ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AMENDING THE ERLANGER CODE OF ORDINANCES SECTION 104 AND ORDINANCE TO MODIFY AND ADD TO THE TERMS OF THE ORDINANCE

WHEREAS, Erlanger Ordinance 2509 is a nuisance code within the meaning of KRS 82.700 through 82.725;

WHEREAS, the City of Erlanger has the authority to enact ordinances for the public health, safety, and welfare of its citizens;

WHEREAS, the City of Erlanger is mindful that from time-to-time there exist certain chronic nuisance in the City of Erlanger that are of such a nature and frequency that they cannot be controlled, deterred, or abated under existing ordinances;

WHEREAS, chronic nuisance properties present grace health, safety and welfare concerns, and have a tremendous negative impact on the quality of life, safety, and health of the neighborhoods where they are located;

WHEREAS, the failure of owners or managers of certain real property to control the activity occurring on or from their property is a financial burden to the City caused by the repeated and substantial expenditures of public funds in order to enforce laws upon or near their property; and

WHEREAS, the City of Erlanger believes that the public healthy, safety, and welfare of citizens of the City of Erlanger will be better served by classifying certain recurring nuisances as chronic nuisances to be enforced under the provisions set forth below:

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

(Strikethrough portions are to be deleted, underlined portions are to be added as required by KRS 83A.060(3))

Section 1.0 DEFINITIONS.

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

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

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

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

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

CITATION OFFICER. Have the same meaning provided for them in KRS 65.8805.

CITY. The City of Erlanger.

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

CONTROL. To exercise restraint or direction over.

DOMESTIC VIOLENCE. Physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual

abuse, or assault between family members or members of an unmarried couple as defined in KRS 403.720.

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

EXCESSIVE GROWTH. A growth in excess of six inches above the surface of the ground.

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

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

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

INOPERABLE MOTOR VEHICLE. A motor vehicle that is either:

(1) Wrecked or otherwise in a state of disrepair or disassembly;

(2) Mechanically inoperable; or

(3) Legally inoperable on public streets and highways.

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

MULTIPLE UNIT DWELLINGS. If the nuisance property consists of multiple unit dwellings or mixed uses and the nuisance activities have occurred solely within a unit or units, the authority to issue an order to close and vacate is restricted to the unit or units in which the nuisance activities have occurred and does not extend to any other unit at the chronic nuisance property. This definition does not apply to hotels, motels, or other places of lodging.

MUNICIPAL SOLID WASTE. Have the same meaning provided for them in KRS 224.1-010(31)(a)(4).

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

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

NUISANCE ACTIVITIES.

(1) Any of the following activities, behaviors or conduct are not permitted to occur on property:

(a) Harassment, as defined in KRS 525.070 through 525.080;

(b) Public intoxication or alcohol intoxication, as defined in KRS 525.100 or KRS 222.202;

(c) Rioting, inciting to riot, unlawfully assembling, or disorderly conduct as defined in KRS 525.010 or KRS 525.060;

(d) Murder, manslaughter, or reckless homicide as defined in KRS 507.020, 507.030, 507.040, or 507.050;

(e) Rape, sodomy, sexual abuse, sexual misconduct, indecent exposure, or unlawful use of an electronic device to induce a minor to engage in sexual activities, as defined in KRS 510.010 through 510.155;

(f) Assault, menacing, wanton endangerment, terroristic threatening, criminal abuse, stalking, or disarming a police officer, as defined in KRS 508.010 through 508.160;

(g) Unsworn falsification to authorities or giving peace officer a false name or address, as defined in KRS 523.100 or 523.110;

(h) Obstruction of public administration, as defined in KRS 519.010 through 519.070;

(i) Resisting arrest, fleeing or evading police, or hindering prosecution or apprehension, as defined in KRS 520.090 through 520.130;

(j) Promoting gambling, conspiracy to promote gambling, possession of gambling records, or any other illegal gambling activities, as defined in KRS Chapter 528;

(k) Prostitution, promoting prostitution, permitting prostitution, or human trafficking, as defined in KRS 529.010 through 529.110;

(l) Endangering the welfare of a minor or unlawful transaction with a minor as defined in KRS 530.060 through 530.080;

(m) Distribution of obscene matter promoting sale of obscenity, or voyeurism, as defined in KRS 531.010 through 531.110;

(n) Sexual exploitation of minors, as defined in KRS 531.300 through 531.370;

(o) Drug possession or trafficking, as defined in KRS 218A.010 through 218A.1444;

(p) Weapons related offenses, as defined in KRS 527.010 through 527.210;

(q) Alcohol related offenses, as defined in KRS Chapters 241, 242, 243 and 244;

(r) Animal control violations, as defined in Erlanger Code of Ordinances Chapter 91;

(s) Fireworks violations;

(t) Curfew violations, as defined in Erlanger Code of Ordinances Chapter 130;

(u) Noise violations, which make it unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort repose, health, peace, and safety of others, within the limits of the City of Erlanger.

