

# DILAPIDATED HOUSING AND NUISANCES

## *GENERAL PROVISIONS*

### **§ 92.01 STATUTORY AUTHORITY; PURPOSE.**

(A) This **chapter** is adopted pursuant to the authority granted to the city by state statutes.

(B) It is the intent of this **chapter** and its subsequent amendments to encourage a clean, healthy, and satisfying environment for its citizens which is free of nuisances, eye sores, and unhealthy or devaluated conditions which are dangerous or injurious to its citizens. To these ends, this **chapter** seeks to regulate, identify, and provide a means to enforce the regulations and to protect the healthy, safety, and welfare of the residents and the property owners.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

### **§ 92.02 SHORT TITLE; ADOPTION OF KENTUCKY BUILDING CODE.**

(A) For the purposes cited in § [92.01](#) and for the general purpose of health, safety, and general welfare of the city, the City Commission does hereby ordain, adopt, and enact this **chapter** in its entirety, including text and all regulations, all of which shall be known as the City Dilapidated Housing and Nuisance **Chapter**. This **chapter** shall apply to all land within the corporate limits of the city.

(B) All standards of the Kentucky Building Code will apply and hereby incorporated into the provisions of this **chapter**.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

### **§ 92.03 CONFLICTING ORDINANCES SUPERSEDED; SEVERABILITY.**

(A) All ordinances or parts of ordinances in conflict with this **chapter** or which are inconsistent with its provisions, specifically including previous ordinances of the city or amendments thereto, are hereby repealed or superseded to the extent necessary to give this **chapter** full force and effect.

(B) Should any provision of this **chapter** be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this **chapter** as a whole or any part thereof except the specific provisions which were the subject of the declaration.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### § 92.04 DEFINITIONS.

For the purpose of this **chapter**, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPLIANCES.*** Includes but is not limited to items such as stoves, refrigerators, freezers, washing machines, dryers, dishwashers, and water heaters.

#### ***ENVIRONMENTAL NUISANCE or NUISANCE.***

(1) Any use of property which causes an annoyance, hazard, or injury which may be detrimental to the property or well-being of others; any person doing an unlawful act, or other act which may be lawful to the extent that it is done without becoming a nuisance; the omission to perform a duty; or suffering or permitting any condition or thing to exist, which act (lawful or unlawful), omission, condition, or thing either:

- (a) Injures or endangers the welfare, health, or safety of others;
- (b) Offends decency;
- (c) Creates offensive odors;
- (d) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
- (e) In any way renders other persons insecure in life or the use of property;
- (f) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciates the value of the property of others; or
- (g) Permits the presence, existence, or accumulation of waste, rubbish, trash, or other nonoperable appliance or vehicles or vehicles in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

(2) Any plant or weed growth exceeding twelve (12) inches in height other than crops, trees, bushes, flowers, or other ornamental plants. (It is not the intent of this provision to cause a change in the character of any geographical areas but only to remedy nuisances created by excess growth of grass and weeds in developed neighborhoods).

(3) The disposal or accumulation of any foul, decaying, or putrescent substance, stagnant water, animal waste 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.

**OWNER.** Any person or corporation who, alone or jointly or severally with others:

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

(2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner, or as executor, executrix, administrator, administratrix, employee, agent, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with provisions of these rules and regulations imposed upon the owner.

**RUBBISH.** Any combustible or noncombustible waste materials, including but not restricted to paper, bags, boxes, cartons, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, concrete crockery, dust, and the residue from the burning of combustible materials. This provision does not apply to garbage set out for pickup pursuant to the guidelines and regulations contained in [Chapter 50](#).

**STRUCTURE.** Any building or part thereof used or occupied, or intended to be used for occupancy, for human habitation, or commercial or industrial purposes, and includes any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.

**VEHICLE.** Any agency for the transportation of persons or property over or upon the public ways which is propelled otherwise than by human or animal muscular power, except electric or steam railways, road rollers, road graders, farm tractors, or vehicles of customary use on construction sites which are not practical for the transportation of personal property.

