

**CITY OF LUDLOW, KENTON COUNTY, KENTUCKY
ORDINANCE NO. 2011-18**

**AN ORDINANCE ADOPTING THE CITY OF LUDLOW
NUISANCE CODE CODIFIED AT CHAPTER 91 OF THE
CITY OF LUDLOW CODE OF ORDINANCES.**

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ludlow, Kentucky as follows:

SECTION I

That Chapter 91: NUISANCES is hereby adopted as follows:

CHAPTER 91: NUISANCES

Sections

- 91.01 Generally
- 91.02 Scope; intent; conflict with other ordinances
- 91.03 Definitions
- 91.04 Public nuisances prohibited
- 91.05 Actions constituting public nuisances
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- 91.14 Administration; record keeping; enforcement

91.15 Powers and duties of the Code Enforcement Officer; record keeping; inspection

91.16 Establishment of Code Enforcement Board; powers

91.17 Code enforcement proceedings; procedure

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91.20 Lien; recording; fines, charges and fees

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91.22 Notice of complaint; whereabouts unknown

91.23 Appeal from final order

91.99 Penalty

§ 91.01 GENERALLY

These regulations shall be known as the Ludlow Nuisance Code, hereinafter referred to as “the code” or “this code”.

§ 91.02 SCOPE; INTENT; CONFLICT WITH OTHER ORDINANCES.

(A) *Purpose.* This code is designed to protect the public health, safety, and welfare by:

(1) Establishing what constitutes a nuisance on residential and non-residential properties and properties without existing structures;

(2) Prohibiting public nuisances that substantially annoy, injure, or endanger the public or unlawfully or substantially interfere with the use and enjoyment of private or public property.

(3) Fixing the responsibilities of owners, operators, and occupants of all occupied residential and non-residential structures, and vacant structures and premises; and

(4) Providing for administration, enforcement, and civil penalties.

(B) *Intent.* This code shall be construed liberally and justly to ensure public health, safety, and welfare insofar as they are affected by the continued use and maintenance of structures and premises.

(C) *Other regulations.* The provisions of this code shall not be construed to prevent the enforcement of other ordinances or regulations.

(D) *Application of other codes.* Any repairs, alterations, or changes to a structure, which are caused directly or indirectly by the enforcement of this code, shall be done in accordance with the procedures and provisions of any other existing codes used and enforced by the city, including but not limited to the city's Property Maintenance Code and the state Building Code, Fire Code, and Electrical Code.

(E) *Remedies.* The provisions of this code shall not be construed to abolish or impair existing or other remedies of the city or its officers or agencies relating to the removal or demolition of any buildings that are dangerous, unsafe, or unsanitary.

(F) *Workmanship.* All repairs, maintenance, work, alterations, or installations that are required for compliance with this code shall be executed and installed in a workmanlike and acceptable manner.

(G) *Conflict with other ordinances or regulations.* In any case where a provision of this code is found to be in conflict with any existing code, ordinance, or regulation of the city, the provision that establishes the highest standard shall apply, so long as the penalty for violation of that provision is civil in nature. If the penalty of the provision establishing the highest standard is not civil in nature, then this code shall be the prevailing authority, with the exception of the state Building Code, Fire Code, and Electrical Code, which shall control over conflicting city ordinances.

§ 91.03 DEFINITIONS.

(A) For the Purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning of the word being defined.

(1) **ALTER** or **ALTERATION.** Any change or modification in the construction or occupancy of a building or structure.

(2) **ABANDON.** To give up or relinquish one's interest or right in property.

(3) **AEROSOL PAINT CONTAINER.** Any aerosol container, regardless of the material from which it is made, that is adopted or made for the purpose of spraying paint capable of defacing property.

(4) **APPROVED.** Approved by the Mayor or the Code Enforcement Officer or any of his or her assistants, staff, or employees.

(5) **BASEMENT.** A portion of a building or structure located partly underground, but having less than one-half of its clean floor-to-ceiling height below the average grade of the adjoining ground.

(6) **BUILDING.** Any structure, constructed on, below, or above ground, for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. The term **BUILDING** shall be construed as if followed by the words, “or any part thereof.”

(7) **BUILDING CODE.** The Kentucky Building Code, as adopted by the city in § _____ of the city Code of Ordinances.

(8) **CART.** Any cart, wagon, or similar device, regardless of means of propulsion, made of wire, metal, wood or other material, such as is generally provided by merchants for carting or carrying merchandise or food stuffs from said merchants’ store or buildings to automobiles or other places without said merchants’ building or store.

(9) **CITY.** The City of Ludlow, Kentucky, a municipal corporation of the fourth class, and including any departments, divisions, boards, or agencies thereof.

(10) **CODE ENFORCEMENT OFFICER.** Any employee of the city working under the direction of the Mayor or any future Director of Code Enforcement or his or her designee, exclusive of clerical and administrative staff, as well as police and fire safety officers.

(11) **DWELLING.** Any building that is wholly or partly used or intended to be used for living, sleeping, cooking, and eating by human occupants, whether or not such building is occupied or vacant, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling. The term **DWELLING** shall be construed as if followed by the word, “or any part thereof.”

(12) **DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, and eating, whether or not such unit is occupied or vacant. The term **DWELLING UNIT** shall be construed as if followed by the words, “or any part thereof.”

(13) **ELECTRICAL CODE.** The National Electrical Code, as adopted by the city in § _____ of the city Code of Ordinances.

(14) **FIRE CODE.** The National Fire Codes and the Standards of Safety promulgated by the Office of the State Fire Marshal, as adopted by the city in § _____ of the city Code of Ordinances.

(15) **GARBAGE.** The organic, animal, and vegetable waste resulting from handling, preparation, cooking and consumption of food or food products. Other general organic materials such as paper and cardboard are also garbage.

(16) **GRAFFITI.** Any inscription, drawing or design that is scratched, painted, sprayed or placed on any surface of any structure that has no redeeming artistic, moral or social value.

(17) **MARKER PEN.** Any indelible marker or similar implement with a writing tip exceeding four millimeters in width that contains solution that cannot be removed with water after it dries.

(18) **OCCUPANT.** Any person living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit, rooming unit, building, or portion of a building.

(19) **OPERATOR.** Any person who has charge, care, or control of a building, or part thereof, in which dwelling units of rooming units are let.

(20) **OWNER.** The holder of the title in fee simple and any person, group of persons, company, association, or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with other:

(a) Shall have legal to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Shall have charge, care, or control of any dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee, or other person, firm, or corporation in control of a building, or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner. It is his or her responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property.