(v) Sale of alcoholic beverages violations, as defined in Erlanger Code of Ordinances Chapter 111;

(w) Discharging air rifle or discharging firearms violations, as defined in Erlanger Code of Ordinances § 131.01;

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

(2) To qualify, all “NUISANCE ACTIVITIES” must be based on either:

(a) Personal observation of a Police Officer, or Citation Officer; or

(b) A determination by a Police Officer, or Citation Officer, either after an investigation or following a sworn statement of a person who personally witnessed the alleged incident that the alleged “NUISANCE ACTIVITIES” did, in fact, occur.

(3) For purposes of this chapter, “NUISANCE ACTIVITY” shall not include conduct where the person in charge is the victim of a crime and had no control over the criminal act.

(4) For purposes of this chapter, domestic violence calls for service are not considered “NUISANCE ACTIVITIES”.

OPEN BURNING. The burning of any material in an area which is not enclosed within a building, passes through a stack or flue, or is contained within an outdoor firepit no larger than 60 inches in circumference.

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

PERMIT. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

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

PERSON ASSOCIATED WITH THE PROPERTY. Any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize, or visit, or waited to enter, patronize, or visit a property, or any person present on a property. “PERSON ASSOCIATED WITH THE PROPERTY” includes, without limitation, any officer, director, customer, agent, employee, or any independent contractor of a property, the person in charge, or an owner of a property.

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

POLICE CHIEF. The Chief of Police of the City of Erlanger, Kentucky, or his or her designee.

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

RECREATIONAL VEHICLE. Have the same meaning provided for them in KRS 227.550(12).

RESIDENTIAL LANDLORD. A real property owner of property upon which is located one or more dwelling units leased or otherwise rented to tenants solely for residential purposes, or a mobile home park or other permanent or semi permanent site at which lots are leased or otherwise rented to tenants for the parking of a manufactured home, mobile home, or recreational vehicle that is used solely for residential purposes. “RESIDENTIAL LANDLORD” does not include the owner of a hotel, motel, or a college or university dormitory.

RUBBISH. Worthless, discarded material.

TEMPORARY STORAGE UNIT. Shall consist of any dumpster, device, containers (tents, canopy or temporary garage structures), or any other type of holder of objects, exceeding nine cubic yards, which is placed on the premises of any residence, apartment or other building, for the purpose of holding trash, garbage and/or storing any other equipment or items.

UNLEASHED ANIMAL. 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:

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

(1) Those that constitute a public nuisance within the definition thereof in section PM-302.1 of the International Property Maintenance Code adopted by Ordinance 2341 of the city.

(2) Those structures that are designed and intended 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.

(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.

(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 Ordinance No. 2443 and is hereby made a part of the permanent records of the city and incorporated herein by reference.

(5) The development of a public nuisance thereon through the accumulation of:

(a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment.

(b) One or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited.

(c) Rubbish.

(d) The excessive growth of weeds or grass.

(B) The location of one or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or non-operative and which are not inhabited.

(C) The parking of any recreational vehicle, boat or trailer on any occupied residential parcel of a residential zone except for:

(1) In the rear yard, less than two vehicles, boats or trailers, of any lot or parcel of real estate; or

(2) Only one of any vehicles, boats, or trailers in any area of a side yard that is continuously paved with blacktop or concrete, provided that no part of such vehicle, boat, or trailer is within one foot of any point in the nearest boundary line; or

(3) Only one of any vehicles, boats, or trailers in any driveway, provided that:

(a) The area thereof occupied by any such vehicle, boat, or trailer is in addition to all off street parking areas required by this chapter; and

(b) There is no more than one of any such vehicles, boats, or trailers parked, stored or otherwise located in any portion of any driveway on any one lot or parcel of real estate at any one time; and

(c) No part of any such vehicle, boat, or trailer is within one foot of any point in the nearest boundary line.

(D) The accumulation of any municipal solid waste anywhere unless it is enclosed within a covered municipal solid waste container or other container approved by the city's trash provider.