**WASTE.** Ashes, discarded wood, and abandoned, discarded, or unused object or equipment such as furniture, appliances, junk cars, cans, containers, and garbage or refuse of any kind, whether liquid or solid; or any accumulation of any foul, decaying, or putrescent substances. (This definition shall not apply to materials deposited under authorization of any state statute, administrative regulation, ordinance, commission, conditional use permit, or other appropriate governmental approval or to goods, wares, or merchandise deposited on any public way or any other public place temporarily in the necessary course of trade or business and removed therefrom within two (2) hours of being so deposited).

**WEEDS.** Any unhealthful plant or growth such as, but not limited to the following: jimson, burdock, ragweed, thistle, cocklebur, or any other similar growth exceeding twelve (12) inches in height; vegetation which obstructs the safe view of traffic at any intersection or driveway; or vegetation which creates a nuisance by its very existence (i.e., poison ivy, kudzu, or dead or dying trees which may cause a hazard situation if they fall).

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

# ENVIRONMENTAL NUISANCES

## § 92.10 ENVIRONMENTAL NUISANCES UNLAWFUL.

It shall be unlawful for any owner, his agent, or any occupant of real property, public or private, or any other person or corporation, or each of them, in the city to cause, allow, or permit an environmental nuisance to exist on any property owned, occupied, or under control of said person, or to in any other way cause or permit a nuisance.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94) Penalty, see § [92.99](#)

## § 92.11 LITTER, GARBAGE, TRASH, AND WEEDS.

(A) It shall be unlawful for any owner, his agent, or any occupant of real property, or any other person or corporation, or each of them, to drop, deposit, permit or acquiesce in the dropping, depositing or scattering in any manner in or on any public or private property or place within the city, any trash, litter, garbage, rubbish, debris, refuse, or waste of any kind, or other obnoxious materials, whether solid or liquid.

(B) It shall be unlawful for any owner, his agent, or any occupant of real property to perform any act with any of the aforementioned materials anywhere within the city on private or public property in such a manner that the materials may be carried or deposited in whole or in part by the action of the sun, wind, rain, snow, or any of the nature's elements so as to be scattered, deposited or conveyed to any of the aforementioned places.

(C) It shall be unlawful for any owner, his agent, or any occupant of real property to allow any weeds or vegetation to accumulate.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94) Penalty , see § [92.99](#)

## § 92.12 ABATEMENT OF ENVIRONMENTAL NUISANCES.

(A) It shall be unlawful for any owner, his agent, or any occupant or corporation, or each of them, whether or not the nuisance was created by said owner, agent, or occupant, to fail to remedy the existence of an environmental nuisance in violation of the provisions of §§ [92.10](#) or [92.11](#) within ten (10) days unless a shorter period is specified pursuant to division (B) of this section after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to § [92.13](#). An additional violation shall occur for each additional one hundred (100)-day period that an environmental nuisance remains unabated regardless of whether the violator has requested a hearing pursuant to § [92.13](#).

(B) Notice in writing may be served upon an owner or person, or his agent or occupant, by hand delivery, first class mail, or by posting of the same on the property.

The required notice if mailed shall be mailed to the last-known address of the owner of record of said property. Such notice shall describe the environmental nuisance so maintained, assessment of fines, and shall demand abatement of the nuisance within ten (10) calendar days from the date of notice, unless the nuisance constitutes an immediate danger to the health, safety, and well-being of the community, in which case notice shall demand immediate abatement. It shall be the duty of all owners to see that their current address is maintained on record in the County P.V.A. Office.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94) Penalty , see § [92.99](#)

### **§ 92.13 DEADLINE FOR APPEAL OF NOTICE.**

(A) Those persons listed in §§ [92.10](#) or [92.11](#) who receive notice to abate a nuisance as per § [92.12](#) may, within ten (10) days after the date of the notice, request a hearing to contest the notice and fine as provided for hereunder. A request for a hearing will not prevent additional notices and fines pursuant to § [92.12 \(A\)](#). If the hearing officer finds the violators guilty of the violation, he shall order the fine paid along with any additional violation notice fine issued prior to the hearing date.