(21) **PERSON.** Any individual, firm, corporation, limited liability company, association, or partnership.

(22) **PLUMBING.** The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm draining facilities, the venting system, and the public or private water supply systems, within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

(23) **PREMISES.** A lot, plot, or parcel of land including the buildings or structures thereon.

(24) **PUBLIC AREA.** Unoccupied open space that is not privately owned, including but not limited to publicly owned property, sidewalks, streets, and rights-of-way.

(25) **REQUIRED.** Means required by some provisions of this code or other law or regulation adopted by the city.

(26) **RUBBISH.** Combustible and non-combustible waste materials, except garbage. The term shall include but not be limited to abandoned, discarded, or unused objects placed outside of a structure, such as furniture, stoves, refrigerators, freezers, washers, dryers, clothes, food, cans, containers, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, synthetic materials, tree branches yard trimmings, tin cans, metal, mineral matter, glass crockery and dust. The term shall also include the residue from the burning of wood, coal, coke, synthetic material, or other combustible material.

(27) **STAGNANT WATER.** A body of water without wind, waves, fish, or frogs, including but not limited to stagnant water in natural ponds, ornamental ponds, old tires, poorly maintained pools, rain barrels, clogged gutters, and other places where standing water may collect.

(28) **STAIRWAY.** One or more flight of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

(29) **STRUCTURE.** An edifice, cellar, building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words, "or any part thereof."

(30) **YARD.** An open unoccupied space on the same lot with building extending along the entire length of a street, or rear or interior lot line.

§ 91.04 PUBLIC NUISANCES PROHIBITED.

No person shall act, fail to act, behave, erect, contrive, cause, continue, maintain in any manner, or permit to exist any public nuisance within the city.

§ 91.05 ACTIONS CONSTITUTING PUBLIC NUISANCES.

(A) The following acts, action, inaction, omissions, behavior, or conditions constitute a public nuisance:

(1) Any act, thing, occupation, condition, use of property, non-use of property, misuse of property that continues for a length of time or be consistently repeated so as to:

(a) Substantially annoy, injure, or endanger the comfort, health, repose or safety of the public;

(b) In any way render the public insecure in life, peaceful uninterrupted existence, or in use of the property;

(c) Offend the public morals or decency;

(d) Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous of passage any street, alley, highway, navigable body of water, or any other public way, including but not limited to sidewalks.

(2) Parking, storing, leaving, or permitting the parking, storing, or leaving of any motor vehicle of any kind that is abandoned, wrecked, dismantled, inoperative, junked, or partially dismantled, whether attended or not, on any public or private property within the City for a period in excess of three (3) days. An exception to this definition of a public nuisance applies to any vehicle held in connection with a lawfully licensed business enterprise properly operating in an appropriate business zone, pursuant to the zoning laws of the City, or to any motor vehicle in an operable condition specifically designed for operation on a drag strip or raceway.

(3) The outside storage in excess of 72 hours of any trailer, mobile home, recreational vehicle, camper, boat, or similar type equipment shall be restricted to the rear yard of all lots within the jurisdiction of the legislative body, except herein provided and in cases where, due to unique conditions, topographic or other, which do not allow use of the rear yard, the Board of Adjustment (if applicable) may permit such storage to be located in the side yard of the lot following review and approval by the Code Enforcement Board. The Code Enforcement Board may impose certain requirements (such as provided in the Zoning Code) to ensure that the vehicle and related equipment is properly screened from view of the adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of an enclosed building on any lot or parcel of land.

(4) To allow any physical condition, use, or occupancy of any premises or its appurtenances or an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, standing pools of water or liquid, basements, excavations, retaining walls, and unsafe fences accessible to children or other persons, on the premises. No person shall abandon or leave unattended in any place accessible to children any refrigerator, freezer ice chest, ice box, or similar airtight box or container, which has a locking device inoperable from within, without first unhinging and removing the door or lid thereof or detaching the locking device from the door or lid. Nothing in this section shall be construed to prohibit the normal use of any refrigerator, ice box, freezer or similar appliance for the storage of food in any home or buildings appurtenant thereto.

(5) For any premises to have unsanitary, defective, or insufficient sewerage or plumbing facilities.

(6) To keep or maintain any premises designated by a code enforcement officer as unsafe or unfit for human habitation.

(7) For any premises to present an imminent fire hazard, be in imminent danger of collapse, or to be unsafe or unsecured so as to endanger life, limb, or property.

(8) For any premises to lack electrical service, plumbing, heating, and/or other equipment required by this code, the Property Maintenance Code, or any other ordinance of the city.

(a) If the utility providing natural gas service to a furnace, water heater, or other equipment determines that the equipment is device inoperable from within, without first unhinging and removing the door or lid thereof or detaching the locking device from the door or lid. Nothing in this section shall be construed to prohibit the normal use of any refrigerator, ice box, freezer, or similar appliance for the storage of food in any home or buildings appurtenant thereto.

(9) For any structure or building to be in a state of dilapidation, deterioration, or decay, or be a product of faulty construction.

(10) For any structure of building to be vacant or abandoned and open or accessible to vagrants or passersby, or damaged by fire so as not to provide shelter.

(11) To allow on any premises or in any structure, any decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public. This section does not prevent any school, fundraising group, or community group from having bake sales or other functions where food and drinks are sold so long as the food and drink and safe or otherwise not harmful.

(12) To allow on any premises or structure any carcass of an animal, bird, or fowl not buried or otherwise properly disposed in a sanitary manner within 24 hours after death.

(13) To allow on any premises or structure any accumulation of decayed animals or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may exist or breed.

(14) To allow on any premises or structure any stagnant water in which mosquitoes, flies, or other insects may breed or multiply.

(15) To allow on any premises or structure abandoned, discarded, or unused objects, such as furniture, mattresses, stoves, refrigerators, freezers, washers, dryers, cans, and containers.

(16) To allow on any premises or structure any noxious weeds and/or other foul smelling growth or vegetation.

(17) To allow any premises or structure within the city limits to create or cause smoke, soot, cinders, noxious acids, fumes, gases, fly ash, or

industrial dust, in such quantities as substantially annoy, injure, or endanger the comfort, health, repose or safety of the public or to threaten or cause substantial injury to the property.

(18) To allow any premises or structure to pollute any public well or cistern, stream, lake, canal, or body of water by sewage, creamery, or industrial wastes or other polluting substances.

(19) To allow any premises or structure within the city limits, or within one mile thereof, to emit or cause any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches repulsive to the physical senses of ordinary persons, or that annoy, cause discomfort, or injure the health of any appreciable number of persons within the city.