(E) 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.

(F) 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.

(G) The occurrence of any unleashed animal anywhere in the city other than on lot or parcel of real estate enclosed by a fence:

(1) In which the owner or custodian of the unleashed animal has an ownership or possessory interest; or

(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.

(H) 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.

(I) Any open burning without the permit required by City Ordinance 2086.

(J) The location of any rubbish on any public sidewalk and the failure of those with any ownership or possessory interest in any lot or parcel of real estate abutting thereon to remove it within a reasonable period of time after such rubbish has been deposited thereon.

(K) Any more than one banner sign on the premises of any business.

(L) 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.

(M) The occurrence, existence or continuation of any graffiti.

(N) 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.

(O) Any outdoor swimming pool in which:

(1) The water in the pool is contaminated with dangerous disease causing pathogens, including bacteria; or

(2) Water may be retained and impounded in the pool to a depth of 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 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.

(P) The location of any fowl or livestock within 50 feet of any residence other than that of the owner of such fowl or livestock.

(Q) The distribution or accumulation of any unsolicited written material on any portion of any lot or parcel of real estate in the city outside of a building other than:

(1) On a porch, if one exists, nearest to the front door; or

(2) Securely attached to a door; or

(3) Between an exterior door and an interior door: or

(4) Personally with any occupant of the lot or parcel of real estate.

(R) The use of any area of ground outside of a building that is either unpaved or paved with something other than concrete or blacktop for the purpose of parking or any other location of a motor vehicle thereon, except that any such area of ground that has been continually used for such purpose since 1992 may continue to be used for such purpose provided that such area is continually covered with at least two inches of gravel.

(S) The use of any portion of any residential lot or parcel of real estate outside of a building for the storage or other location of any inoperable motor vehicles or any motor vehicle parts.

(T) The use of any lot or parcel of real estate, or any portion thereof, including, without limitation, any building or any portion thereof located on that lot or parcel of real estate, for any criminal activity involving disorderly conduct, alcoholic beverages, firearms, menacing, physical injury to person or property, deadly weapons, gambling, prostitution, or controlled substances, or any other felony or misdemeanor to such an extent that there have been documented responses to any of them by peace officers or other personnel of the city on five or more separate occasions within any one period of 12 consecutive calendar months; provided that an owner of that lot or parcel of real estate has been notified at least once during that period of 12 consecutive calendar months of the occurrence of any such criminal activity; and provided further that the eviction of any tenants of that lot or parcel of real estate who were involved in such criminal activity shall be a defense to any civil or criminal prosecution for a violation of this section.

(U) The use of any paved area other than sidewalks within the right-of-way of any street within the city for any athletic or other recreational activity.

(V) The location of any apparatus for the athletic or other recreational use of any area within the right-of-way of any street within the city, whether that apparatus is located within or outside of that right-of-way.

(W) The growth of any tree, shrub, or bush in or into the area within the right-of-way of any street in the city in any manner that is hazardous to the public use of that right-of-way.

(X) The location of any motor vehicle in any manner that any portion of it is on or above any portion of any sidewalk in the city, potentially blocking the pedestrian use thereof.

(Y) The location of any inoperable motor vehicle anywhere within the right-of-way of any street in the city.

(Z) Temporary storage units. The placement of a temporary storage unit without the prior written approval of the city. Unless the City Planning and Zoning Office issues a permit granting temporary use. But in no event shall the placement of a temporary storage unit exceed 30 days without the request and granting of a new permit.

(AA) Any Property within the City of Erlanger, Kentucky, that becomes a chronic nuisance property, as defined herein, is in violation of this chapter and subject to its remedies.

(BB) It shall be unlawful for any person to permit property under his or her ownership or control to be a chronic nuisance property, as defined herein, and such person shall be in violation of this chapter and subject to its remedies.

Section 3.0 VIOLATIONS.

A violation of this chapter 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 chapter; 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 chapter.

A violation of this chapter shall constitute “unlawful purpose” or “unlawful manner” as those terms are used in the Occupational Tax Ordinance of Chapter 110 of this code, dealing with revocation or suspension of licenses.

Section 4.0 CITY STAFF PROCEDURE.

