint hearing officers; and any action of a hearing officer shall be deemed to be the action of the Board.

~~[(B) The Board may appoint hearing officers; and any action of a hearing officer shall be deemed to be the action of the Board.]~~

#### **SECTION 5**

§ 91.14 RESPONSIBILITY FOR ENFORCEMENT shall be amended as follows:

~~[Pursuant to the requirements of KRS 82.710(4), the]~~ The responsibility for the enforcement of the nuisance code hereby established is hereby delegated to the code enforcement officer as designated by the City Council.

## **SECTION 6**

§ 91.15 STANDARDS AND PROCEDURES FOR THE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER shall be amended as follows:

~~[Pursuant to the requirements of KRS 82.710(2), there]~~ There are hereby established the following standards and procedures for the enforcement of this chapter.

- (A) Enforcement proceedings before the Board shall be initiated by the issuance of a notice of violation and civil citation (citation) by a person who is a code enforcement officer.
- (B) Whenever a code enforcement officer either:
  - (1) Observes or otherwise personally senses a violation of this nuisance code ordinance; or
  - (2) Has reason to believe that a violation of this nuisance code ordinance has occurred or is occurring;

the code enforcement officer is hereby authorized to issue a citation to everyone who the code enforcement officer has reason to believe has, by either act or omission, conspired, caused, permitted, encouraged, aided, assisted, allowed or engaged in that violation.

- (C) The citation issued by the code enforcement officer shall be in a form prescribed by the executive authority of the city; but it shall include at least the following information:
  - (1) The date and time of issuance;
  - (2) The name and address of the person to whom the citation is issued;
  - (3) The date and time the violation occurred;
  - (4) The facts constituting the violation;
  - (5) The section of this nuisance code ordinance that has been violated;
  - (6) The name of the code enforcement officer;
  - (7) The civil fine that will be assessed for the violation if that person does not contest the citation;



- (8) The maximum civil fine that may be imposed if that person elects to contest the citation;
  - (9) The procedure for the person to follow in order to pay the fine or to contest the citation; and
  - (10) A description of the circumstances in which the determination of the code enforcement officer becomes final; and that, thereupon, the City shall cause the violations described in the Citation to be abated; and that the cost thereof shall be assessed upon the person to whom the citation was issued; and that the owner of the property upon which those violations occurred shall also be liable therefor and for all fines, penalties, charges abatement costs and fees assessed for those violations, for which the city shall possess a lien on that property.
- (D) After issuing a citation, the code enforcement officer shall cause the citation to be served upon the person to whom it was issued either by personal delivery, or by any other means that conforms to the due process provisions of the federal and state constitutions.
- (E) After issuing and serving a citation upon the person to whom it was issued, the code enforcement officer shall notify the Board thereof by delivering a copy of the citation to the Board.
- (F) When a citation is issued and served upon the person to whom the citation was issued, that person shall respond to the citation within seven calendar days after the date the service of the citation, by either paying the civil fine set forth in the citation or delivering to the Board a written request for a hearing to contest the citation. If there is no response to the citation by the person to whom it was issued within seven days after the service thereof on that person, then that person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed by that person shall become final. In that event, the Board shall enter a final order determining that the violation was committed by that person and assessing upon that person the civil fine set forth in the citation, plus the abatement costs, costs of collection and attorney fees of the city, if any.

## **SECTION 7**

§ 91.19 OWNERS LIABILITY AND LIEN OF THE CITY shall be amended as follows:

- (A) Pursuant to [~~KRS 82.715(3)~~] KRS § 65.8840(10), the owner(s) of the property at the time of the occurrence of violations of this chapter on that property shall be liable for all civil fines, penalties, charges, abatement costs and fees assessed for those violations.

- (B) Pursuant to ~~[KRS 82.720]~~ KRS § 65.8840(8), the City of Park Hills shall possess a lien on all charges and fees incurred by the City in connection with the enforcement of this Chapter, including abatement costs. The lien shall also include attorneys' fees incurred as an additional penalty. The affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings, and shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and City taxes, except as provided in KRS 65.8840(9). The City shall possess the lien for ten (10) years following the date of the final, non-appealable order of the Board or final judgment of the court. The lien may be enforced by judicial proceeding. [property on which violations of this chapter have occurred for all civil fines, penalties, charges, abatement costs, fees and penalties imposed for those violations pursuant to KRS 82.700 to 82.725 and this chapter. The lien shall also include attorneys' fees incurred as an additional penalty imposed by the City under KRS 82.710(5). The lien shall be superior to and have priority over all other liens on the property, except state, county, school board and city taxes.]