(20) For the owner, occupant, or person having control or management of any land within the City to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of rubbish or the excessive growth of weeds or grass other than crops, trees, bushes, flowers or other ornamental plants. For the purposes of this section "excessive growth" shall mean growth at a height exceeding nine (9) inches.

(21) To use a vehicle to further engage in the act of prostitution as defined by KRS 529.020 and 529.080.

(22) To allow any motor vehicle to be parked on an unpaved surface.

(B) Any violation of the above-referenced acts, omissions, behaviors, or conditions is a public nuisance and shall constitute a violation of this code, subject to all of the remedies available to the City of this chapter.

§ 91.06 DANGEROUS BUILDINGS

(A) It shall be a public nuisance and a violation of this code, to keep, maintain, or own a dangerous building within the City. A dangerous building is defined as any of the following:

(1) A building whose interior or exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base; or

(2) A building, exclusive of the foundation, that shows 33% or more damage or deterioration to its supporting members, or 50% or more damage or deterioration its non-supporting members, or to the enclosing or outside wall coverings; or

(3) A building having improperly distributed loads on the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe to the occupants or the public; or

(4) A building damaged by fire, wind or other causes so as to cause the building to become dangerous to life, limb, or property of the occupants or to the public; or

(5) A building that has become or is so dilapidated, decayed, unsafe, unsanitary, or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, occupancy or use, or is likely to cause sickness or disease or injury to health, safety, or general welfare of those living therein; or

(6) A building having light, air, and sanitation facilities that are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein; or

(7) A building having inadequate facilities for egress in case of fire or panic or having sufficient stairways, elevators, fire escapes, or other means of travel; or

(8) A building that has parts or elements that are attached or not attached in such a way that they may fail or fall and cause injury to persons or property; or

(9) A building that is missing or has nonfunctioning smoke detectors or similar detection devices in violation of the City's fire code.

(B) Keeping, maintaining, or owning a dangerous building is a public nuisance and shall constitute a violation of this code, subject to the remedies set forth in this chapter.

§ 91.07 NOISE CONTROL

(A) No person shall make, continue, or cause to be made or continued, any loud, unnecessary, or unusual noise or any noise that either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the City. The following loud, disturbing, and unnecessary noises are considered public nuisances and violations of this code, but said list shall not be deemed exclusive:

(1) *Horns, signaling devices.*

(a) The sounding of any horn or signaling device on any motor vehicle or on any street or public place in the City, except as a danger warning, when such horn or signaling device is:

- (i) unreasonably loud or harsh; or
- (ii) sounded for an unnecessary and unreasonable period of time; or
- (iii) operated by a means other than by hand or electricity, including a device operated by engine exhaust; or

(iv) used when traffic is for any reason delayed or held up.

(b) This section does not apply to locomotives or trains.

(2) *Radios and phonographs.* The use or operation - or permitting the use or operation -- of any radio, receiver, stereo, speaker, amplifier, television, musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of neighbors or other persons with volume louder than is necessary for convenient hearing of person(s) who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto is prohibited. The operations of any such set, instrument, phonograph, machine, or device between the hours of 11 p.m. and 7 a.m. in such a manner as to be plainly audible at a distance of ten feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section. The operation of any such set, instrument, phonograph, machine, or device at all other times in such a manner as to be plainly audible at a distance of 25 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Loud speakers, amplifiers for advertising.* The use of operation - or permitting the use or operation -- of any radio, receiver, stereo, speaker, amplifier, television, musical instrument, phonograph, computer, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is prohibited.

(4) *Yelling, shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11 p.m. and 7 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, structure, dwelling, hotel, or other type of residence, or of any persons in the vicinity, is prohibited.

(5) *Animals, birds.* The keeping of any animal or bird that causes frequent or long continued noise that disturbs the comfort or repose of any persons in the vicinity is prohibited.

(6) *Steam whistles.* The sounding of any locomotive or railroad train whistle or horn, except when permitted by state statutes or other city ordinances, or the sounding of any steam whistle attached to any stationary boiler -- except to give notice of the time to begin or stop work, as warning of fire or danger, or upon request or proper city authorities -- is prohibited.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises from the engine, is prohibited.

(8) *Defect in vehicle or load.* The use of any motor vehicle, railroad train, or vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise is prohibited.

(9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates, and containers is prohibited.

(10) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while such place is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, is prohibited, provided conspicuous signs are displayed in the streets indicating the institutions are nearby and said signs are in compliance with any applicable signage and/or zoning ordinances.

(11) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors, which disturbs the peace and quiet of the neighborhood, is prohibited.

(B) *Pile Drivers and Pneumatic Hammers: Permit.*

(1) No person shall operate any pile driver, steam shovel, pneumatic hammer, or other equipment, the use of which is attended by loud or unusual noises, without receiving a permit from the City of Ludlow or its designated employee or agent.

(2) Except in an emergency, no permit shall be issued to operate such equipment between the hours of 6 p.m. and 7 a.m., Monday through Saturday. Except in an emergency, no such permit shall be issued for any time on Sunday. The Code Enforcement Officer may further restrict the operation of loud equipment in residential areas to limit the disturbance to the public as much as is reasonably possible.

(C) *Exemptions.*

(1) The following sounds are exempt from the provisions of this subchapter:

(a) Sounds caused by natural phenomena or wildlife; and
(b) Unamplified sounds created by domestic animals; and
(c) Sounds created by emergency equipment and work necessary for law enforcement or for the health, welfare and safety of the community; and

(d) Sounds created by portable and stationary generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outages; and

- (e) Sounds originating from aircraft in flight; and
- (f) Sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and
- (g) Sounds created by bells, chimes, and carillons not operating continuously for more than five minutes in any one hour; and
- (h) Sounds created by the repair or installation of essential utility services, streets, and sidewalks; and
- (i) Sounds relating to the repair, addition, or maintenance of existing single-family homes, their grounds, and appurtenances; and
- (j) Sounds emanating from officially sanctioned parades, festivals, or other civic events; and
- (k) Sounds emanating from discharge of firearms on legally established shooting ranges; and
- (l) Amplified sounds that comply with a permit issued by the City; and
- (m) Sounds created by construction and emanating from construction sites between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and 9:00 a.m. and 6:00 p.m. on Saturdays, which are not legal holidays. Sounds emanating from construction sites on Sundays or legal holidays or outside of the exempt work hours are prohibited unless expended hours of operation are authorized by the City.
- (n) Sounds originating from public parks, playgrounds, and recreation areas are exempt from the provisions of this chapter during the hours the parks, playgrounds or recreation areas are open for public use.

