

**CITY OF STANFORD, KENTUCKY**  
**ORDINANCE NO. 2017-0501**

**AN ORDINANCE AMENDING CITY ORDINANCES IN COMPLIANCE WITH 2016 KENTUCKY HOUSE BILL 422 TO INCLUDE REVISIONS RELATED TO CODE ENFORCEMENT, NUISANCES, AND ESTABLISHMENT OF A LIENHOLDER NOTIFICATION SYSTEM.**

**WHEREAS**, House Bill 422 (2016 Ky. Acts ch. 86) which amends KRS 65.8801 to KRS 65.8839 and other various sections of Kentucky Revised Statute, provided for comprehensive revisions to the code enforcement procedures applicable to local governments;

**WHEREAS**, it is the intent of KRS 65.8801 to 65.8839, as amended to protect, promote, and improve the health, safety, and welfare of the citizens residing within the City by authorizing the creation and continued use of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with the ordinances in force within the City; and

**WHEREAS**, it is the desire of the City Council of the City of Stanford, Kentucky to continue to utilize the authority granted in KRS 65.8801 to 65.8839 by utilizing a Code Enforcement Board.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY OF STANFORD, LINCOLN COUNTY, KENTUCKY AS FOLLOWS:**

Section I

That Chapter 92 in its entirety, as codified by City of Stanford Code of Ordinances, is rescinded.

Section II

That the following sections shall be added to the Code of Ordinances for the City of Stanford:

**CHAPTER 92 – NUISANCES.**

**§92.01 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.

**§92.02 Actions Constituting Public Nuisances.**

The following acts, actions, inaction, omissions, behavior, or conditions constitute a public nuisance:

**(A) Criminal Activity.** 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. For purposes of this section, criminal activity shall be defined as a criminal citation, arrest, or court-issued search warrant for crime involving:

- (1) Prostitution;
- (2) Controlled Substances or Drug Related Activity;
- (3) Alcohol intoxication;
- (4) Menacing;
- (5) Assault;
- (6) Terroristic threatening;
- (7) Resisting arrest;
- (8) Disorderly conduct;
- (9) Outdoor gambling; or
- (10) Violation of Chapter 527 of Kentucky Revised Statute (Offenses relating to Firearms and Weapons)

Any other provision of this section notwithstanding, it shall not be a public nuisance if the person cited is the victim of the criminal activity that occurred or is an incident of domestic violence perpetrated against a resident, licensee, or invitee of the premises.

**(B) Graffiti.** No person shall spray, cut, mark, engrave, hew, 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.

**(C) Environmental Nuisance.** No person shall use, cause, permit, or omit in the use of property in a manner which causes an annoyance, hazard or injury which may be detrimental to the property or well-being of others. These actions shall include but are not limited to the following:

- (1) Injures or endangers the welfare, health, or safety of others;
- (2) Offends decency;
- (3) Creates offensive odors or noxious fumes;

(4) Interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage. Including but not limited to any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof. ;

(5) Interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others;

(6) Permits the presence, existence, or accumulation of waste, rubbish, trash, or other non-operable appliance or vehicles or vehicles in a state of major disassembly, disrepair, or in the process of being stripped or dismantled;

(7) Permitting any yard grass, other plant or weed growth exceeding twelve (12) inches in height other than crops, trees, bushes, flowers, or other ornamental plants.

(8) Disposing or accumulating of any foul, decaying or putrescent substance, stagnant water, animal waste, carcasses of any type of animal, or other offensive material in or on any lot, tract of land, street, highway, or any sidewalk or alley abutting any of these which shall be the reasons for such offensive odors.

(9) The storage of explosive material, which creates a safety hazard to other property or persons in the vicinity.

(10) The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place. As well as the pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, carcasses, crematoriums, industrial wastes or other substances.

(11) The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors.

**(D) Litter, Garbage, and Trash.** No person shall drop, deposit, permit, or acquiesce to such activity in any manner on any public or private property any trash, litter, garbage, rubbish, debris, refuse, or waste of any kind, or other obnoxious materials whether solid or liquid.

**(E) Dilapidated Housing.** No person shall cause, allow, or permit any structure to be unfit for human habitation, occupancy, or use. Conditions that warrant a finding of unfit for human habitation include conditions that exist which are dangerous or injurious to the health, safety, or morals of the occupants of such structure, neighboring structures or other residents of the city. Examples of such conditions include but are not limited to: defects increasing the hazard of fire, accidents or other calamities, lack of adequate ventilation, light or sanitary facilities, violations of any other laws of the Commonwealth of Kentucky, Kentucky Building Code or other Ordinance of the City of Stanford.