(B) Any owner, his agent, or any occupant who has received notice of violation for failure to abate the condition pursuant to § [92.12](#) may be charged with a violation of this [chapter](#) in a criminal complaint. Those persons who have not had an opportunity to be heard pursuant to the terms of this [chapter](#) may request a hearing as provided for herein within ten (10) days of being arraigned on such charges. A copy of said request shall be filed with the County District Court. It is the intent of this [chapter](#) to encourage use of the administrative procedures and to permit all first time offenders an election to refer said criminal complaint entered in the County District Court to the above administrative proceedings prior to the criminal trial on the merits of the complaint.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

## **DILAPIDATED HOUSING**

### **§ 92.20 DILAPIDATED HOUSING PROHIBITED.**

It shall be unlawful for any owner, his agent, or any occupant of real property in the city to cause, allow, or permit any structure to be unfit for human habitation, occupancy, or use as provided in § [92.23](#).

(Ord. 0-90-007, passed 4-9-90) Penalty, see § [92.99](#)

### **§ 92.21 PETITION ALLEGING THE STRUCTURE TO BE UNFIT; INSPECTION GUIDELINES USED BY BUILDING INSPECTOR; COMPLAINT, NOTICE OF HEARING.**

(A) Whenever a petition is filed with the Building Inspector by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human habitation, occupancy, or use, or where it appears to the Building Inspector on his own petition that any structure is unfit for human habitation, occupancy, or use, the Building Inspector shall conduct a preliminary investigation, using the inspection guidelines set forth in division (C) of this section below. If this preliminary investigation discloses the basis for such charges, the Building Inspector shall issue and cause to be served upon the owner of such structure a notice of violation stating the charges in that respect. The notice of violation shall state the remedial measures to be taken to abate the violation in addition to the fine provided for herein. The notice shall state a time limit in which to fully accomplish the remedial measures. The notice shall be sent to the owners of public record. It shall be the duty of all property owners to inform the County P.V.A. Office of their current address at all times.

(B) The complaint shall state that:

(1) The violator shall be entitled to request within ten (10) days after the date of the notice of violation a hearing to contest the notice of violation, remedial measures or fines and hearing will be held before such officer as may be designated by the City Commission at a place therein fixed not less than ten (10) days nor more than sixty (60) days after the date of a request for a hearing;

(2) The owner and parties in interest may file a response to the notice of violation and appear in person or otherwise and give testimony of the place and time fixed for the hearing; and

(3) The rules of evidence prevailing in the course of law of equity shall not be applied to the hearings before the hearing officer. The hearing officer shall be bound to apply the laws of the Commonwealth and the city.

(C) All building and structure inspections performed by the Building Inspector under division (A) of this section shall be reduced to a written report which shall among other things identify the type of building and structure being inspected. The report shall identify the component elements of the structure, such as but not limited to the foundation, exterior walls, exterior skins, windows, doors, porch, chimneys, plumbing vents, gutters, downspouts, electrical vents, roof, secondary buildings, site conditions, interior walls, floors, hoists, sills, posts, subfloors, plumbing, heating equipment, pest controls, kitchens, bathrooms, other habitable rooms, attic, stairways, installation, electrical systems and plumbing fixtures.

(1) Each component element of the structure shall be considered and evaluated in terms of three (3) qualifiers, defined below:

(a) **ADEQUATE.** Refers to a component in good repair without any defect.

(b) **REPAIR/MAINTAIN.** Refers to components that are defective due to deferred maintenance or are substandard under the code. (In general, by repairing a component the end result should be equal to replacement of the component. A patch, minor defects, and painting are typically the kind of things repairs refer to. When in doubt as to whether an item can be repaired, it should be replaced).

(c) **REPLACE or INSTALL.** Refers to components that are defective due to deferred maintenance beyond repair, components that are needed to bring the item up to code (replace electrical services, or the installation of plumbing vents when none exist).

(2) Each defect observed by the Inspector shall be rated in terms of the three (3) qualifiers defined in division (C) (1) above. A particular defect can be qualified in combinations such as repair/maintain and replace/install, if needed.