(D) *Remedy: Injunction* In addition to the criminal penalties set forth in § 94.99 of this code, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this subchapter and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

§ 91.08 SHOPPING CARTS.

(A) No person shall remove a cart from the property of any retail shopping establishment. Property as used in this section shall be considered to include but not be limited to any public or private parking lot contiguous to the retail shopping establishment.

(B) Every retail establishment that provides carts to its customers that leave the building in which the establishment is located shall post signs in conspicuous locations throughout the parking lot of the retail establishment that state it is unlawful to remove the carts from the premises of the establishment, including, but not limited to, the parking lot.

§ 91.09 GRAFFITI.

(A) *Graffiti prohibited.* Graffiti is prohibited and deemed to be a public nuisance. It shall be unlawful to spray, draw, etch, carve or otherwise create graffiti on any building or structure in the city and any person doing the same shall be subject to a civil fine for the cost of removal.

§ 91.10 CRIMINAL ACTIVITY AS A PUBLIC NUISANCE.

(A) *Definitions.* For the purpose of this section, the definitions are as set forth herein or otherwise defined at section 91.03 of this code.

(1) ***CRIMINAL ACTIVITY NUISANCE.*** Any building or premises where law enforcement officers have, on more than one occasion in the preceding 12-month period, cited or arrested persons for crimes involving prostitution, controlled substances, disorderly conduct, or outdoor gambling, or have executed court-issued search warrants for crimes involving prostitution, controlled substances, disorderly conduct or outdoor gambling.

(2) ***CRIMINAL NUISANCE VIOLATION.*** A criminal citation, arrest, or court-issued search warrant for crimes involving prostitution, controlled substances, alcohol, or gambling.

(B) *Unlawful use of property.* No owner of residential, commercial, or vacant property located in the city shall allow his or her property to be used as the site for any criminal activity nuisance after having received notice pursuant to this code that the property has been used for the commission of a criminal activity nuisance. A legal or equitable owner of such property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this code.

(C) *Destroying orders or notices.* No person or owner shall destroy, remove, or deface any order or notice posted by the Code Enforcement Department or Officer.

(D) *Disobeying orders.* No person or owner shall disobey any order issued by the Code Enforcement Department, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Code Enforcement Officer.

(E) *Duty of Police Department.* The Ludlow Police shall, as soon as possible but not less than every 30 days after criminally citing or arresting persons or executing court-issued search warrants for crimes involving prostitution, controlled substances, or outdoor gambling, notify the Code Enforcement Department or Officer in writing of the specific violation investigated, the address of the property on or in which the violation occurred, and the circumstances of the violation. After the police notify the Code Enforcement Department or Officer of a criminal nuisance violation at a property for the first time, the Code Enforcement Department or Officer shall notify the owner of the property of such violation by regular U.S. mail.

(F) *Notice.* Whenever the Code Enforcement Department or Officer receives information that a criminal activity nuisance exists in or upon residential, commercial, or vacant property, i.e., a second criminal nuisance violation has

occurred at the property, it shall notify the owner that the property is a criminal activity nuisance and that the nuisance must be abated. If a property owner or his or her tenant reports an illegal activity that leads to a criminal citation or court ordered search warrant, such citation or warrant will not be considered a criminal nuisance violation of purposes of this section. The notice required by this section shall be mailed by certified mail, return receipt requested. If certified mail is not accepted or received by the property owner, notice may be served by personal delivery upon the owner. If the whereabouts of the property owner is unknown and it cannot be ascertained by a code enforcement officer in the exercise of reasonable diligence, or if the whereabouts of the owner is known and mailed to him or her, then the code enforcement officer shall make an affidavit to that effect, and thereafter, the officer may serve the notice by posting a copy of the notice by regular U.S. mail to the property owner's last known mailing address, by newspaper publication, pursuant to KRS Chapter 424, and by recording the notice in the Kenton County Clerk's Office.

(G) *Abatement.*

(1) Should the criminal activity nuisance not be abated at the time stated in the notice, or by any extension granted by the city or its agencies, the Code Enforcement Department or Officer shall be authorized at any time thereafter to issue an order closing and vacating the premises, or portions thereof, to the extent necessary to abate the criminal activity nuisance. Such closing and vacating shall be for such period as the Code Enforcement Officer reasonably may direct, but in no event shall the closing and vacating be for a period of more than one year from the date of the closing. A close and vacate order issued by the Code Enforcement Officer pursuant to this section is not an act of possession, ownership, or control by the city. A close and vacate order will be rescinded within 14 days after the criminal activity nuisance is abated unless such premises is the site of repeated close and vacate orders.

(2) If the premises consist of multi-unit dwellings or mixed uses and the criminal activity nuisance has occurred solely within a unit or units, the authority to close and vacate is restricted to the unit or units in which the criminal activity nuisance has occurred, and does not extend to any other unit in the premises.

(3) Upon the issuance of any order provided for in this section, a copy of the order shall be served on the owner of the property in the same manner as the notice provided for in this code, and a copy shall be conspicuously posted on the property.

(4) If any person or owner fails to comply with an order to close and vacate issued pursuant to this section, the Code Enforcement Officer may:

(a) Prohibit the furnishing of utility service, including but not limited to gas, electric, water, and heating oil, to the premises by any public utility holding a franchise to use the streets and public ways of the city;

(b) Revoke the certificate or occupancy of the premises or the occupational license of a business; or

(c) Use any other legal remedy available under the laws of the state.

(5) Pursuant to the provisions or KRS 381.770(6) – (8), the city shall possess a lien against the property for all fines, penalties, charges, and fees imposed and for the reasonable value of labor and materials used to abate the public nuisance. This lien shall be superior to and have priority over all other liens on the property except taxes and may be enforced by judicial proceeding.

(H) *Eviction as a defense.*

(1) It shall be a defense to a violation of this section if the owner has instituted an eviction proceeding within 30 days against the offending tenant or occupants of the offending premises, and the owner completes the eviction within 75 days of commencement or as soon thereafter as the court procedures allow. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, abatement of the public nuisance by eviction will be stayed until the judicial or quasi-judicial proceeding is resolved.

(2) In the case of multi-unit dwellings, the only parties necessary to name in an eviction proceeding are the occupants of the actual unit involved with the activity suspected, or the occupants suspected of the activity described in the notice.

(I) *Relief from order.* The Code Enforcement Officer may Vacate or suspend the provision of an order to close and vacate upon a showing by clean and convincing evidence that the criminal activity nuisance has been abated and will not be maintained or permitted in any unit of the premises.

(J) *Abatement actions not in violation of law.* Actions taken by an owner to abate a criminal activity nuisance shall not be deemed to be violations of Fair Housing or Landlord-Tenant laws.

