

📖 **CHAPTER 92: DILAPIDATED HOUSING AND NUISANCES**

Section

General Provisions

[92.01](#) Statutory authority; purpose

[92.02](#) Short title; adoption of Kentucky Building Code

[92.03](#) Conflicting ordinances superseded; severability

[92.04](#) Definitions

Environmental Nuisances

[92.10](#) Environmental nuisances unlawful

[92.11](#) Litter, garbage, trash, and weeds

[92.12](#) Abatement of environmental nuisances

[92.13](#) Deadline for appeal of notice

Dilapidated Housing

[92.20](#) Dilapidated housing prohibited

[92.21](#) Petition alleging the structure to be unfit; inspection guidelines used by Building Inspector; complaint; notice of hearing

[92.22](#) Hearings; findings of fact; order

[92.23](#) Repairs, closing and demolition by city when order not complied with; lien for expenses

[92.24](#) Conditions that warrant finding of unfitness

[92.25](#) Eviction of occupants of condemned structure

[92.26](#) Service of complaints and orders

[92.27](#) Remedies

[92.28](#) Powers of Building Inspector and Hearing Officer

[92.29](#) Interference with Building Inspector during performance of duties

Landlord Licensing

[92.35](#) Procedure; duration; license fee

[92.36](#) Inspection; enforcement

[92.37](#) Notice of revocation hearing

[92.38](#) Violation

Noise Pollution

[92.50](#) Title

[92.51](#) Declaration of policy

[92.52](#) Definitions

[92.53](#) Prohibited noises

[92.54](#) Prohibited acts

[92.55](#) Exemptions

[92.98](#) Citation procedure

[92.99](#) Penalty

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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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 depreciate 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 yard grass exceeding six (6) inches in height or other 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 yard grass greater than six (6) inches or hillside weeds greater than twelve (12) inches.
- (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.

HEARING OFFICER. The **HEARING OFFICER** as provided for herein shall be the Vacant Property Review Commission of the City of Pikeville. The Vacant Property Review Commission shall conduct all hearings provided for herein. A simple majority of the total membership of the Commission shall constitute a quorum to conduct a hearing or other business required hereunder for the **HEARING OFFICER**. A majority vote of the quorum present shall be required for a decision.

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 objects 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; Am. Ord. 05-0-05, passed 4-25-05; Am. Ord. 07-0-023, passed 8-27-07; Am. Ord. 0-2011-017, passed 5-23-11)

ENVIRONMENTAL NUISANCES

§ 92.10 ENVIRONMENTAL NUISANCES UNLAWFUL.

It shall be unlawful for any owner, his or her 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 the 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; Am. Ord. 0-2011-017, passed 5-23-11) Penalty, see § [92.99](#)

§ 92.11 LITTER, GARBAGE, TRASH, AND WEEDS.

(A) It shall be unlawful for any owner, his or her 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; Am. Ord. 0-2011-017, passed 5-23-11) 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 seven (7) days unless a shorter period is specified pursuant to division (B) or (C) 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) 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 § [92.04](#) within three (3) days after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to § [92.13](#) and § [92.98](#). In respect to violations of this section if these specific violations are not remedied, within seven (7) days after the three (3) day abatement period elapse as stated under § [92.98](#) then regardless if an appeal has started as outlined under § [92.13](#) the city may entry the property where the violation was cited in order to remedy the violation immediately. If after the appeal the ruling is found to be in the violators favor then no further action is necessary and the city will not be able to collect any fines, penalties or cost the city incurred to remedy the charged violation. If however after the appeal the ruling is in the cities favor the violator as described above shall be responsible to pay to the city within ten (10) days all fees resulting from fines, penalties and additional cost incurred by the city to remedy the violation. If payment is not received by within the ten (10) day period then a lien shall be placed by the city against the property in which the violation occurred. Additional cost to remedy a violation shall be fair and approved by the City Manager prior to the work being completed.

(C) 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 seven (7) 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; Am. Ord. 0-2011-017, passed 5-23-11) 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 seven (7) 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 seven (7) 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; Am. Ord. 0-2011-017, passed 5-23-11)

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; Am. Ord. 0-2011-017, passed 5-23-11) 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; Am. Ord. 0-2011-017, passed 5-23-11)

 **§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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 or reasonable diligence, then the service of such notice or order upon such persons maybe 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 tot he 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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 has 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; Am. Ord. 0-2011-017, passed 5-23-11)

§ 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. 0-2011-017, passed 5-23-11) Penalty, see § [92.99](#)

§ 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; Am. Ord. 0-2011-017, passed 5-23-11) 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 sixty (60) days to the same person or family regardless of whether the initial term is less than sixty (60) days if the term is routinely renewed for more than sixty (60) days, is hereby required to make application to and receive an annual license from the City Tax Office 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 their name and address and identify the number of tenants occupying his or her property and the location thereof. The Tax Office shall present an updated list of all license holders the first working day of each month. The City Tax Office 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 or she rents.

