

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY PROHIBITING CERTAIN CONDITIONS AND USES OF REAL ESTATE AND STRUCTURES IN THE CITY AND PROVIDING CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the conditions and uses of real estate in the City and the structures thereon may affect the use, enjoyment and the economic value of adjoining real estate and structures; and

WHEREAS, the municipal prohibition of specific conditions and uses of real estate and the structures thereon that have a detrimental effect upon the use, enjoyment and economic value of adjoining property is in furtherance of the public purpose of the promotion of the public welfare and is not in conflict with any constitutional provision or statute.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

Section 1.0 Definitions

As used herein, the following words and phrases have the meaning provided herein for them unless otherwise provided in this ordinance:

1.2 Anybody:

The word “anybody” means 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.

1.3 Banner Sign:

The words “banner sign” mean any commercial sign composed of any pliable plastic or cloth, without a rigid supporting frame.

1.4 Building:

The word “building” means any relatively permanent enclosure consisting of no less than three connected walls covered by a roof.

1.5 Codes Enforcement Officer:

The words “code enforcement officer” have the same meaning provided for them in KRS 65.8805.

1.6 City:

The word “City” means the City of Erlanger.

1.7 Commercial Sign:

The words “commercial sign” mean any sign which includes any information, message or identification which is, in any way, related to the promotion of any business or commerce.

1.8 Control:

The word “control” means to exercise restraint or direction over.

1.10 Everybody:

The word “everybody” means 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.

1.11 The words “excessive growth” mean a growth in excess of six (6) inches above the surface of the ground.

1.12 Fowl

The word “fowl” means any hen, rooster, chicken, duck, turkey, pheasant or any of several other, usually gallinaceous, birds.

1.13 Graffiti:

The word “graffiti” means 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.

1.14 Inoperable Motor Vehicle:

The words “inoperable motor vehicle” mean a motor vehicle that is either:

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

1.15 Livestock

The word “livestock” means animals of the bovine, ovine, porcine, caprine, equine, camelid and cervid species, including, without limitation, horses, cattle, sheep, swine and goats.

1.16 Municipal Solid Waste:

The words “municipal solid waste” have the same meaning provided for them in K.R. S. 224.01-010(31)(a)(4).

1.17 Municipal Solid Waste Container:

The words “municipal solid waste container” mean a clean, covered, rigid metal or plastic container with a capacity of no less than thirty (30) gallons and no more than ninety-six gallons.

1.18 Nobody:

The word “nobody” means no human being, or any organization or combination thereof, in the form of a corporation, partnership, joint venture, unincorporated association or otherwise.

1.19 Open Burning:

The words “open burning” mean the burning of any material in an area which is not enclosed within a building.

1.20 Outside:

The word “outside” means an area of a lot or parcel of real estate that is not enclosed within a building.

1.21 Recreational Vehicle:

The words “recreational vehicle” have the same meaning provided for them in KRS 227.550(12).

1.22 Rubbish

The word “rubbish” means worthless, discarded material.

1.23 Unleashed Animal:

The words “unleashed animal” mean any animal that is not secured and controlled by the owner or custodian of that animal by means of a leash.

Section 2.0 Prohibitions

The following actions, omissions, behavior, conditions and occurrences upon any lot or parcel of real estate within the City are hereby prohibited; and nobody shall, by either act or omission, conspire, cause, permit, encourage, aid, assist, allow or engage in any of them:

2.1 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:

2.1.1 Those that constitute a “public nuisance” within the definition thereof in section PM-302.1 of the International Property Maintenance Code adopted by ordinance 2240 of the City.

2.1.2 Those structures that are designed and intended for human for human habitation, occupancy or use; but 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.

2.1.3 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

2.1.4 Those in violation of the 2015 NFPA 1 Uniform Fire Code that was published by the National Fire Protection Association, a copy of which accompanies this ordinance and is hereby made a part of the permanent records of the City and incorporated herein by reference.