(K) *Other remedies available.* Enforcement of this section does not impair or restrict the ability of the city to bring a separate action to revoke the occupational license of a landlord of business who allows a criminal activity nuisance to exist on the landlord's property or to bring an action before the Code Enforcement Board for the imposition of civil fines, as set forth in § 91.99(A) of this code. No civil fines will be assessed by the Code Enforcement Board until after notice is sent pursuant to division (F) of this section or if an eviction proceeding has been instituted pursuant to division (H) of this section.

§ 91.11 ANIMALS AND ANIMAL EXCREMENT.

(A) No person shall keep or maintain any animal in the city in such a manner so as to become a public nuisance or to disturb the peace comfort, or health of any person residing within the city. The keeping of all animals within the city shall

also be subject to all pertinent regulations of the City of Ludlow Code of Ordinances and the Kentucky Health Department.

(B) No animal shall be kept on any lot or parcel of land or property within the city territorial limits consisting of less than 10,000 square feet in area. However, this provision shall not apply to small household pets, such as dogs or cats, or those animals kept or maintained for commercial purposes, which is a lawful use under the zoning code.

(C) *Removal of Excrement.*

(1) Any person having the custody and control of any dog, cat, or other domestic animal on public property shall have the responsibility for cleaning up the excrement of the animal and disposing of such feces in a sanitary manner. It shall also be the duty of said person to have in his or her possession suitable equipment or supplies to pick up, remove, and dispose of the animal excrement.

(2) No person shall allow excessive animal excrement to accumulate on his or her premises, including his or her yard. For purposes of this section, **EXCESSIVE** shall mean more than ten (10) separate deposits or droppings of animal excrement. Excessive accumulation of animal excrement is a public nuisance and shall constitute a violation of this code, subject to the remedies set forth in this chapter.

(D) No person shall deposit any dead animal matter, offal, or any solid animal matter in any sewer, watercourse, vacant lot, public right-of-way, or pond or lake in the city. The depositing of the refuse of animal matter in any such place is a public nuisance and shall constitute a violation of this code, subject to the remedies set forth in this chapter.

§ 91.12 BUILDINGS DEEMED UNFIT FOR HUMAN HABITATION, OCCUPANCY, OR USE – ADMINISTRATIVE PROCEDURES – REQUIREMENTS FOR COMPLIANCE WITH THIS CODE

(A) Whenever a complaint is filed with the City of Ludlow by the code enforcement officer, an agency of the City, or a person charging or alleging that any structure is unfit for human habitation, occupancy, or use, or whenever it appears to a code enforcement officer that any structure is unfit for human habitation, occupancy, or use, the Code Enforcement Officer, or his or her designee, shall:

(1) Conduct a preliminary investigation to determine if there is a reasonable basis for the allegations.

(2) If there is a reasonable basis for the allegations, he or she shall serve a notice of human habitation, occupancy, or use. Notice may be sent by certified mail, return receipt requested, or by personal delivery upon the owner. If the whereabouts of the property owner is unknown and it cannot be ascertained by a code enforcement officer in the exercise of reasonable diligence, or if the

whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the code enforcement officer shall make an affidavit to that effect, and thereafter, the officer may serve the notice by posting a copy of it in a conspicuous place on the premises, by sending a copy of the notice by regular U.S. mail to the property owner's last known mailing address, by newspaper publication, pursuant to KRS Chapter 424, and by recording the notice in the Kenton County clerk's office.

(B) If the Code Enforcement Officer, or his or her designee, believes that the violation(s) can be abated or ameliorated without a formal hearing, he or she shall serve on the owner of the building or structure a notice of violation that contains a list of the violation(s) of this code or other City ordinance. This notice should be served upon the owner in the same manner as specified in paragraph (A)(2) of this subchapter. The notice of violation shall include a statement that the violation(s) must be corrected within a specified period of time from the receipt of the notice of violation. The notice of violation shall also contain a statement informing the owner of the building or structure that a hearing may be requested before the Code Enforcement Officer. Any request for a hearing requested by an owner shall be in writing and delivered to the Code Enforcement Officer within five days after receipt of the notice of violation. The request for a hearing shall be mailed by certified mail, return receipt requested, or hand delivered to:

City of Ludlow, Kentucky
Code Enforcement Officer
51 Elm Street
Ludlow, KY 41016

(C) If the Code Enforcement Officer believes that an immediate hearing is necessary because of the nature and seriousness of the violations at the building or structure, he or she shall serve on the owner of the property, a notice of violation listing the violation(s) of this code or other City ordinance. This notice shall establish a place and time for the hearing, which will determine whether or not the building or structure is unfit for human habitation, occupancy, or use. This notice should be served upon the owner in the same manner as specified in paragraph (A)(2) of this subchapter.

(D) The notice of violation and hearing sent pursuant to section (C) immediately above shall include the date, time, and place for a hearing on the notice of violation. The actual hearing shall be held at least seven days but no more than 30 days after the notice of violation and hearing is served upon the owner.

(E) The owner of the building or structure may file a response to the notice of violation(s) and may appear in person to give sworn testimony at the above mentioned hearing.

(F) The Code Enforcement Officer or his or her designee shall conduct the hearing. While the Kentucky Rules of Evidence and the Kentucky Rules of Civil Procedure shall not be controlling in the hearing, all parties testifying in the hearing

shall be sworn and it shall be the duty of the Code Enforcement Officer or other designated hearing officer to afford due process to all parties involved in the hearing.

(G) The owner of the building or structure may choose to waive the hearing if he or she agrees to correct any and all violations within a reasonable amount of time, as determined by the Code Enforcement Officer.

(H) After expiration of the specific period of time in which the owner was required to vacate, repair, demolish, alter, or improve the building or structure, pursuant to the findings of fact and order, the Code Enforcement Officer shall re-inspect the property to determine whether or not it is in compliance with the order. Prior to re-inspection, the owner of the building or structure may request an extension of time in which to continue work on the subject property; however, the granting of an extension of time rests in the sole discretion of the Code Enforcement Officer.

(I) If the owner of the building or structure fails to comply with the order of the Code Enforcement Officer to vacate, repair, demolish, alter, or improve the subject property, the Code Enforcement Officer may cause the structure to be altered, repaired, improved, vacated, or demolished or any combination thereof. The Code Enforcement Officer may also cause to be posted on the main entrance of any structure so closed, a placard with the following statement:

“This building is unfit for human habitation occupancy, or use; the use or occupation of this building for human habitation, occupancy, or use is prohibited and unlawful.”