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

- (1) Misrepresented himself or herself or the estate of his or her property;
- (2) Refused access to premises for inspection as required in § [92.36](#); or
- (3) Unabated violations or more than three (3) repeated violations on a same property in a twelve (12) month period.

(C) (1) 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 sixty (60) days to the same person or family regardless of whether the initial term is less than sixty (60) days if the term is routinely renewed for more than sixty (60) days, shall be required to pay a two dollar (\$2.00) permit fee to the City Tax Office for each separate unit they are renting. Said permit shall state the landlord's name, address, contact number and e-mail address if one is available. The permit shall have the following information: the tenant's name, the location where they are rented or leased to, identifying the number of tenants occupying the specific property and the physical address of the rented or leased unit.

(2) The Building Inspector is hereby empowered to revoke the permit for any individual unit or property if it is discovered that the applicant has:

(a) Their property is or becomes in violation of any of the ordinances of the city and/or the statutes of the state, federal government or this chapter;

(b) Misrepresented himself or herself or the estate of their property;

(c) Refused access to premises for inspection as required in § [92.36](#); or

(d) Unbated violations or more a repeat violation on the same property.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

§ 92.36 INSPECTION; ENFORCEMENT.

(A) The Building Inspector or other such appropriate public official as the City Commission or City Manager shall designate shall inspect each unit before it is reoccupied by tenants or may inspect every rental facility within every two (2) to 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.

(C) The Building Inspector will access a twenty-five dollars (\$25.00) inspection fee to the property owner each time an inspection occurs under the terms set forth by this chapter. If violations occur that cannot be corrected during the initial inspection then the property owner

will be assessed a fee of ten dollars (\$10.00) for each return visit until which time the Building Inspector is satisfied that the violation(s) have been corrected.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

§ 92.37 NOTICE OF REVOCATION HEARING.

The Building Inspector shall cause notice of the revocation of the permit or license to be served upon the licensee as provided for herein for violation of any of the provisions of this chapter. The permittee or licensee may request a hearing to the City Clerk in writing. A hearing shall be scheduled and heard by the city's Vacant Property Review Board within thirty (30) days of the request. The owner may not allow another tenant to occupy their structure until which time all issues are remedied or until the hearing is concluded and the decision is rendered to allow tenants back into their structure.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

§ 92.38 VIOLATION.

(A) 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.

(B) If the Building Inspector determines there to be a violation of either federal, state or local regulations the landlord's permit for that unit, or if repeat violation, their license shall be revoked immediately until which time the item(s) are corrected. If a landlord's permit or license is revoked then they shall not be permitted to allow their premises to be occupied by a tenant. When a violation occurs, the Building Inspector shall determine what city agency shall be contacted for their review, assessment, plan of action and possible penalty if applicable. If it is a violation of fire codes, the City Fire Marshal shall be contacted to inspect for compliance before their permit or license may be reinstated by the Building Inspector. If it is a violation of a building code, the City Codes Enforcement Officer shall be contacted to inspect for compliance before their permit or license may be reinstated by the Building Inspector. If it is an environmental nuisance violation, the City Environmental Nuisance Officer shall be contacted to inspect for compliance before their permit or license may be reinstated by the Building Inspector. It is the Building Inspector's responsibility to determine if there is a violation and contact the appropriate department as explained for their determination if the item has been corrected to federal, state or local compliance. When the appropriate department is satisfied with the resolution, they shall submit in writing to the Building Inspector their position. When the Building Inspector receives remedy statements from each department that all issues have been address it will then be the Building Inspector's responsibility to reinstate the landlord's permit or license to continue to operate.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11) Penalty, see § [92.99](#)

NOISE POLLUTION

📖 § 92.50 TITLE.

This subchapter may be cited as the “Noise Control Ordinance of the City of Pikeville, Kentucky.”

(Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11)

📖 § 92.51 DECLARATION OF POLICY.