2.1.4 The development of a public nuisance thereon through the accumulation of:

- 2.1.4.1 Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment.
 - 2.1.4.2 One (1) or more mobile or manufactured homes as defined in K.R.S.227.550 that are junked, wrecked, or inoperative and which are not inhabited.
 - 2.1.4.3 Rubbish
 - 2.1.4.4 The excessive growth of weeds or grass.
- 2.2 The parking of any recreational vehicle, boat or trailer on any occupied residential area except for only one of any such vehicles:
- 2.2.1 In the rear yard of any lot or parcel of real estate; or
 - 2.2.2 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 (1) foot of any point in the nearest boundary line; or
 - 2.2.3 In any driveway, provided that:
 - i. The area thereof occupied by any such vehicle is in addition to all off street parking areas required by this ordinance; and
 - ii. 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
 - iii. No part of any such vehicle is within one (1) foot of any point in the nearest boundary line.
- 2.3 The accumulation of any municipal solid waste anywhere unless it is enclosed within a covered municipal solid waste container.
- 2.4 No person, firm or corporation shall cause or permit municipal solid waste containers or any similar type containers of any kind to be placed at the curb line in front of any premises for collection before

the hour of 4:00 p.m., prevailing time of the evening before the collection dates on the street or alley on which the premises are located, and the containers shall be placed at the curb line in front of the premises. It shall be unlawful for garbage or trash containers to be placed for collection prior to the time contained herein on the streets or alleys or for the garbage or trash containers to remain on the streets or alleys except on the collection dates. After the containers have been emptied, the person owning the containers shall remove the containers from the front of the premises and place them within two feet of their premises or garage with the goal of hiding them from view as much as practical.

No garbage or trash containers shall be placed on the streets or alleys in violation of the provisions of this section by any person for any reason

- 2.5 The collection and removal of any municipal solid waste by mechanical means during the period of time after 12:00 A.M. and before 6:00 A.M., from any real estate that is not used for residential purposes but which abuts, is adjacent to or across a street from any real estate that is used for residential purposes.
- 2.6 The occurrence of any unleashed animal anywhere in the City other than on lot or parcel of real estate enclosed by a fence:
 - 2.6.1 In which the owner or custodian of the unleashed animal has an ownership or possessory interest; or
 - 2.6.2 Upon which the unleashed animal has been authorized by someone who has an ownership or possessory interest in that lot or parcel of real estate.
- 2.7 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.
- 2.8 Any open burning without the permit required by City Ordinance 2086.
- 2.9 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.

- 2.10 Any more than one (1) banner sign on the premises of any business.
- 2.11 Any 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.
- 2.12 The occurrence, existence or continuation of any graffiti.
- 2.13 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.
- 2.14 Any outdoor swimming pool in which:
 - 2.14.1 The water in the pool is contaminated with dangerous disease causing pathogens, including bacteria; or
 - 2.14.2 Water may be retained and impounded in the pool to a depth of twenty-four (24) inches or more at any one point; and the pool area isn't always completely surrounded by a fence that is at least four (4) feet in height, which precludes access to the water in the pool without opening a gate or climbing over the fence, with all of the gates in the fence having an automatic self closing mechanism.
- 2.15 The location of any fowl or livestock within 500 feet of any residence other than that of the owner of such fowl or livestock.

Section 3.0 Violations

A violation of this ordinance occurs whenever anybody, by either act or omission, conspires causes, permits, encourages, aids, assists, allows or engages in any of the acts, actions, behavior, conditions and occurrences prohibited by this ordinance; and each and every separate non-continuing occurrence thereof, and each and every day of each continuing occurrence thereof is a separate violation of this ordinance.

Section 4.0 Civil Offense

Each separate violation of this ordinance constitutes a civil offense; and, pursuant to the requirements of K.R.S.65.8808, the penalties to be imposed upon persons determined to have violated this ordinance are hereby established as follows:

4.1 The specific civil fine that shall be imposed for each separate violation of this ordinance in the event that a citation for that violation is not contested is hereby established at \$100.00 for a first violation, \$250.00 for a second occurrence of the same violation, and \$500.00 for the third and each subsequent occurrence of the same violation, plus the costs of collection, including, without limitation, court costs and attorney fees.

4.2 The maximum civil fine that may be imposed for each separate violation of this ordinance is hereby established at \$500.00 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.

Section 5.0 Criminal Offense

Each violation of this ordinance 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 \$500.00 as set forth in K.R.S. 534.050 (2) (a) or a term of imprisonment not to exceed the maximum period of twelve (12) months as set forth in K.R.S. 532.090 (1), or both.

Section 6.0 Provisions Severable

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section 7.0 Conflicting Ordinances Repealed

City ordinances numbered 2328 and 2361 that are codified at sections 93.15 through 93.99 and 104.01 through 104.99, respectively, are hereby repealed, along with all other ordinances or parts of ordinances in conflict with the provisions of this ordinance.

Section 8.0 Effective Date

This ordinance shall be effective at midnight on the evening of December 31, 2016.

Section 17.0 Publication

This ordinance shall be published in summary pursuant to K.R.S. 83A.060 (9).

TYSON HERMES, MAYOR