(3) A cost factor shall be identified by the inspector for each component element of the structure. A cost factor for each component element of the structure to be inspected shall be determined by the Building Inspector using the best available cost/price information for construction within the area. Cost factors per component shall be made available to the public as they are adopted from time to time by the Building Inspector. The cost factor will be stated in terms of points per component. Points are then totaled for both the exterior and interior survey. The interior survey results are totaled and average point totals are generated. The sampling of interior surveys should be representative of the area. The average interior point should then be added to each of the exterior surveys to achieve a sum total of points.

(4) The sum points per unit are multiplied by the adjustable point multiplier for a given year. The point multiplier shall from year to year be determined by the producer's price index for construction material obtained from the Bureau of Labor Statistics. The formula for total costs is computed as follows.

(a) Number of exterior sidings per component X cost factor per component = exterior component points.

(b) Sum exterior component points per structure.

(c) Add the interior point average from the sample to total exterior points per structure = sum total points per structure.

(d) Now multiply the sum total points per structure by the point estimated costs to rehabilitation structure.

(5) (a) A cost adjustment shall be made for the size of the dwelling unit. The cost shall be increased as the size of the structure exceeds one thousand two hundred (1,200) square feet. The cost adjustment shall be computed as follows:

**Gross Square Feet**

**Percentage Increase**

1201 - 1700	Add 10%
1701 - 2100	Add 25%
2101 - 2600	Add 50%
2600+	Add 75%

(b) After adjusted cost is completed, a total target area rehabilitation cost shall be calculated. A reasonable contingency amount shall be calculated. A reasonable contingency amount from between seven percent (7%) to ten percent (10%) shall be added to the final figure to cover unpredictable costs.

(6) **VALUE OF THE STRUCTURE** as referred to in this subchapter is defined as the fair market value of the structure in its existing condition at the time of the inspection. Fair market value is defined as the price that a person who is willing but not compelled to buy would pay, and a seller who is willing but not forced to sell would accept for the property in question, less the fair market value of the real estate without the inspected structure. Consideration may be given to comparable sale of similar properties, the use and character of the neighborhood, adequacy of lot size, utilities and street layout. The city may elect to have the **FAIR MARKET VALUE OF THE STRUCTURE** determined by a professional real estate appraiser.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-034, passed 12-10-90; Am. Ord. 94-0-010, passed 5-23-94)

**§ 92.22 HEARINGS; FINDINGS OF FACT; ORDER.**

If, after the notice and hearing, the hearing officer determines that the structure under consideration is unfit for human habitation, occupancy, or use, he shall state in writing his findings of facts in support of such determination as provided for in § [92.22](#) (if different than the fine set in the notice of violation), and shall issue and cause to be served upon the owner thereof an order requiring the owner:

(A) To the extent and within the time specified in the order, to repair or alter said structure to render it fit for human habitation, occupancy, or use, or, at the option of the owner, remove or demolish said structure; or

(B) Within the time specified in the order, to remove or demolish said structure if the structure has been found to be unfit for human habitation, occupancy, or use for the third time within a three (3) year period regardless of ownership or cost to repair, alter, or improve.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

**§ 92.23 REPAIRS, CLOSING AND DEMOLITION BY CITY WHEN ORDER NOT COMPLIED WITH; LIEN FOR EXPENSE.**

(A) It shall be unlawful for any owner, his agent, or any occupant, in person or by his authorized agent, to fail to remedy the existence of any violation of this subchapter within the required time.

(B) If the owner, his agent, or any occupant, in person or by his authorized agent does not comply with the remedial measures provided for in § [92.22](#) or an order to abate as provided for in § [92.22](#) (A) and (B) or other order to repair, alter, or improve, the city is authorized (in addition to any fine imposed) under § [92.99](#) to enter upon said property, to remedy the condition, or to repair, alter, improve, vacate, or close. The Building Inspector may cause to be posted on the main entrance of any closed structure a placard with the following words: “This building is unsafe for human habitation, occupancy or use; and the use or occupancy of this building for human habitation, occupancy or use, is prohibited and unlawful.”

(C) If the owner does not comply with an order to remove or demolish a structure issued pursuant to § [92.22 \(B\)](#), the city is authorized to enter upon the property and remove or demolish the structure.