In order to control unnecessary, excessive and annoying noise and vibration in the city, it is hereby declared to be the policy of the city to prohibit such noise and vibration.

(Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11)

📖 § 92.52 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY MANAGER. The City Manager of the City of Pikeville, Kentucky or designee appointed by the City Manager.

CONSTRUCTION. Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

EMERGENCY MACHINERY, VEHICLE OR ALARM. Any machinery, vehicle or alarm used, employed, performed or operated in an effort to protect, provide or restore safe conditions in the community or for the citizenry or work by private or public utilities when restoring utility service.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work by private or public utilities when restoring utility services.

PERSON. Any individual, firm, association, partnership, joint venture or corporation.

WEEKDAY. Any day, Monday through Saturday, which is not a legal holiday.

(Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11)

📖 § 92.53 PROHIBITED NOISES.

No person shall make, or cause or suffer, or permit to be made upon any premises owned, occupied or controlled by such person, any unnecessary noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time, or place as to occasion unnecessary discomfort to any persons within the neighborhood from which the noises emanate or which interfere with the peace and comfort of the residents of their guests, or the operators or customers in places of business in the vicinity, or which may detrimentally or adversely affect such residences or places of business.

(Ord. 0-090-007, passed 4-9-90; Am. Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11)

§ 92.54 PROHIBITED ACTS.

Notwithstanding any other provisions of this subchapter, the following acts and the causing or permitting thereof, are declared to be in violation of this subchapter and could be subject to penalty as mentioned in § [92.99](#):

(A) Unnecessary noises. The unnecessary making of, or knowingly and unnecessarily permitting to be made, any loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building, except that the ordinary and usual sounds, noises, commotion or vibration incidental to the operation of those places when conducted in accordance with the usual and normal standard of practice applicable thereto and in a manner which will not disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators or customers of adjacent places of business.

(B) (1) Radios, phonographs, and the like. The using, operating or permitting to be played, used or operated of any radio, musical instrument, phonograph, television set, or instrument or device similar to those heretofore specifically mentioned for the production or reproduction of sound in volume sufficiently loud as to disturb the peace, quiet or repose of persons of ordinary and normal sensitivity who are in the immediate vicinity of such machine or device.

(2) Portable radios in public conveyances. The audible using, operating or playing, or permitting to be used, operated or played, of any radio, musical instrument or electronic recording device of any kind or character whatever in any public conveyance. It shall not be unlawful to listen to any such device by means of earplugs inserted in the hearer's ears and inaudible to any other person.

(C) Engines, motors and mechanical devices near residential district. Except as provided in division (F) below regarding construction-related noise, the sustained operation or use between the hours of 10:00 p.m. and 7:00 a.m. of any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, machine or mechanical device or other contrivance or facility unless such motor, engine, automobile, motorcycle, machine or mechanical device is enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible at a distance of fifty (50) feet from such structure, or within ten (10) feet of any residence.

(D) Motor vehicles. Racing the engine of any motor vehicle or needlessly bringing to a sudden start or stop of any motor vehicle.

(E) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause noise disturbance.

(F) Commercial construction, demolitions and excavation. The erection, including excavating, demolition, alteration or repair of any building, land clearing, land grading, drilling or road and utility construction other than between 7:00 a.m. and 7:00 p.m., Monday through Saturday and in case of an urgent necessity in the interest of public safety on Sunday.

(G) Non-emergency signaling devices.

(1) Sounding or permitting the sounding of any electronically-amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than ten (10) consecutive seconds in any hourly period.

(2) Sound sources included within this provision which are not exempted under § [92.55](#) may be exempted by a variance issued by the City Manager.

(H) Emergency signaling devices.

(1) The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren whistle or similar emergency signaling device, for testing, except as provided in division (H)(2) below.

(2) Testing of an emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(3) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is terminated within fifteen (15) minutes of activation.

(I) Animals and birds. Owning, possessing or harboring any pet animal or pet bird that frequently or for continued duration makes sounds that create a noise disturbance across a residential real property line. (For the purpose of this division, a ***NOISE DISTURBANCE FROM A BARKING DOG*** shall be defined as that created by a dog barking continually for ten (10) minutes or intermittently for thirty (30) minutes unless provoked.) This division (I) shall be enforced by the Animal Control Officer during regular business hours.

(J) Commercial establishments adjacent to residential property. Sustained noise from the premises of any commercial establishment, including any outdoor area part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. shall not be plainly unreasonably audible creating a disturbance at any residential dwelling.