**(F) Emergency Calls and Responses.** No person shall cause, allow, or permit excessive calls from property to the 911 system or responses as a result of thereof. Excessive calls and responses shall mean over seven unique calls or responses in a month period.

**(G) Drug Overdose Responses.** No person shall cause, allow, or permit any property to be the site of excessive drug overdoses. Excessive drug overdoses shall mean more than one overdose in a three month period.

**(H) Common Law and Statutory Nuisances.** In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter, or in accordance with any other provision of law.

**(I) Nuisance Created by Others.** For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by person for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

### **§92.03 Chronic Nuisances Prohibited.**

**(A)** For purposes of this section, a Chronic Nuisance Property shall mean any real property on which three or more nuisance activities exist or have occurred during any three hundred and sixty five (365) day period.

**(B)** No person shall act, fail to act, behave, erect, contrive, cause, continue, maintain in any manner, or permit to exist any Chronic Public Nuisance within the City.

### **§92.10 Demolition of Property.**

**(A) Demolition Orders Generally.** A Code Enforcement Officer shall order the owner of a premises to demolish and remove a structure located thereon, or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option, when, in the opinion of the Code Enforcement Officer:

- (1) Imminent danger exists on the subject property that necessitates immediate action, or there is reason to believe that the existence of a violation of this Chapter with respect to the structure presents a serious threat to the public health, safety, and welfare; or
- (2) The structure is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, or

demolition is otherwise reasonably necessary to protect the public interest.

**(B) Order.** The order shall specify necessary repairs, if any, and a time in which the owner shall comply therewith, which shall be no less than 30 days unless an emergency exists pursuant to section (A)(1). It shall be served on the owner of record in accordance with this Chapter.

**(C) Hearing prior to demolition by City.**

(1) Except when an imminent danger exists that will not permit delay, whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Enforcement Board shall conduct a hearing prior to the city undertaking demolition of the structure.

(2) The Code Enforcement Board shall issue a notice of hearing informing the property owner of the date, time, and location of the hearing. The hearing shall be held not less than seven days from the date the notice of hearing is issued. The notice of hearing shall be served on the owner of record in accordance with §99.56.

(3) The property owner shall have the opportunity to file a written answer with the City Clerk and/or appear in person to present testimony or other evidence of why the structure should not be demolished. The Code Enforcement Officer shall present testimony or other evidence demonstrating why the structure should be demolished. The burden of proof shall be upon the Code Enforcement Officer to demonstrate by substantial evidence that demolition is authorized by section (A).

(4) The property owner may waive his or her right to a hearing and authorize the city to undertake demolition of the structure. The owner's failure to appear at the hearing after proper notice shall constitute a waiver, unless good cause is shown.

(5) Upon a showing by substantial evidence that demolition of the structure is authorized by division (A), or upon waiver of hearing by the property owner, the Code Enforcement Board shall enter an order to that effect and order demolition of the structure by the city.

(6) The order shall be served on the owner of record and any lien holder of record within fourteen (14) days of the final determination, whether after hearing or upon waiver of hearing. If there is a lien holder of record, that lien holder may, within forty-five (45) days from the receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted.

(7) Anyone affected by an order issued pursuant to section (C)(5) may, after service of such order, apply to Lincoln Circuit Court for an order restraining the Code Enforcement Officer from razing such structure.

**(D) Demolition by City.** Upon final determination that the structure shall be demolished by the city, or when an imminent danger exists that will not permit the delay associated with a hearing, the Code Enforcement Officer shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal, together with related expenses, costs, fees, and attorney fees to the extent provided by law, shall be charged against the owner of the real estate upon which the structure is located. Upon failure of the owner to effect payment of such costs, a lien shall be placed by the city against the real estate upon which the razed or removed structure was located pursuant to § 92.99.

**(E) Appeals.** Any person directly affected by an order under this section shall have the right to appeal to the Code Enforcement Board within thirty days of the demolition order in accordance with the provisions of this chapter.

**(F) Remedies not exclusive.** Nothing in the section shall prohibit the City or any of its officers from proceeding under any other applicable section of this chapter or any other applicable chapter, including, but not limited to, issuing a citation and/or bringing a separate action before the Code Enforcement Board, in order to abate any condition described by this section. The Code Enforcement Officer shall not be precluded from pursuing other available remedies against a nuisance property by virtue of any failure to proceed under this section.

#### **§92.99 Penalty.**

**(A)** Any person, firm, or corporation who violates any provision of this Chapter with the exception of §92.03 shall be subject to a civil offense with a civil fine of not less than \$250.00 per violation but not more than \$500.00 per violation. If the civil fine is uncontested, the amount per violation shall be \$250.00.

**(B)** Any person, firm, or corporation who violates §92.03 shall be subject to a civil offense with a civil fine of not less than \$500.00 per violation but not more than \$1,000.00 per violation. If the civil fine is uncontested, the amount per violation shall be \$500.00.