(D) (1) If the owner does not comply with an order to abate issued pursuant to § [92.22 \(A\)](#) within the time provided for therein; or the remedial measures set forth in a notice of violation issued pursuant to § [92.21](#) within the time provided for therein; a “notice of intent to remove to demolish” may be issued to the owner of public record by first class mail which shall state: “That a hearing will be held before such officer as may be designated by the City Commission at a place therein fixed not less than thirty (30) days nor more than sixty (60) days after the date of the notice.” Notice shall also be hosted on the violating structure. This notice shall be in addition to any fine imposed for failure to abate under § [92.99](#).

(2) If, after the notice and hearing, the hearing officer determines that the repairs, alterations or improvement previously ordered pursuant to §§ [92.21](#) or [92.22 \(A\)](#) cannot be made at a cost that is not more than fifty percent (50%) of the value of the structure, shall issue an order permitting the city to remove or demolish the structure.

(3) If the hearing officer finds that the repairs, alterations or improvements can be made at a cost that is not more than fifty percent (50%) of the value of the structure, he shall so state in an order and the city shall be permitted to pursue other remedies provided for in this [chapter](#).

(4) The city has previously adopted regulations to be used in determining if repairs, alterations or improvement can be made at a cost that is not more than fifty percent (50%) of the value of the structure.

(E) The amount of the cost to remedy the condition; to make repairs, alterations, or improvements; to vacate, close, or remove; or to demolish shall be a lien upon the real property upon which said cost was incurred. This will include the cost of cutting, clearing, and removing such environmental nuisances in addition to other reasonable action necessary to abate the same. The affidavit of the Building Inspector or other responsible officer designated by the city shall constitute the time or place or evidence of the amount of the lien and the proceedings pursuant to this **chapter** upon the same being recorded in the office of the County Clerk. Said document shall establish and constitute a lien upon and against the property wherein such labor and materials were utilized to remedy said condition. The recording of said lien shall be notice to the public at large of the existence of said lien and the same shall bear interest at the rate of twelve percent (12%) per annum from date of lien and thereafter until paid. If the structure is caused to be removed or demolished by the Building Inspector, the city may cause the structure to be removed or demolished, shall sell the materials of the structure, and shall credit the proceeds of said sale against the cost of removal or demolition. Any balance remaining therefrom shall be deposited in the Circuit Court by the Building Inspector to be disbursed by final order or decree of the Court.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### **§ 92.24 CONDITIONS THAT WARRANT FINDING OF UNFITNESS.**

A structure is unfit for human habitation, occupancy, or use if conditions exist in such structure which are dangerous or injurious to the health, safety, or morals of the occupants of such structure, the occupants of the neighboring structure, or other residents of the city. Such conditions shall include, but not be limited to, the following: defects increasing the hazard of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities or other essential equipment required by this **chapter**; dilapidation; disrepair; structural defects; uncleanliness; violation of any law of the Commonwealth of Kentucky, Kentucky building code or other Ordinance of the City of Pikeville. The code requirements relating to maintenance of existing buildings for human occupancy and habitation promulgated by the Building Officials and Code Administrators (BOCA) International, Inc. National Property Maintenance Code/1993 and has subsequently amended is hereby adopted by reference as an additional guideline in determining if a structure is unfit.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### **§ 92.25 EVICTION OF OCCUPANTS OF CONDEMNED STRUCTURE.**

When the hearing officer has condemned as unfit for human habitation, occupancy or use, any structure, pursuant to this **chapter** and has ordered the same to be vacated, the building inspector may, after ten (10) days notice to the occupant or occupants thereof, applied to the District Court and obtained from such Court an order of eviction against the occupant or occupants thereof, and the sheriff shall forthwith evict such occupant or occupants and his belongings from said building. When there is actual and immediate

danger of failure or collapse of a structure which would endanger life or when there is actual or potential danger to the buildings, occupants or those in the proximity of any structure because of violation of this ordinance, the building inspector, fire chief or fire inspector is hereby authorized and empowered to order and require the occupants to vacate the premise forthwith.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### **§ 92.26 SERVICE OF COMPLAINTS AND ORDERS.**