(A) Complaints of violations of this chapter are generally received from the public, city staff, or observed by city citation officers. When a complaint is received, a citation officer is assigned the complaint. The Citation Officer shall document the complaint and determine if it is valid or unfounded. If found to be valid, the resident is notified of the violation through a warning or citation. A hearing disputing the warning/citation may be requested at this time. If a hearing is not requested, the Citation Officer will reinspect the violation in seven days. If the violation has been corrected and the property owner was given a warning, the case is closed and no further action is required. If the property owner was provided a citation, it becomes final and the property owner must pay their fine. All fines will be paid through the Clerk's Office and the City Clerk shall manage the collection of delinquent fines. Once delinquent fines/liens have exceeded $3,000 in total, the Clerk's Office will notify the City Administrator, who will conduct a financial analysis to determine if foreclosure proceedings should be pursued.

(B) City Council shall be notified of each foreclosure analysis on a case-by-case basis.

(1) In the case the city proceeds to foreclosure proceedings, the city shall be represented at the Master Commissioner Sale by the City Administrator or staff designee.

(2) If foreclosure is initiated by others (bank, county, etc.), the City Clerks' office shall provide all necessary information to get the city paid by the Kenton Circuit Court, including involving the City Attorney in the filing of an answer/counterclaim.

(C) The City Clerk's Office shall collect all fines and negotiate payments, if applicable, with permission of the City Administrator and the Mayor.

(D) The City Clerk's Office shall initiate the filing of liens when appropriate. The City Clerk's Office shall complete the lien paperwork and work in conjunction with the City Attorney, and submit it to the City Administrator for final approval.

(E) When a property is determined to be a chronic nuisance:

(1) the Citation Officer shall issue a notice of violation to the person in charge that the property has been determined to be a chronic nuisance property and request an abatement plan from the person in charge.

(2) The notice to the person in charge, shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property;

(b) A statement that the Police Chief or Citation Officer has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to this determination;

(c) A demand that the person in charge respond within ten days to the Citation Officer by either describing the actions the person in charge intends to take to abate the nuisance activities (abatement plan) or indicating good cause as to why the person in charge cannot abate the nuisance activities;

(d) That an agreed abatement plan must be reached with the Police Chief or Citation Officer within 30 days from the date of the notice of determination of chronic nuisance property;

(e) That if the nuisance activities are not abated and good cause for failure to abate is not shown, enforcement action may be initiated including civil penalties and/or fines assessed of not less than $500 nor more than $5,000, revocation or suspension of the occupational license, a civil action foreclosure of the property, and/or any other legal remedy available under the laws of the city or Commonwealth of Kentucky;

(f) That permitting the existence of a chronic nuisance property is a violation of this chapter; and

(g) That the above remedies are in addition to those otherwise provided by law.

(3) The notice may be delivered in person, or sent registered mail with return receipt requested. The notice may be delivered to the Property itself, or to the mailing address of the owner of the Property as listed on the city tax roll, or to any other address that is likely to give the person in charge notice of the determination of the Police Chief or Citation Officer.

(4) The failure of any person to receive notice shall not invalidate or otherwise affect the proceedings under this chapter.

(5) Enforcement action shall consist of:

(a) Issuance of a citation to the Code Enforcement Board of the city following the procedure outlined in Ordinance No. (2444) §§ 44.07 through 44.09.

(b) Violations of this ordinance are hereby designated as civil offenses. The Code Enforcement Board may impose a civil penalty for each violation of this ordinance of not less than $500, nor more than $5,000; and/or

(c) If applicable, revocation or suspension of the occupational license after hearing before City Council as provided in the Occupational License Tax Ordinance; and/or

(d) A civil action foreclosure of the property; and/or

(e) Any other legal remedy available under the laws of the city or Commonwealth of Kentucky.

(6) The Police Chief or Citation Officer may initiate enforcement action where:

(a) The Person in charge fails to respond within ten days from the date of the notice of determination of chronic nuisance property by the Police Chief or Citation Officer; or

(b) No agreeable written abatement plan is reached within 30 days from the notice of determination of chronic nuisance property by the Police Chief or Citation Officer and the person in charge fails to establish one of the affirmative defenses provided herein; or

(c) The person in charge fails to abate the nuisance activities from the property as required by the agreed abatement plan; or

(d) The person in charge fails to comply continuously with all conditions of the written abatement plan for a period of one year.

(7) When the person in charge includes both a person with actual or constructive possession of the property and a legal owner of the Property, both people must agree to any proposed abatement plan within the time allotted under division (E)(2)(d) of this section. Failure of both to agree to a proposed abatement plan shall result in a finding by the Police Chief or Citation Officer that the abatement plan is not agreeable under division (E)(6)(b) of this section.