**(C)** When the nuisance is associated with or caused by the conduct of a business or activity licensed by the city and that the existence of the nuisance presents an immediate threat to the public health, safety or welfare, the Code Enforcement Board may suspend the license of the person or persons conducting the business or activity.

### Section III

That the following sections shall be added to the Code of Ordinances for the City of Stanford:

## **CHAPTER 41 – CODE ENFORCEMENT BOARD**

### **§41.01 Definitions.**

The definitions set forth in KRS 65.8805 and KRS 65.8840 are incorporated as though set forth fully herein.

### **§41.02 Code Enforcement Board; Establishment and Members.**

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board which shall be composed of three members, all of whom shall be residents of the city for a period of at least one (1) year prior to the creation of the board and shall reside there throughout the term in office.

### **§41.03 Enforcement Powers.**

(A) The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing city ordinances when a violation of the ordinance has been classified as a civil offense.

(B) The Code Enforcement Board shall not have the authority to enforce any ordinance the violation of which constitutes a criminal offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

### **§41.04 Appointment of Members; Term of Office; Vacancies; Removal from Office; Oath; Training.**

(A) **Appointment.** Members of the Code Enforcement Board shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

#### **(B) Term of Office.**

(1) Initial Appointments. The initial appointment to the Code Enforcement Board shall be as follows:

(a) One (1) member of the board shall be appointed for a term of one (1) year;

(b) One (1) member of the board shall be appointed for a term of two (2) years;  
and

(c) One (1) member of the board shall be appointed for a term of three (3) years.

(2) All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the legislative body.

**(C) Alternate Members.** The executive authority may appoint, subject to the approval of the legislative body, two (2) alternate members to serve on the Board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Board.

**(D) Vacancies.** Any vacancy on the Code Enforcement Board shall be filled by the executive authority, subject to approval of the legislative body within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

**(E) Removal from Office.** A board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority shall submit a written statement to the member and the legislative body setting forth the reasons for removal. The member so removed shall have the right of appeal to the Lincoln Circuit Court.

**(F) Oath.** All members of the Code Enforcement Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Kentucky Constitution.

**(G) Members disallowed to hold other positions with City.** No member of the board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

#### **§41.05 Organization of Board; Meetings; Quorum.**

**(A) Chair.** The Code Enforcement Board shall annually elect a chair from among its members. The chair shall be the presiding officer and a full voting member of the board. If the chair is not present, the board shall select one of its members to preside in place of and exercise the powers of the chair.

**(B) Meetings.** Meetings of the Board shall be held as necessary on the Second and Fourth Monday at 5:30 p.m. at the Historic L& N Depot, 1866 Depot Street, Stanford, Kentucky 40484 to enforce all civil offenses established by the Stanford Code of Ordinances. Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act. If for any reason, the meeting cannot occur in the location described herein, notice shall be posted on the door, stating the location of the new venue.

**(C) Open Meetings.** All meetings and hearings of the board shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.



**(D) Quorum.** The presence of at least a majority of the Code Enforcement Board's entire membership and/or alternate membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

**(E) Minutes.** 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.

**(F) Clerical and Administrative Assistance.** The City shall provide clerical and administrative personnel as reasonably required by its code enforcement board for the proper conduct of its duties.

#### **§41.06 Conflict of Interest.**

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 in which he has an interest and shall not be counted for purposes of establishing a quorum.

#### **§41.07 Powers of the Code Enforcement Board.**

The Code Enforcement and Nuisance Board shall have the following powers and duties:

**(A)** To adopt rules and regulations to govern its operations and the conduct of its hearings.

**(B)** To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction.

**(C)** To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any Code Enforcement Officer.

**(D)** To take testimony under oath. The chair shall have the authority to administer oaths for the purpose of taking testimony.

**(E)** To make findings of fact and issue orders necessary to remedy any violation of a city ordinance or code provision which the board is authorized to enforce.

**(F)** To impose civil fines, as authorized, on any person found to have violated an ordinance over which the board has jurisdiction.

return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen years (18) of age or older and who is informed of the contents of the notice.

**(C) Failure to Appear at Hearing.** Any person requesting a hearing 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 citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

Notice of a final order shall be provided to the cited violator by regular first class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

**(D) Testimony.** All testimony shall be taken under oath and recorded. Testimony shall be taken from the Code Enforcement Officer, the alleged violator, and any witnesses to the violation offered by the Code Enforcement Officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

**(E) Findings of Fact and Final Determination.** The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If the Board determines that no violation was committed, an order dismissing the citation shall be entered. If the board determines that a violation was committed, the Board shall issue an order upholding the citation and either imposing a fine up to the maximum authorized by this or another ordinance, or requiring the offender to remedy a continuing violation within a specified time, or both

**(F) Final Orders to be Written.**

(1) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the findings and conclusions of the board and the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the 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 the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

**§41.10 Presentation of Cases.**

Each case before the Code Enforcement Board shall be presented by an attorney selected by the city, a Code Enforcement Officer for the city, or by a member of the city's administrative staff. The city attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board, but shall in no case serve in both capacities.