Notices or orders issued by the building inspector pursuant to this **chapter** shall be served upon persons required herein either personally or by first class mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, then the service of such notice or order upon such persons may be made by publication pursuant to KRS **Chapter** 424. A copy of such notice or order shall be posted in a conspicuous place on the premises affected by the complaint or order. Service upon a corporation shall be had upon its agent for service process or if none is maintained within the state, then to the last known address of the corporation or agent.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### **§ 92.27 REMEDIES.**

Any person affected by an order issued by the hearing officer may, within thirty (30) days after the posting and service of the order, petition the Circuit Court for an injunction restraining the building inspector from carrying out the provisions of the order, and the Court may issue a temporary injunction restraining the hearing officer pending the final disposition of the case. Hearing shall be held by the Court on such petition as soon thereafter as possible. In all such proceedings the findings of the hearing officer as to facts, if supported by any evidence, shall be conclusive. The remedies herein provided shall be exclusive remedies and no person affected by an order of the hearing officer shall be entitled to recover any damages, for actions taken pursuant to any order of the hearing officer or because of noncompliance by such person with any order of the hearing officer.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

#### **§ 92.28 POWERS OF BUILDING INSPECTOR AND HEARING OFFICER.**

To investigate structures, issue notices of violation and obtain evidence the building inspector, fire inspector, fire chief, police officer, city manager or such other person designated by the city manager shall be vested with such powers as necessary and convenient to carry out the provisions of this **chapter** including the following powers in addition to others herein granted:

(1) To investigate the structural conditions of the city in order to determine which structures therein are unfit for human habitation, occupancy or use;

(2) The hearing officer shall be vested with the power, in addition to others herein granted, to administer oaths, affirmations, examine witness and receive evidence and to summons witness by making application to the Pike District Court. To enter upon the premises for the purpose of making examinations, but such interest shall be made in such manner as to cause the least possible inconvenience to the person in possession.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

### **§ 92.29 INTERFERENCE WITH BUILDING INSPECTOR DURING PERFORMANCE OF DUTIES.**

It shall be unlawful for any person to interfere with the duties of the Building Inspector as required hereunder or to refuse entry upon any premises or into any structure in which the Building Inspector is authorized to enter pursuant to this [chapter](#).

(Ord. 0-90-007, passed 4-9-90) Penalty, see § [92.99](#)

## **LANDLORD LICENSING**

### **§ 92.35 PROCEDURE; DURATION; LICENSE FEE.**

(A) Every person, individual, firm, owner, corporation, landlord, or combination thereof engaged in the business of leasing or renting of any apartment building, multiple unit, multiple dwelling units, or single-dwelling unit which has a separate power meter and is rented or leased for more than ninety (90) days to the same person or family regardless of whether the initial term is less than ninety (90) days if the term is routinely renewed for more than ninety (90) days, is hereby required to make application to and receive an annual license from the City Clerk before engaging in the business. The annual license fee shall be the fee set forth in the business. The annual license fee shall be the fee set forth in [Chapter 115](#) of this Code or Ordinances. Said applicant shall state his name and address and identify the number of tenants occupying his property and the location thereof. The City Clerk shall issue said license if:

- (1) The applicant's property is not in violation of any ordinance of the city;
- (2) All city taxes and fees shall be fully paid; and
- (3) The applicant provides a full legal description of all parcels of property he rents.

(B) The Building Inspector is hereby empowered to revoke said license if it is discovered that the applicant has:

- (1) Misrepresented himself or the estate of his property;
- (2) Refused access to premises for inspection as required in § [92.36](#); or
- (3) His property is or becomes in violation of any of the ordinances of the city and/or the statutes of the state.

(Ord. 0-90-007, passed 4-9-90)

### **§ 92.36 INSPECTION; ENFORCEMENT.**

(A) The Building Inspector or other such appropriate public official as the City Commission shall designate shall inspect each unit before it is reoccupied by tenants or every five (5) years, whichever event is shorter, in addition to any other inspection required by law or herein to which an applicant for license or licenses shall consent, to determine the health and safety conditions of the apartment buildings, multiple dwellings, rooming houses, dwelling or dwelling units, within the city.