(J) In addition to the above-referenced remedies set forth in this subchapter, buildings or structures that are unfit for human habitation, occupancy, or use shall be deemed a public nuisance and shall constitute a violation of this code, subject to the remedies set forth in § 91.18, § 91.21, and § 91.99 of this chapter.

(K) Any person who defaces or removes placard(s) from a building or structure, without approval from a code enforcement officer or any person found occupying – whether on a temporary or permanent basis – a building or structure that has been placarded by the Code Enforcement Department or Officer shall be deemed guilty of a misdemeanor and subject to immediate arrest under Chapter 91.99 (C).

§ 91.13 EMERGENCY MEASURES.

(A) The Code Enforcement Officer, in addition to his or her regular powers and authority, shall also have special authority and power to handle those situations deemed by said Code Enforcement Officer to be an emergency. These additional powers shall be as follows:

(1) When in the opinion of the Code Enforcement Officer a building or structure, or any part thereof, is in imminent danger of collapse or failure, which may endanger life or cause serious physical injury or property damage,

or an imminent fire hazard exists because a building or structure, or any part thereof, is vacant, abandoned, or unsecured, the Code Enforcement Officer may cause the necessary work to be done to render such building or structure, or any part thereof, temporarily safe. When necessary for the public safety, the Code Enforcement Officer may temporarily close sidewalks, streets, buildings, and structures and places adjacent to such unsafe buildings and prohibit them from being used.

(2) If the Code Enforcement Officer finds that such dangerous conditions exist, as expressed in section (A)(1) immediately above, than he or she shall cause, without a hearing, a placard to be posted on the main entrance with words identical to those of § 91.12 (I) above. In addition, should the building or structure be occupied, the Code Enforcement Officer shall apply to a court of appropriate jurisdiction for an order of ejectment or other legal or equitable relief to remove the occupants and their belongings from the building or structure. The Code Enforcement Officer shall immediately state in writing his or her findings of fact and order supporting the determination to act without a hearing. The written findings of fact and order may be sent by certified mail, return receipt requested, or by personal delivery upon the owner. If the whereabouts of the property owner is unknown and it cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the Code Enforcement Officer shall make an affidavit to that effect, and thereafter, the Code Enforcement Officer may serve the written findings of fact and order by posting a copy of it in a conspicuous place on the premises, by sending a copy of it by regular U.S. mail to the property owner's last known mailing address, by newspaper publication, pursuant to KRS Chapter 424, and by recording it in the Kenton County clerk's office.

(3) While the administrative procedures provided for herein need not be initiated prior to taking the emergency measures, the Code Enforcement Officer shall, in writing, set forth the factual basis for his or her decision to implement these emergency measures and provide notice to and conduct an administrative hearing with the owner of the building or structure. The procedure for an administrative hearing shall be the same as set forth in § 91.12(F). The findings of fact and order resulting an administrative hearing conducted pursuant to KRS Chapter 424, and by recording it in the Kenton Circuit Court.

(B) The City shall initially incur any costs associated with any emergency work ordered by the Code Enforcement Officer in accordance with this code. Upon completion of the emergency work, the City may recover its costs by filing a lien on a property on which the emergency work was performed or by any other appropriate legal action.

§ 91.14 ADMINISTRATION; RECORD KEEPING; ENFORCEMENT.

(A) The enforcement and administration of this code shall be carried out under the direction of the Code Enforcement Officer for the city, working in conjunction with the City Police Chief, City Fire Chief, the County Health

Department, and other officials or agencies deemed appropriate by the Code Enforcement Officer or the Mayor, City Administrator, and City Council. If necessary, the Code Enforcement Officer may seek written opinions concerning the conditions of dwellings and structures from these officials or agencies or professionals outside the city. All references to the Code Enforcement Department shall be deemed to include the Police Department and Fire Department for the city.

(B) The Code Enforcement Officer and his or her assistants, staff, or employees shall be free from personal liability for acts performed within the scope of their employment and for those acts performed in good faith in the performance of their official duties.

(C) The Code Enforcement Officer or any one of his or her assistants, staff, or employees shall not have a financial interest in the furnishing of labor material, or appliances for the construction, alteration, or maintenance of a building in the city, except where he or she is the owner, and shall not act as an agent for real estate sales, leases, or rentals of buildings in the city, except where he or she is the owner, or unless authorized by the Mayor.

§ 91.15 POWERS AND DUTIES OF THE CODE ENFORCEMENT OFFICER; RECORD KEEPING; INSPECTION.

(A) The Powers and duties of the Code Enforcement Officer, or any person that he or she may designate, including code enforcement officers, assistants, staff, or employees, shall include but not be limited to the following:

(1) To conduct surveys and make inspections in any area of the community or within the city to determine compliance with this code or other ordinances he or she is empowered to enforce.

(2) To investigate all complaints made about buildings, structures, vacant lots, or other premises within the city, whether they be verbal, written, or in the form of a petition, alleging or charging that a violation of this code exists or that a dwelling, structure, or building is unfit or unsafe for human habitation or other occupancy.

(3) To inspect, survey, or investigate any building, structure, dwelling, or premises between the hours of 8:00 a.m. and 8:00 p.m., or at any time if an emergency exists or if requested by the owner or occupant. A code enforcement officer may enter a building, structure, or dwelling, or premises to inspect, survey, or investigate with the consent of the owner or occupant, in emergency situations, or when an inspection, survey, or investigation is required before a permit is issued or funding is provided by the city or is part of a licensing scheme adopted by the city. If an owner or occupant refuses to consent to entry or inspection of a building, structure, dwelling, or premises, a code enforcement officer may obtain a search warrant for this purpose from a court of appropriate jurisdiction. In addition, a code enforcement officer may obtain a search warrant to inspect several buildings or structures in a particular area as part of an area inspection policy promulgated by the city. Probable cause to issue a search warrant may be based upon the passage of

time, the nature of the building (e.g., a multi-family apartment house), the condition of the entire area, or other reasonable legislative or administrative standards adopted by the city. Probable cause does not need to depend upon specific knowledge of a condition existing in a particular dwelling. A code enforcement officer conducting an inspection pursuant to this chapter shall provide identification and statement of purpose before entering any building structure, dwelling, or premises and the person in possession or in charge of the building, structure, dwelling, or premises shall give the Code Enforcement Officer and his or her assistants, staff, or employees free access to such property for the purposes set forth herein.

(4) To administer oaths and affirmations, to examine witnesses, and receive evidence.

(5) To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purpose of this code.

(6) To delegate any of his or her functions and powers under this code and other ordinances to such officers, agents, and employees as he or she designates.