(K) It shall be unlawful for any person, in or upon any public street, alley, or public place within the city to make any loud or unusual noise, or to speak in a loud or unusual tone, or to cry out or proclaim, for the purpose of influencing or attempting to induce or influence, any person to refrain from purchasing or using any goods, wares, merchandise or other articles, or for the purpose of inducing or influencing or attempting to induce or influence, any person to refrain from doing or performing any service or labor in any works, factory, place of business or employment or for the purpose of intimidating, threatening or coercing any person who is performing, seeking or obtaining service or labor or employment in any works, factory, place of business or employment.

(L) Noises near schools, hospitals, churches, and the like. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof; provided, that signs must be displayed in such streets indicting that the same is a school, institution of learning, church, court or hospital.

(M) The following acts and the causing thereof are declared to be loud, disturbing and unnecessary noises in violation of this subchapter, but the enumeration herein shall no be deemed to be exclusive:

(1) Horns and signaling devices. The sounding of any horn or other signaling device on any automobile, motorcycle, bus or other vehicle while stationary, except as a danger signal when an approaching vehicle is apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary period of time.

(2) Noisy vehicles. No person shall:

(a) Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud, unnecessary, grating, grinding, rattling or other noise.

(b) Operate any vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires or revving the motor of such vehicle.

(c) Modify or cause to be modified the muffler, exhaust system or other noise-control device of any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noise-control devices of any vehicle operated in the city shall be maintained and in good working order. No person shall operate or permit to be operated a vehicle where the muffler, exhaust system or other noise-control device has been so modified or has not been maintained. A law enforcement officer shall use his or her judgment to determine if someone is out of tolerance.

(N) The operation of restaurants, taverns, bars and nightclubs.

(1) No restaurant, tavern, bar, nightclub, dance club or other similar use, whether public or private, shall be conducted so that unreasonable or unnecessary music or other noise is caused by and/or emanates from that use.

(2) Any owner, operator or proprietor of such a business use or the owner, licensee or person in control of any private premises shall so limit the level of noise emanating from the premises.

(3) Further, it shall be the duty of any such person to disperse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in lewd or disorderly conduct adjacent to or near the premises or to immediately notify the police of such conduct.

(O) Private residences. No noise from parties, entertainment, music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from that use can be heard between the hours of 11:00 p.m. and 7:00 a.m. the following day inside any residence, regardless of whether the windows of such residence are open, or at any other time if the noise is unnecessary or unreasonable under the circumstances.

(P) Hawkers and peddlers. The loud shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(Q) Vendor's vehicle. Using, operating or playing, or permitting to be used, operated or played, any bell, radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in or upon any of the streets or highways within the city, which sound-producing instruments are set to produce any noise, music or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use and operation of any vehicle so equipped with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m. of the succeeding day; or the use or operation of any such sound-producing equipment in or upon any such vehicle while the vehicle is moving along or upon any street or highway; it being the intent and purpose of this division (Q) to permit the use of such sound-producing equipment in or upon any such vehicle only when the vehicle is parked or standing still in or upon any street or highway and during the hours provided in this division (Q).

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11) Penalty, see § [92.99](#)

§ 92.55 EXEMPTIONS.

The following activities shall be exempt from the provisions of this subchapter:

(A) Emergency exception. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

(B) Warning devices. Warning devices necessary for the protection of public safety as for example, police, fire and ambulance sirens and train horns.

(C) Outdoor activities. Activities conducted on public playgrounds and public or private school grounds including but not limited to school athletic and school entertainment events.

(D) Construction—special circumstances.

(1) The provisions of § [92.54\(F\)](#) do not apply to any person who performs construction, repair, excavation or earthmoving work pursuant to the expressed written permission of the City Manager to perform such work at times prohibited in § [92.54\(F\)](#). The applicant must submit to the City Manager an application in writing, stating the reasons for the request and the facts upon which such reasons are based. The City Manager may grant written permission for the construction if he or she finds:

(a) The work proposed to be done is in the public interest;

(b) Hardship, injustice or unreasonable delay would result from the interruption thereof during the hours and days specified in § [92.54\(F\)](#); or

(c) The building or structure involved is devoted or intended to be devoted to a use immediately incident to public defense.

(2) Any applicant dissatisfied with the decision of the City Manager may appeal to the City Commission by filing a notice of appeal with the City Clerk within ten (10) days after notice of the City Manager's decision. The City council shall, within thirty (30) days of filing the appeal, affirm, reverse or modify the decision of the City Manager.