#### **§41.11 Appeals; Final Judgment.**

**(A) Appeal.** An appeal from any final order of the Code Enforcement Board may be made to the Lincoln County District Court within thirty (30) days of the date the order is issued. 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 Kentucky Rules of Civil Procedure. The appeal shall be tried de novo. A judgment of the district court may be appealed to the Lincoln Circuit Court in accordance with the Kentucky Rules of Civil Procedure.

**(B) Final Judgment.** If no appeal from a final order of the board is filed within the time period set in subsection (a) above, the board's order shall be deemed final for all purposes.

#### **§41.12 Lien; Fines, Charges and Fees.**

**(A)** The city shall possess a lien on property owned by the person found by a non appealable final order, or by a final judgment of the court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance, including abatement costs and attorney's fees. An affidavit of the Code Enforcement Officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

**(B)** The lien 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 until paid. The lien shall continue for ten (10) years following the date of the non appealable final order or final court judgment.

**(C)** The lien shall take precedence over all other liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

**(D)** In addition to the remedy prescribed in subsection (A) the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees, attorney's fees, and abatement costs incurred by the city in connection with the enforcement of the ordinance. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

#### **§41.13 Lienholder Notification System.**

The city shall obtain and maintain priority over previously filed liens in accordance with the following provisions:

**(A)** Individuals and entities, including but not limited to lienholders, may register with the city to receive electronic notification of final orders;

- (1) Correct the violation, if it has not already been abated; or
- (2) Pay all civil fines assessed for the violation, and all charges and fees incurred by the city in connection with enforcement of the ordinance, including attorney's fees and abatement costs.

(B) Nothing in this Section shall prohibit the city from taking immediate action if necessary under § 32.70 of this ordinance.

(C) The lien provided by § 38.12 shall not take precedence over previously recorded liens if:

- (1) The city failed to comply with the requirements of § 38.12 for notification of the final order; or
- (2) A prior lienholder completed the actions listed in subsection (A).

(D) A lien that does not take precedence over previously recorded liens under subsection (C) shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except liens for state, county, school board and city taxes.

(E) The city may record a lien before the forty-five (45) day period established in subsection (A) expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period, the city shall release the lien in the County Clerk's office where the lien is recorded within fifteen (15) days of satisfaction.

(F) Failure of the city to comply with § 38.12 or this Section, or failure of a lien to take precedence over previously filed liens as provided in subsection (C) of this Section, shall not limit or restrict any other remedies the city has against the property of the violator.

#### Section IV

That Section 92.99 in the Code of Ordinances for the City of Stanford, entitled "Penalty" is hereby repealed in its entirety.

#### Section V

That Section § 50.98 in the Code of Ordinances for the City of Stanford is amended as follows:

#### **§ 92.99 PENALTY.**

(A) ~~[Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500 for each offense. Each day's continued violation shall constitute a separate offense.]~~ Any person, firm, or corporation who violates any provision of this Chapter with the exception of §92.03 shall be subject to a civil offense with a civil fine of not less than \$250.00 per violation but not more than \$500.00 per violation. If the civil fine is uncontested,

the amount per violation shall be \$250.00.

(B) Any person, firm, or corporation who violates §92.03 shall be subject to a civil offense with a civil fine of not less than \$500.00 per violation but not more than \$1,000.00 per violation. If the civil fine is uncontested, the amount per violation shall be \$500.00.

(C) When the nuisance is associated with or caused by the conduct of a business or activity licensed by the city and that the existence of the nuisance presents an immediate threat to the public health, safety or welfare, the Code Enforcement Board may suspend the license of the person or persons conducting the business or activity, in addition to any fines, fees or costs.

#### Section VI

This Ordinance shall not be interpreted or otherwise construed to affect the status, priority, or enforcement of any lien that was created and existed pursuant to the provisions of KRS 82.725 or KRS 381.770 prior to January 1, 2017.

#### Section VII


This ordinance shall be in full force and effect from and after its adoption, approval and publication as is required by law.

**PASSED** by City Council of the City of Stanford, Lincoln County, Kentucky assembled in regular session.

First Reading: May 4, 2017  
Second Reading: May 15, 2017

  
MAYOR EDDIE CARTER

ATTEST:

  
DANA TAYLOR  
CITY CLERK