(7) To seek through the appropriate judicial officer or office, such warrants that are necessary to enforce the provisions of this code and in pursuit of said warrants, make such oath or affirmation necessary in support thereof.

(8) To keep records of all complaints received, inspection reports, orders, and of other actions taken. The records shall be made available for public inspection upon request within a reasonable amount of time. The Code Enforcement Officer shall prepare an annual report including statistics based on the records kept.

(9) Inspection of public documents maintained by the Code Enforcement Officer shall be allowed only after a written application is made to the City of Ludlow. Inspection of public documents shall be done in the presence of an authorized employee or agent of the City of Ludlow. If copies are requested, the city may require advance payment of a copying fee, including postage, before providing the copies to the requestor. The city reserves the right to withhold requested documents or redact portions of documents that may constitute an unwarranted invasion of personal privacy.

(10) Under normal circumstances, public records shall be provided within three days after receipt of a request for such records (excepting Saturdays, Sundays and legal holidays); or, in the event that the public document is determined to be exempt, pursuant to KRS 61.878, notification of such determination shall be made within three days (excepting Saturdays, Sundays and legal holidays). Notification shall be made in the manner provided by KRS 61.880.

(11) Blanket requests for information on particular subjects without specifying certain public documents shall not be honored. No list of information

gathered from public documents shall be provided unless such lists are already in existence and not otherwise confidential by law.

§ 91.16 ESTABLISHMENT OF CODE ENFORCEMENT BOARD; POWERS.

(A) The city's Code Enforcement Board (hereinafter referred to as "the board") is hereby established.

(B) The board is established pursuant to KRS 65.8801 *et seq.*, and shall be appointed by the Mayor of the city.

(C) The board members shall serve as hearing officers pursuant to this chapter of the code and shall hear all matters pursuant to KRS 65.8802 *et seq.*

(D) Upon the hearing of cases pursuant to KRS 65.8801 *et seq.*, the board shall issue findings of facts, conclusions of law, and orders pursuant to its authority described in KRS 65.8801 *et seq.*

(E) The initial appointments of the members of the board shall be made pursuant to KRS 65.8808 and KRS 65.8811 *et seq.* The initial appointments to the board shall be as follows:

- (1) One member shall be appointed for a term of one year.
- (2) Two members shall be appointed for a term of two years each.
- (3) Two members appointed for a term of three years each.

(F) Each member of the board shall have resided within the boundaries of the city for a period of at least one year prior to the date of the member's appointment and shall reside there throughout the term in office.

(G) A board member may be reappointed, by the Mayor and subject to the approval of City Council. All subsequent appointments shall be for a term of three years.

(H) Any vacancy on the board shall be filled within 60 days by the executive authority, subject to the approval of the legislative body pursuant to KRS 65.8811(5). If a vacancy is not filled by the executive authority within 60 days, the remaining board members shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(I) Any member of the board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty, pursuant to KRS 65.8811(6). Any appointing authority who exercises the power to remove a member of the board shall submit a written statement to the member and to the legislative body of the city setting forth the reason(s) for removal. The member so removed shall have the right to appeal the removal to the Kenton Circuit Court pursuant to KRS 65.8811(6).

(J) All members of the board shall, before entering upon their duties, take the oath of office prescribed by § 228 of the Kentucky Constitution.

(K) No member of the board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city.

(L) Each member of the board shall be compensated for his or her services as authorized by the Mayor of the city and the City Council.

(M) The board shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among its members who shall be the presiding officer and a full voting member of the board. In the absence of the chairperson, the remaining members of the board shall select one of their number to preside in place of the chairperson and exercise the powers of the chairperson.

(N) Meetings of the board shall convene at a time and place to be designated by the board in the Council Chambers located **on the first floor of the City of Ludlow Building, (Ludlow Municipal Center) 51 Elm Street, Ludlow, Kentucky**, or at any other time that the board decides upon. Regardless of the actual meeting times set by the board, it shall convene at least once a month. These meeting times shall not be altered without proper notice to the Code Enforcement Officer or his or her designee so that all hearing times may be noticed and scheduled. This notice shall be in writing and signed by the chairperson or acting chairperson of the board.

(O) The presence of a majority of members shall constitute a quorum on the board. The affirmative vote of a majority of the members constituting a quorum shall be necessary, for any official action to be taken. Any member of the board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter and shall not be counted for purposes of establishing a quorum.

(P) Minutes shall be kept for all proceedings of the board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

(Q) All meetings and hearings of the board shall be open to the public.

(R) The city, by and through the Code Enforcement Department, shall provide clerical and administrative personnel reasonably needed by the board for the proper conduct of its duties.

(S) The Mayor of the city may appoint two alternative members to serve on the board in the absence of regular board members. The appointment of the alternates shall be subject to the approval of the City Council. Alternate board members shall meet all of the qualifications and be subject to all of the requirements that apply to regular board members.

(T) The board shall have the power to enforce any ordinance, including any zoning ordinance or regulation, adopted by the city so long as a violation of the

ordinance is classified as a civil offense or the ordinance establishes civil fines as the penalty to be imposed on any person who violates the ordinance. Any ordinance or regulation enforced by the board shall provide by its express terms the following:

- (1) That a violation of the ordinance is a civil offense;
- (2) A maximum civil fine that may be imposed for each violation of the ordinance; and
- (3) A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.

(U) No provision of this chapter shall be enforced as a civil offense if the same conduct constitutes a criminal offense or a moving motor vehicle offense under any provision of the Kentucky Revised Statutes.

(V) The board shall have the following powers when enforcing ordinances:

(1) To conduct hearings to determine whether there has been a violation of any ordinance of the city for which a violation thereof has been designated a civil offense.

(2) To subpoena alleged violators, witnesses, and evidence to hearings. Subpoenas issued by the board may be served by any code enforcement officer.

(3) To take testimony under oath. The chairperson of the board shall have the authority to administer oaths to witnesses prior to their testimony before the board on any matter.

(4) To make findings and issue orders necessary to remedy any violation of an ordinance of the city that the board has jurisdiction to enforce.

(5) To impose civil fines as authorized by this chapter on any person found to be in violation of any ordinance that the board has jurisdiction to enforce.

§ 91.17 CODE ENFORCEMENT PROCEEDINGS; PROCEDURE.

(A) Pursuant to KRS 65.8825(1), enforcement proceedings before the board shall be initiated by the issuance of a citation by a code enforcement officer.

(B) When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation to the offender. When authorized, a code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation can be remedied within a specified time period. If the person to whom the notice is given fails or refuses to

remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.