(8) Failure to respond, failure to abate the nuisance activities, or failure to propose an abatement plan shall be prima facie evidence of lack of cooperativeness of the person in charge. Failure to execute or comply with any abatement plan shall be prima facie evidence of lack of good faith in mitigating or correcting the situation.

(9) When a person in charge makes a response to the Police Chief or Citation Officer, conduct or statements made in connection with the response do not constitute an admission that any nuisance activities have occurred or are occurring. This subsection does not require exclusion of any evidence that is otherwise admissible or offered for any other purpose.

(10) Residential landlord affirmative defense. A residential landlord has an absolute defense to a charge under this chapter if they establish by a preponderance of the evidence that the basis for the charge is the actions or omissions of their tenant(s) and the residential landlord establishes all of the following:

(a) That the residential landlord undertakes a reasonably appropriate screening process for prospective tenants including diligence into the criminal background of prospective tenants, which shall include, at a minimum, an online search and inquiry with the tenant into their criminal background;

(b) That the residential landlord include language in their leases with tenants that provides that violations of federal, state, or local laws by tenants or their guests is grounds for eviction with 30 days or less notice; and

(c) That the residential landlord, upon written notice by the city that a nuisance activity has occurred on their property within the prior 30 days, commences an eviction action against the tenant whose action or omission forms the basis of the charge, and diligently prosecutes that action to completion, irrespective of any ultimate ruling by a court on the merits of that action. A residential landlord shall not be responsible for prosecuting a forcible entry and detainer action against the tenant or their guests whose action or omission forms the basis of the charge if the city fails to give the notice provided in this section.

(11) Good cause affirmative defense. Any person charged under this chapter has an absolute defense to a charge under this chapter if they establish by a preponderance of the evidence that:

(a) The person charged has taken all appropriate actions to deter and prevent the nuisance activity that forms the basis of the charge on their property;

(b) The nuisance activity that forms the basis of the charge was not the result of the actions or omissions of person charged, their authorized guests or any other person residing in their household; and

(c) The nuisance activity that forms the basis of the charge was not permitted by the person charged.

Section 5.0 RESIDENT ENFORCEMENT PROCEDURE FOR CHRONIC NUISANCE PROPERTY.

City residents, affected by an alleged chronic nuisance property, may elect to provide a sworn complaint to the Police Chief or Citation Officer which may be used by the Police Chief or Citation Officer in their enforcement of this chapter.

Section 6.0 SUMMARY CLOSURE FOR CHRONIC NUISANCE PROPERTY.

The City of Erlanger, through its City Attorney, may also initiate a summary closure proceeding in the District and/or Circuit Court. Such an action shall be based on evidence showing that nuisance activities exist or have occurred on the property and that action is necessary to avoid a threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of applicable Kentucky law for obtaining temporary restraining orders. As part of any summary closure order, the district/circuit court may also revoke or suspend the occupational license of any person conducting any business upon the property where the chronic nuisance exists.

Section 7.0 PENALTY.

(A) Civil offense. Each separate violation of this chapter constitutes a civil offense; and, pursuant to the requirements of KRS 65.8808, the penalties to be imposed upon persons determined to have violated this chapter are hereby established as follows:

(1) The specific civil fine that shall be imposed for each separate violation of this chapter in the event that a citation for that violation is not contested is hereby established at $100 for a first violation, $250 for a second occurrence of the same violation, and $500 for the third and each subsequent occurrence of the same violation, plus the costs of collection, including, without limitation, court costs and attorney fees approved by the City Council and City Administrator on a case-by-case basis.

(2) The maximum civil fine that may be imposed for each separate violation of this chapter is hereby established at $500 for a first violation, $750 for a second occurrence of the same violation, and $1,000 for the third and each subsequent occurrence of the same violation plus the costs of collection, including, without limitation, court costs and attorney fees.

(B) Criminal offense. Each violation of this chapter shall be a misdemeanor for which everybody convicted thereof in a court of competent jurisdiction shall be sentenced to pay a criminal fine not to exceed the maximum amount of $500 as set

forth in KRS 534.050(2)(a) or a term of imprisonment not to exceed the maximum period of 12 months as set forth in KRS 532.090(1), or both.

Adopted this _____ day of _____, 2022.

First Reading- _____, 2022

Second Reading- _____, 2022 Votes Cast _____ Yes _____ No

_____
JESSICA FETTE, MAYOR

DATE: _____