(3) The provisions of § [92.54\(F\)](#) do not apply to the construction, repair, or excavation during prohibited hours as may be necessary for the preservation of life or property, when such necessity arises during such hours as the offices of the city are closed, or where such necessity requires immediate action prior to the time at which it would be possible to obtain a permit pursuant to this division (D). The person doing such construction, repair or excavation shall obtain a permit therefor within one (1) business day of such construction, repair or excavation.

(E) Outdoor gatherings, festivals, public dances, shows and sporting events. Provided the events are conducted pursuant to a permit issued by the City Manager.

(F) Church bells. Sounds created by church bells or chimes.

(G) Lawn mowers and yard equipment. Sounds created by lawn mowers, manual and power tools and household appliances in use between the hours of 8:00 a.m. and 8:00 p.m.

(H) Public utilities. Sounds created by public utilities in carrying out the operations of the city.

(Ord. 04-0- , passed - -; Am. Ord. 0-2011-017, passed 5-23-11)

 **§ 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 the 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 or her 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.

(3) Under § [92.12](#) (B) In respect to violations of this section if these specific violations are not remedied during the original three (3) day abatement period then the city may send a 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 remedying the violation and paying the fine then within (7) days of the postmarked date then regardless if an appeal has started by an individual or owner the city may entry the property where the violation was cited in order to remedy the violation immediately. If after the appeal the ruling is found to be in the violators favor then no further action is necessary and the city will not be able to collect any fines, penalties or cost the city incurred to remedy the charged violation. If however after the appeal the ruling is in the cities favor the violator as described above shall be responsible to pay to the city within ten (10) days all fees resulting from fines, penalties and additional cost incurred by the city to remedy the violation. If payment is not received by within the ten (10) day period then a lien shall be placed by the city against the property in which the violation occurred. Additional cost to remedy a violation shall be fair and approved by the City Manager prior to the work being completed.

(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; Am. Ord. 05-0-05, passed 4-25-05; Am. Ord. 0-2011-017, passed 5-23-11)

§ 92.99 PENALTY.

(A) (1) Except as otherwise provided in this section, any owner, his or her agent, and/or occupant who violates any provision of this chapter shall be issued a citation and fined for each violation as follows:

	OFFENSE	FINE
(a)	Environmental nuisance (§ 92.10), if not completed by specified date:	
	First offense	
	Second offense	\$75.00
	Third offense	300.00
		1,000.00
(b)	Litter, garbage, trash and weeds (§ 92.11), if not completed by specified date:	
	First offense	
	Second offense	75.00
	Third offense	300.00
		1,000.00
(c)	Abatement of environmental nuisance (§ 92.12), if not completed by specified date:	
	First offense	75.00
	Second offense	300.00
	Third offense (and every offense thereafter)	1,000.00
(d)	Dilapidated housing (§§ 92.20 - 92.29)	50.00
(e)	Failure to acquire landlord license (§§ 92.35 - 92.37)	
	First offense	150.00
	Second offense	300.00
	Third offense (and every offense thereafter)	1,000.00
(f)	Landlord violations (§ 92.38)	500.00
(g)	Unreasonable and loud noises (§§ 92.50 , 92.51)	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 chapter or for outstanding and delinquent fines assessed against the 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.

(D) (1) Upon conviction for a first offense for violating any provision of §§ [92.50](#) through [92.55](#), the court shall impose a fine of seventy-five dollars (\$75.00). The minimum fine imposed by this division (D)(1) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

(2) Upon conviction for a second offense for violating any provision of §§ [92.50](#) through [92.55](#), the court shall impose a fine of one hundred fifty dollars (\$150.00). The minimum fine imposed by this division (D)(2) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

(3) Upon conviction for a third or subsequent offense for violating any provision of §§ [92.50](#) through [92.55](#), the court shall impose a fine of three hundred dollars (\$300.00). The minimum fine imposed by this division (D)(3) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant §§ [92.50](#) through [92.55](#).

(a) The sound amplification system shall be forfeited and shall be confiscated by order of the Pike District Court (or by the Pike Circuit Court if a civil forfeiture action be filed) upon the conviction of a person for a third violation.

(b) Upon an entry of an order of confiscation, the officer's designee shall conduct the removal of the sound amplification system. If the officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 04-0- , passed - - ; Am. Ord. 05-0-05, passed 4-25-05; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)