(1) If a code enforcement officer elects to give notice of violation in lieu of immediately issuing a citation, this notice should be sent to the offending party by regular first-class mail at the last known address of the party.

(2) The notice required by this section shall be in plain language and shall:

(a) Be in writing;

(b) Include a description of the real estate sufficient for its identification;

(c) Include a statement of the reason why the notice of violation is being issued; and

(d) Include a correction order allowing a reasonable amount of time for the correction of any and all violations.

(C) Any citation issued by the code enforcement officer shall be in a form prescribed by the city and shall contain, in addition to any other information required by ordinance or rule of the board, 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 offense or violation was committed;

(4) The facts constituting the offense of violation;

(5) The section of the code or number of the ordinance violated;

(6) The name of the code enforcement officer;

(7) The civil fine that will be imposed for the violation if the person does not contest the citation;

(8) The maximum civil fine that may be imposed if the person elects to contest the citation;

(9) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(10) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be

deemed to have waived the right to a hearing before the board to contest the citation and that the determination that a violation was committed shall be final.

(D) After issuing a citation to an alleged violator, the code enforcement officer shall notify the Code Enforcement Board by delivering the citation to the administrative official designated by the ordinance or by the board.

(E) When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the board to contest the citation. If a hearing is requested, the person requesting the hearing shall pay an administrative hearing fee in the amount of \$25 at the time of the written request for the hearing. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

§ 91.18 CODE ENFORCEMENT BOARD HEARINGS; NOTICE; FAILURE TO APPEAR; PROCEDURE; FINAL ORDER.

(A) When a hearing before the board has been requested, the board, through its clerical and administrative staff, shall schedule a hearing. Not less than seven days before the date set for the hearing, the board shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice of the hearing may be given by:

(1) Certified mail, returned receipt requested;

(2) Personal delivery; or

(3) By leaving the notice at the person's usual place of residence with any person residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(B) Each case before the board may be prosecuted by an attorney selected by the city or a code enforcement officer, or other person designated by the Code Enforcement Officer.

(C) All testimony at the board hearings shall be under oath and shall be recorded. The board shall take testimony from the code enforcement officer, the alleged offender, and any witnesses regarding the alleged violation offered by the prosecutor or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(D) At the hearing, the board shall determine, based on the evidence presented, whether a violation was committed. When the board determines that no violation was committed, an order dismissing the citation shall be entered. When

the board determines that a violation has been committed, it shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount authorized by ordinance, or may order the offender to remedy a continuing violation within a specified period of the time to avoid the imposition of the fine, or may order both.

(E) Every final order of the board shall be reduced to writing and include the date and order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any person residing wherein who is 18 years or age or older and who is informed of the contents of the order.

(F) Any person requesting a hearing before the board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the board shall enter a final order determining that the violation was committed, imposing the civil fine set forth in the citation, and deliver it to the person in the manner prescribed in division (E) of this section.

§ 91.19 APPEALS OF CODE ENFORCEMENT BOARD; FINAL JUDGMENT.

(A) An appeal from any final order issued by the board may be made to the Kenton District Court within 30 days after the date when the order is issued by the board. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action under the Rules of Civil Procedure. The appeal shall be a de novo hearing pursuant the laws of the Commonwealth of Kentucky.

(B) A judgment of the Kenton District Court may be appealed to the Kenton Circuit Court in accordance with the Rules of Civil Procedure.

(C) If no appeal from a final order of the board is filed within the time period set forth in this section, the board's order shall be deemed final for all purposes.

§ 94.20 LIEN; RECORDING; FINES, CHARGES AND FEES.

(A) The city shall possess a lien on real property owned by the person found by a final order of the board (that is not appealed), or by final judgment of a court, to have committed a violation of a city ordinance in the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance in question. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall take precedence over all other subsequent liens, except state, county, school, and city taxed, and may be enforced by judicial proceedings.

(B) In addition to any other civil remedies prescribed in this code, a person found to have committed a violation of this code shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance. The city may bring a civil action against the person to recover such damages.

§ 91.21 INJUNCTION BY THE CITY.

The city may elect to file a suit for injunctive relief in circuit court against any person who creates a public nuisance described in § 91.05(A)(2), (4), (6) or (16), § 91.06, or § 91.07 to remove the nuisance.

§ 91.22 NOTICE OF COMPLAINT; WHEREABOUTS UNKNOWN.

All notices, complaints, findings, and orders issued by code enforcement officers pursuant to this chapter shall be served on persons by the method described in the individual sections of this chapter, but if a method is not described therein, then such persons may be served by certified mail or personal service. If the whereabouts of a person is unknown and it cannot be ascertained by a code enforcement officer in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the code enforcement officer shall make an affidavit to that effect, and thereafter, such notice complaint, findings, or order may be served on such persons by posting the same in a conspicuous place on the premises, and by sending a copy of same by regular U.S. mail to the person's last known mailing address.

§ 91.23 APPEAL FROM FINAL ORDER.

Unless a different time period or manner of appeal is specified in the other sections of this chapter, any person affected by an order issued by the Code Enforcement Officer may, within 30 days after entry of the final order, petition the circuit court for an injunction restraining the city from carrying out the provisions of the order, and the court may issue a temporary injunction restraining the public officer pending final disposition of the case.

§ 91.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code, with the exception of §§ 91.07 and § 91.08, shall be subject to a civil fine of not less than \$100 per day per violation but not more than \$500 per day per violation, or the cost to the city to abate the public nuisance, or both. Each date that a violation of this code continues after due notice has been served in accordance with the terms of this code shall be deemed a separate offense to a maximum of \$10,000 per citation.

(B) As an additional alternative remedy to the above penalty, any violator who violates any provision of the city nuisance code and has been previously issued two or more citations of violations of the nuisance code relating to the same property

within a 12-month period may be assessed additional civil penalties of \$500 per day per violation to a maximum of \$20,000 per citation.

(C) The city shall possess a lien on property for all fines, penalties, charges, attorney’s fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

(D) Any person(s) who violates §§ 91.07 or 91.08 of this code shall be deemed guilty of a Class B misdemeanor.

SECTION II

Any and all ordinances or partial ordinances in conflict herewith are to the extent of such conflict are hereby repealed.

SECTION III

This ordinance shall be in full force and effect from and after its passage and publication, which may be in summary form, according to law.

Passed by the City Council this _____ day of _____, 2011.

CITY OF LUDLOW, KENTUCKY
A Municipal Corporation of the Fourth Class

BY: _____
Kenneth Wynn, Mayor

Attest: _____
Laurie Sparks, City Clerk

First Reading: _____ Second Reading: _____ Publication: _____