## **SECTION 8**

§ 91.20 PENALTY shall be amended as follows:

- (A) Civil offense. Each separate violation of this chapter is hereby classified as a civil offense; and ~~[, pursuant to the authority of KRS 82.710,]~~ the penalties to be imposed upon persons determined to have violated this chapter are hereby established as follows:
- (1) The maximum civil fine that may be imposed for each separate violation of this chapter is hereby established at \$500 for a first violation, \$750 for a second occurrence of the same violation, and \$1,000 for the third and each subsequent occurrence of the same violation plus the costs of collection, including, without limitation, court costs and attorney fees.
  - (2) The specific civil fine that shall be imposed for each separate violation of this chapter in the event that a citation for that violation is not contested is hereby established at \$100 for a first violation, \$250 for a second occurrence of the same violation, and \$500 for the third and each subsequent occurrence of the same violation, plus the costs of collection, including, without limitation, court costs and attorney fees.
- (B) Criminal offense. Each violation of this chapter shall be a misdemeanor for which everybody convicted thereof in a court of competent jurisdiction shall be sentenced to pay a criminal fine not to exceed the maximum amount of \$500 as set forth in KRS 534.050(2)(a) or a term of imprisonment not to exceed the maximum period of 12 months as set forth in KRS 532.090(1), or both.

## **SECTION 9**

§ 91.26 ABATEMENT PROCEDURE FOR IMMINENTLY DANGEROUS CONDITIONS shall be amended as follows:

- (A) Any property condition which the city reasonably determines to be imminently dangerous to the health and safety of city residents may be summarily abated in accordance with the procedures set forth in this section.
- (B) Actions taken to abate imminently dangerous property conditions may include, but are not limited to, repair, removal, or demolition of the condition creating the danger and/or the restriction from use or occupancy of the property on which the dangerous condition exists or any other abatement actions determined by the city to be necessary.
- (C) (1) Whenever the city determines that summary abatement is justified by an imminently dangerous condition, circumstance, or occurrence, the city shall give reasonable notice, not to exceed five business days, to the property owner as to the nuisance and prior to the demolition of any unfit or unsafe structure, the property owner shall be afforded the right to a hearing before the Mayor or his or her designee [~~pursuant to KRS 381.770(5)~~].  
  
(2) If the property owner cannot be located or the owner fails to take prompt appropriate action to abate the condition, the city may proceed to take abatement action authorized in this section to the extent necessary to remedy the immediate danger without further notice or right to a prior hearing.
- (D) (1) Whenever the city takes action to abate imminently dangerous property conditions, the property owner shall be liable for all costs of such abatement. Charges for nuisance abatement shall be a lien upon the premises. Whenever a bill for charges remains unpaid for 14 days after it has been rendered, the City Clerk/Treasurer may file with the County Clerk a statement of lien claims. This statement/affidavit shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the city claims a lien for this amount. The affidavit of the authorized city officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings [~~pursuant to KRS 381.770 and this section~~]. The lien shall be notice to all persons from the time of the recording and shall bear interest at 6% per annum thereafter until paid. Notice of the lien shall be mailed to the owner of the premises if his or her address is known. However, failure to record the claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges.  
  
(2) The lien shall take precedence over all other liens, except state, county, school board, and city taxes, and the city may bring a civil action against the owner and have the same remedies as provided for the recovery of a debt owed. The City's lien

shall include the costs incurred in all legal actions necessary to foreclose the lien, which costs shall include reasonable attorneys' fees.

~~[(E) In addition to the lien to which reference is made in KRS 381.770, the city shall have a lien upon the land to which reference is made in KRS 381.770 for the costs incurred in all legal action necessary to foreclose the lien, which costs shall include reasonable attorneys' fees.]~~

(E) Property subject to a lien for unpaid imminent danger abatement charges shall be sold for nonpayment, and the proceeds of the sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. This foreclosure shall be in equity in the name of the city.

(F) The City Attorney is authorized to institute such proceedings in the name of the city in any court having jurisdiction over the matter against any property for which the bill has remained unpaid for 14 days after it has been rendered, upon direction by the Mayor.

## **SECTION 10**

§ 91.31(B) DEFINITIONS shall be amended as follows:

**AGREEABLE WRITTEN ABATEMENT PLAN.** An abatement plan approved by the Police Chief, Code Enforcement Officer, or other designee of the Mayor.

**CHRONIC NUISANCE PROPERTY.** Property on which three or more nuisance activities exist or have occurred during any 60-day period or on which 12 or more nuisance activities exist or have occurred during any 12-month period.

**CODE ENFORCEMENT OFFICER.** A Code Enforcement Officer as defined in [KRS 65.880+] KRS § 65.8840(1).

**CONTROL.** The authority to regulate, restrain, dominate, counteract, or govern property, or conduct that occurs on property.

**GOOD CAUSE.** Circumstances beyond the ability of a person acting with reasonable care and diligence to control.

### **NUISANCE ACTIVITIES.**

(a) Any of the following activities, behaviors or conduct:

- (1) Harassment, as defined in KRS 525.070 through 525.080.
- (2) Public intoxication or alcohol intoxication, as defined in KRS 525.100 or KRS 222.202.