(B) For the purpose of making this inspection, the Building Inspector is hereby authorized to enter, examine, and survey at all reasonable times before the unit is reoccupied all apartment buildings, commercial buildings, multiple dwellings, rooming houses, dwellings, or dwelling units. The tenant or person in charge of an apartment building, commercial building, multiple dwelling, rooming house, dwelling, or dwelling unit shall give the Building Inspector free access only to the leased portion of same or central facility serving same for the purpose of such inspection, examination, and survey.

(Ord. 0-90-007, passed 4-9-90)

### **§ 92.37 NOTICE OF REVOCATION HEARING.**

The Building Inspector shall cause notice of the revocation of the license to be served upon the licensee as provided for herein for violation of any of the provisions of this [chapter](#). The licensee may request a hearing as provided for in this [chapter](#).

(Ord. 0-90-007, passed 4-9-90)

### **§ 92.38 VIOLATION.**

Failure to secure a license in accordance with the provisions of this subchapter or failure to comply with any of the requirements of this subchapter is a punishable violation.

(Ord. 0-90-007, passed 4-9-90) Penalty, see § [92.99](#)

## **NOISE NUISANCES**

**§ 92.50 UNREASONABLE AND LOUD NOISES PROHIBITED.**

It shall be unlawful for any person, firm or corporation to create or assist in creating, permit, continue, or permit the continuation of any reasonably loud, disturbing and unnecessary noise in the city. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(Ord. 0-90-007, passed 4-9-90) Penalty, see § [92.99](#)

**§ 92.51 NOISES EXPRESSLY PROHIBITED.**

The following acts, among others, are declared to be loud, disturbing unnecessary noises in violation of this subchapter, but said enumeration shall not be deemed to be exclusively, namely:

(A) The sounding of any horn, signal device or any other sound device on any automobile, motorcycle, buses or other vehicle, except as a danger signal.

(B) The use of any gong or signal upon the vehicle other than a police, fire or emergency vehicle.

(C) The keeping of any animal or bird which by causing frequent or long-continuing noises shall disturb the comfort and repose of any person in the vicinity.

(D) The use or operation of any phonograph, radio or loudspeaker or any other instrument or sound device so loud as to disturb persons in the vicinity thereof, or in such manner as renders the same a public nuisance.

(E) The use of any automobile, motorcycle or other vehicle so out of repair or without proper muffling devices, as to create loud or unnecessary grating, grinding, rattling or other noise. It shall not be a defense that the vehicle or motorcycle which produces a prohibited noise is equipped with the original factory equipment.

(F) The erection (including excavation), demolition, alteration or repair of any building or the operation of any machinery in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m. except in the case of urgent necessity in the interest of the public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three (3) days or less while the emergency continues.

(G) The creation of any excess noise on any street adjacent to any school, institution of learning, or court while the same are in session, or within one hundred (100) feet of any hospital, which unreasonably interferes with the working of such institution.

(Ord. 0-90-007, passed 4-9-90) Penalty, see § [92.99](#)

## § 92.98 CITATION PROCEDURE.

(A) Any person who violates this **chapter** may be cited for the appropriate violation and assessed the fine as set out in § 92.99. If any structure, parcel of land or tract of real estate is found to be in violation of this **chapter**, the owner or owners of said tract or parcel of land as reflected in the Property Valuation Office may be cited for the appropriate violation and fined as set out in § 92.99.

(B) The form of the notice of violation of this **chapter** shall contain in substance the following information:

(1) A statement that the notice represents a determination that a violation of this **chapter** has been committed by the individual or owner of the structure or property and that the determination shall be final unless contested as provided for herein;

(2) A statement of the specific violation for which the citation is issued.

(3) A statement of the monetary fine established for the violation; and

(4) A statement of options for responding to the notice and the procedures necessary to exercise these options.

(C) A citation issued pursuant to this **chapter** represents a determination that a violation thereof has been committed, and such determination shall be final unless contested as provided for herein.

(D) The notice of violation shall be hand-delivered or mailed to the violator, or mailed to the last known address of the owner or violator as listed in the P.V.A. Office.

(E) (1) Any person who receives notice of a violation shall respond to such notice as provided in this section within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant hereto..

