

**CITY OF MIDWAY
ORDINANCE NO. 2012-007**

**AN ORDINANCE RELATING TO THE ENFORCEMENT OF THE NUISANCE CODE
AND NUISANCE NOTICE APPEAL HEARINGS**

WHEREAS, KRS 82.710 creates requirements for local government nuisance codes;

WHEREAS, the City of Midway desires to meet and comply with the requirements in KRS 82.710(3) and (4);

WHEREAS, the Midway City Council deems it necessary to enact the following ordinances;

NOW, THEREFORE, be it ordained by the Midway City Council that the sections, headings, and additional ordinances shall be enacted as part of the City of Midway's Nuisance Code as follows:

Section

92.31	Responsibility for Enforcement
92.32	Hearing Board and Hearing Officers
92.33	Hearings
92.34	Hearing Procedures
92.35	Appeals

Section 92.31 RESPONSIBILITY FOR ENFORCEMENT.

Pursuant to the requirements of KRS 82.710(4), the responsibility for the enforcement of the nuisance code is hereby delegated to the Building Code Enforcement Officer of the Versailles-Midway-Woodford County Planning and Zoning Commission, or any other officer as may be designated by that Commission, or alternatively, by the Mayor of Midway.

Section 92.32 HEARING BOARD AND HEARING OFFICERS.

A Hearing Board ("the Board") is established pursuant to KRS 82.710(3) to conduct hearings and shall consist of the three members that compose the Vacant Property Review Board.

The members must be either a property owner or a resident of the City of Midway.

Section 92.33 HEARINGS.

Any property owner or occupant who has received notice of a nuisance violation under §92.27 and who desires to contest the notice of a nuisance violation may request a hearing before the Board. The written request must be given to the clerk of the City of Midway within five (5) days of the date of receipt of the notice of a nuisance and must include:

- (A) The name and current address of the person or entity requesting the hearing;
- (B) The requesting person or entity's relation to the property; and
- (C) The name and address of the person or entity that owns the property that is the subject of the nuisance violation.

Section 92.34 HEARING PROCEDURES.

(A) When a hearing before the Board has been requested by a person or entity to which a Notice has been given, the Board shall schedule a hearing.

(B) Not less than three (3) days before the date set for the hearing, the Board shall cause to be delivered to the person or entity who requested the hearing a written notice of the date, time, and place of the hearing.

(C) The Board shall advise the City Clerk of the meeting so as to permit the Clerk to make due advertisement of the meeting as may be required by applicable law.

(D) The Board shall conduct its business at meetings scheduled and held in conformance with the requirements of the Kentucky Open Meetings Act.

(E) The Board shall receive testimony from the Building Code Enforcement Officer, the person or entity to which the Notice was given, and any other relevant witnesses.

(F) At the hearing, the Board shall determine from the evidence presented whether or not a violation of this ordinance was committed by the person or entity to which the Notice was given.

- (1) If the Board determines from the evidence presented that no such violation was committed, the determination of the Building Code Enforcement Officer shall be reversed and an Order containing the Board's findings of fact and dismissing the Notice shall be signed and entered into the record of the proceedings of the Board.
- (2) If the Board determines from the evidence presented that such violation does exist, the Board shall issue an order sustaining the Notice and the person or entity will be given seven (7) days from the date of the hearing in which to cure the nuisance, or else be subject to the applicable penalty pursuant to § 92.99 for every day the nuisance remains unabated.

(3) If the nuisance is not abated within seven (7) days as provided for in the order, the City of Midway may proceed to abate the nuisance, keeping an account of the expense of the abatement, and such expense, including an administrative cost fee, shall be charged to and paid by the owner or occupant. Pursuant to §92.27(C)(1), the City shall have a lien against the property for such expense until paid.

(G) Every final order of the Board shall be written and signed on behalf of the Board; and it shall include the date the order was issued, and a copy of the order shall be delivered to the owner or occupant to which the Notice was given. If any person or entity to whom the Notice was given is not present at the time of the hearing of the Board, the final order shall be delivered to that person by postage pre-paid first class U.S. mail to the address identified in the Notice or a different address identified by that person or entity.

(H) Any person or entity requesting a hearing before the Board that fails to appear at the time and place scheduled for the hearing shall be deemed to have waived the right to a hearing to contest the Notice and the determination of the Building Code Enforcement Officer that a violation was committed shall be final.

Section 92.35 APPEALS.

(A) An appeal from the Hearing board's determination may be made to the District Court of the county in which the city is located within thirty (30) days of the Board's determination pursuant to KRS 82.715(4).

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

These newly enacted ordinances shall become effective after passage and publication as required by law.

INTRODUCED and given a first reading at a meeting of the Midway City Council on the ___ day of August 2012, and fully adopted after the second reading at a meeting of said Council held on the _____ day of August 2012.

CITY OF MIDWAY

BY: _____
Tom Bozarth, Mayor

ATTEST:

Phyllis Hudson, City Clerk/Treasurer

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