- (3) Disorderly conduct, as defined in KRS 525.055 or KRS 525.060.
- (4) Murder, manslaughter, or reckless homicide, as defined in KRS 507.020, 507.030, 507.040; or 507.050.
- (5) Assault, menacing, wanton endangerment, terroristic threatening, criminal abuse, stalking, or disarming a police officer, as defined in KRS 508.010 through KRS 508.160.
- (6) Burglary or criminal trespass, as defined in KRS 511.010 through KRS 511.090.
- (7) Criminal mischief, as defined in KRS 512.010 through KRS 512.060.
- (8) Arson, as defined in KRS 513.010 through KRS 513.040.
- (9) Theft, as defined in KRS 514.010 through KRS 514.090.
- (10) Receiving stolen property, as defined in KRS 514.110.
- (11) Robbery, as defined in KRS 515.010 through KRS 515.030.
- (12) Prostitution, promoting prostitution, permitting prostitution, or human trafficking, as defined in KRS 529.010 through KRS 529.110.
- (13) Endangering the welfare of a minor or unlawful transaction with a minor, as defined in KRS 530.060 through KRS 530.080.
- (14) Distribution of obscene matter, promoting sale of obscenity, or voyeurism, as defined in KRS 531.010 through 531.110.
- (15) Sexual exploitation of minors, as defined in KRS 531.300 through KRS 531.370.
- (16) Drug possession or trafficking, as defined in KRS 218A.010 through KRS 218A.1444.
- (17) Weapons related offenses, as defined in KRS 527.010 through KRS 527.210.
- (18) Violations of protection orders, as defined in KRS 403.763.
- (19) Alcohol related offenses, as defined in Chapter 112 of the code of ordinances.
- (20) Any violation of any ordinance of the city, or a violation of any state or federal law, statute or regulation.

(21) Any attempt to commit and/or conspiracy to commit any of the activities, behaviors or conduct listed in this section.

(22) Violations of §91.12 of the Code.

(b) Exemptions: The following activities shall be exempt from the provisions of this chapter:

a. Contact made to police or other emergency services, if

i. The contact was made with the intent to prevent or respond to domestic violence, sexual violence, or any non-criminal emergency situation:

ii. The intervention of emergency assistance was needed to respond to or prevent domestic violence, sexual violence, or a non-criminal emergency situation; or

iii. The contact was made by, on behalf of, or concerns an individual with a disability and the purpose of the contact was related to that individual's disability:

b. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises.

(c) To qualify, all nuisance activities must be based on either:

(1) Personal observation of a police officer or Code Enforcement Officer; or

(2) A determination by a police officer or Code Enforcement Officer, either after an investigation or following a sworn statement of a person who personally witnessed the alleged incident that the alleged nuisance activities did, in fact, occur.

**PERMIT.** To suffer, allow, consent to, or acquiesce by failing to prevent, or expressly assenting or agreeing to the doing of an act.

**PERSON.** Any natural person, agent, association, firm, partnership, corporation, limited liability company, or any other entity capable of owning, occupying, possessing, or using property in the city.

**PERSON ASSOCIATED WITH THE PROPERTY.** Any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or any person present on a property. **PERSON ASSOCIATED WITH THE PROPERTY** includes, without



limitation, any officer, director, customer, agent, employee, or any independent contractor of a property, the person in charge, or an owner of a property.

**PERSON IN CHARGE.** Any person with actual or constructive possession of a property including, but not limited to, an owner or occupant of property under his or her ownership or control. When an owner of the property and the occupant of a property under his or her ownership or control are not the same person, the person in charge shall include both such persons.

**POLICE CHIEF.** The Chief of Police of the city.

**POLICE OFFICER.** Shall mean a police officer as defined in KRS 15-420.

**PROPERTY.** Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property including, without limitation, other structures erected on the property and areas used for parking, loading, and landscaping. Multi-dwelling units, motels, and hotels constitute one property for the purposes of Chapter 91.

**RESIDENTIAL LANDLORD.** An owner of property upon which is located one or more dwelling units leased or otherwise rented to tenants solely for residential purposes, or a mobile home park or other permanent or semi-permanent site at which lots are leased or otherwise rented to tenants for the parking of a manufactured home, mobile home, or recreational vehicle that is used solely for residential purposes.

## **SECTION 11**

Any and all ordinances in conflict with this ordinance shall be, and hereby are, repealed to the extent of said conflict.

## **SECTION 12**


If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

## **SECTION 13**

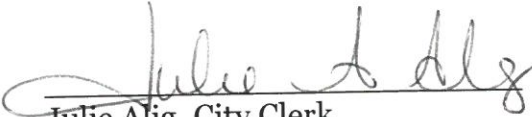
That this ordinance shall become effective upon its passage and shall be published under KRS 83A.060(9) and other applicable law.

Passed by City Council on 12/12, 2016.

CITY OF PARK HILLS, KENTUCKY

By:   
Matthew Mattone, Mayor

ATTEST:

  
Julie Alig, City Clerk

FIRST READING: 11/14/16

SECOND READING: 12/12/16

PUBLICATION: \_\_\_\_\_