(2) If the individual cited for violation of this **chapter** or the property owner of the structure or real property cited for violation of this **chapter** has not responded to the notice within seven (7) days as provided for in division (E) (1) above, the city shall send a second notice by certified mail to the last known address of the individual or registered owner of the property as listed in the P.V.A. Office. Such notice shall state that if the individual or owner does not respond to the notice by either paying the fine or by requesting in writing with the City Clerk a hearing pursuant to this **chapter**, within seven (7) days of the receipt of the notice, the individual or owner shall be deemed to have waived his right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing and fails to pay the fine within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(F) (1) Any person cited for a violation of this **chapter** may contest the determination that a violation occurred by requesting in writing a hearing before the hearing officer. Such hearing shall be held no later than fourteen (14) days from the date of receipt of the request, unless prior to the hearing the person requesting such hearing requests an extension of time not to exceed fourteen (14) days. No less than seven (7) days prior to the date set for the hearing, the Board shall notify the violator or owner of the structure or property of the date, time and place of the hearing. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have refused to pay the fine levied by the citation.

(2) At the hearing, after consideration of the evidence, the hearing officer shall determine whether a violation was committed. Where it has not been established that a violation was committed, an order dismissing the citation shall be entered. Where it has been established that a violation was committed, the hearing officer shall uphold the citation and order the violator or owner to pay the citation within seven (7) days. A copy of such order shall be furnished to the violator. Any person ordered to pay the fine who fails to do so within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(3) The hearing officer may consider the citation and any other written report made under oath by the officer who issued the citation in lieu of the officer's personal appearance at the hearing.

(4) An appeal from the hearing officer's determination may be made to the County District Court of Pike County within seven (7) days of the hearing officer's determination. The appeal shall be initiated by the filing of a complaint and a copy of the hearing officer's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the city to establish that a violation has occurred. If the court finds that a violation occurred, the owner shall be ordered to pay the city all fines, fees, and penalties occurred as of the date of judgment. If the Court finds that a violation did not occur, the city shall be ordered to dismiss the citation and the plaintiff shall be authorized to recover his cost.

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

(G) Upon information given by the Police Department or any other city employee that a violation fine has not been paid, a summons shall be issued against the offender directing the violator to appear at a specific time before the court of appropriate jurisdiction. Failure to pay a violation fine shall result in the violator being fined not less than twenty five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or imprisoned for not more than fifty (50) days, or both for each offense. No summons shall be issued during the time in which said citation is being contested pursuant to the provisions of this **chapter**.

(Ord. 0-90-007, passed 4-9-90)

**§ 92.99 PENALTY.**

(A) (1) Any owner, his agent, and/or occupant who violates any provision of this **chapter** shall be issued a citation and fined for each violation as follows:

<b>OFFENSE</b>	<b>FINE</b>
(a) Environmental nuisance (§ <a href="#">92.10</a> )	\$25.00
(b) Litter, garbage, trash and weeds (§ <a href="#">92.11</a> )	25.00
(c) Abatement of environmental nuisance (§ <a href="#">92.12</a> )	25.00
(d) Dilapidated housing (§§ <a href="#">92.20-92.29</a> )	50.00
(e) Failure to acquire landlord (§§ <a href="#">92.35</a> - <a href="#">92.38</a> )	25.00
(g) Unreasonable and loud noises (§§ <a href="#">92.50</a> , <a href="#">92.51</a> )	25.00

(2) Each day in which such violation occurs shall constitute a separate offense. The fines set out above shall be in addition to any cost to remedy a condition or to repair, alter, improve, vacate or close a structure as provided for in § [92.23](#).

(B) The city may discontinue this utility service for any structure which is in violation of this ordinance or for outstanding and delinquent fines assessed against said structure regardless of the person or persons assessed such fines.

(C) Any person who violates any provision of this **chapter** may become individually liable to the city or the owner or owners of property affected by violation of this **chapter** not only for the cost of abatement of the violation as provided for herein, but also for all costs, expenses, attorney fees and/or civil damages incurred by the city or other person affected by the violation of this **chapter** to enforce the provisions of this **chapter** for each parcel of real property found in violation for those periods as charged.

(Ord. 0-90-007, passed 4-9-90)