

CHAPTER 92: DILAPIDATED HOUSING AND NUISANCES

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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 to protect, promote, and improve the health, safety and welfare of the citizens residing within the city by adopting a standardized code which outlines and details rules and regulations whereby buildings, structures, and properties are to be maintained in accordance with national and international standards.

(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; Am. Ord. 0-2016-14, passed 8-22-16)

§ 92.02 SHORT TITLE; ADOPTION OF KENTUCKY BUILDING CODE.

(A) For the purposes cited in § [92.01](#) the Pikeville City Commission does hereby ordain, adopt and enact this chapter in its entirety, including text and all regulations, all of which shall be know as the City Property Maintenance and Environmental Nuisance Chapter. This chapter shall apply to all land within the corporate limits of the city.

(B) All standards of the Kentucky State Pumping Law, Regulations and Code, as amended from time to time, and the Kentucky Building Code , as amended from time to time are hereby incorporated into this chapter.

(C) One copy of the International Property Maintenance Code, 2012 edition which is on file in the Office of the Pikeville City Clerk and contained on the city's website be and is hereby adopted as the Property Maintenance and Environmental Nuisance Code of the city for the purposes set out in § [92.01](#) and the said Property Maintenance Code is hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § [92.04](#).

(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; Am. Ord. 0-2016-14, passed 8-22-16)

§ 92.03 CONFLICTING ORDINANCES SUPERSEDED; SEVERABILITY.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with its provisions, specifically including previous ordinances of the city or amendments thereto, are hereby repealed or superseded to the extent necessary to give this chapter full force and effect.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 AMENDMENTS.

The International Property Maintenance Code adopted in § [92.02](#)(C) is hereby amended as follows:

(A) Section 101.1 entitled "Title" shall be amended to read as follows:

These regulations shall be known as the Property Maintenance and Environmental Nuisance code of the City of Pikeville, Kentucky, hereinafter referred to as “Code” or “this Code.”

(B) Section 103 entitled Department of Property Maintenance Inspection shall be repealed and the activities, fees and services performed by the city departments in carrying out the duties under this code shall be as indicated in § [92.16](#) and fines and fees as indicated in § [92.20](#).

(C) Section 106 entitled Violations shall be repealed and the procedures for violations shall be as described in § [92.16](#).

(D) Section 107 subsections 107.1, 107.2, 107.3 dealing with notice of violation are hereby repealed and procedures for providing notice of violation shall be as described in § [92.16](#).

(E) Section 109 subsection 109.1, 109.3, 109.6 dealing with emergency measures are hereby repealed and procedures for dealing with emergencies shall be as described in § [92.24](#).

(F) Section 111 entitled Means of Appeal is hereby repealed and the method and means of appeal shall be as described in the § [92.16](#).

(G) Section 302.4 shall be amended to read as follows:

(1) All premises and exterior property shall be maintained free from weeds or plant growth in excess of six inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses annual plants and vegetation, other than trees or decorative shrubs, which shall be kept trimmed neat and orderly; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to any fines, fees or penalties as prescribed by ordinance. In addition, upon failure to comply with the notice of violation, any personnel or contractor, duly authorized by the City of Pikeville Code Enforcement Officer, City Manager or his designee, shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

(Ord. 0-2016-14, passed 8-22-16)

CODE ENFORCEMENT BOARD

§ 92.10 CREATION AND PURPOSE; AUTHORITY; MEMBERSHIP.

(A) Pursuant to KRS 65.8801 to 65.8839 the City of Pikeville Code Enforcement Board is established to protect, promote, and improve the health, safety, and welfare of the citizens residing within the city.

(B) The City of Pikeville Code Enforcement Board shall have the authority to issue remedial orders and impose fines as a method of enforcing city ordinances when a violation of the ordinance has been classified as a civil offense; the Board shall not have the authority to enforce any ordinance regulating conduct which would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

(C) The Board shall be composed of three members, all of whom shall be residents of the city for a period of at least one (1) year prior to the creation of the Board and shall reside in the city throughout their term in office.

(Ord. 0-2016-14, passed 8-22-16)

§ 92.11 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABATEMENT COSTS. A city's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any city ordinance.

CODE ENFORCEMENT BOARD. An administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to 65.8839.

CODE ENFORCEMENT OFFICER. A city police officer, safety officer, fire chief, Environmental Codes Officer, City Manager or any other such person designated by the City Manager. The **CODE ENFORCEMENT OFFICER** may seek the assistance and/or advice of any architect, engineer, contractor, building inspector or any other qualified person(s) as he or she may need in order to make a determination of the existence of a violation.

FINAL ORDER. Any order:

- (1) Issued by the Code Enforcement Board in accordance with § [92.15\(D\)\(1\)](#);
- (2) Created because a violator neither paid nor contested the citation within seven (7) days as provided in § [92.16\(F\)](#); or
- (3) Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in § [92.17\(C\)](#).

IMMINENT DANGER. A condition which is likely to cause serious or life-threatening injury or death at any time.

ORDINANCE. An official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance.

OWNER. A person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

PREMISES. A lot, plot or parcel of land, including any structures upon it.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.12 APPOINTMENT OF OFFICERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; COMPENSATION.

(A) Members of the Code Enforcement Board shall be appointed by the Mayor, subject to the approval of the Commission.

(B) The initial appointment to the Code Enforcement Board shall be as follows:

(1) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the Board shall be appointed for a term of one (1) year;

(2) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the Board shall be appointed for a term of two (2) years; and

(3) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the Board shall be appointed for a term of three (3) years.

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

(D) The Mayor may appoint, subject to the approval of the Commission, two (2) alternate members to serve on the Code Enforcement Board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Code Enforcement Board.

(E) Any vacancy on the Board shall be filled by the Mayor, subject to approval of the Commission, within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining Code Enforcement Board members shall fill the vacancy. A vacancy shall be filled for the remainder of the unexpired term.

(F) A Board member may be removed from office by the Mayor for misconduct, inefficiency, or willful neglect of duty including failure to attend meetings of the Board. If a member misses three (3) consecutive meetings without prior excuse by the City Manager, they are automatically removed from the Board but may be reinstated by the Mayor within thirty (30) days of their automatic removal. Except in the case of an automatic removal, the Mayor shall submit a written statement to the member and the Commission setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

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

(H) No member of the Code Enforcement Board shall hold any elected or non-elected office, paid or unpaid, or any position of employment with the city.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.13 ORGANIZATION OF BOARD; MEETINGS; QUORUM.

(A) The Code Enforcement Board shall annually elect a Chair from among its members. The Chair shall be the Presiding Officer and a full voting member of the Board. In the absence of the Chair, the remaining members of the Board shall select a member to preside in place of and exercise the powers of the Chair.

(B) Regular meetings of the Code Enforcement Board shall be held on the first Monday of every odd number month. Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the Kentucky Open Meetings Act.

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

(D) The presence of at least a majority of the Board's entire membership shall constitute a quorum. The affirmative vote of a majority of a quorum of the Board shall be necessary for any official action to be taken.

(E) Minutes shall be kept for all proceedings of the Code Enforcement Board by the City Clerk or other person designated by the Clerks and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

(F) Any member of the Code Enforcement Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest, disqualify himself or herself from voting on the matter in which he or she has an interest, and shall not be counted for purposes of establishing a quorum.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.14 POWERS OF THE CODE ENFORCEMENT BOARD.

The City of Pikeville Code Enforcement Board shall have the following powers and duties:

(A) To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with this chapter.

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

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

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

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

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

(G) To assign a Hearing Officer to conduct hearings in accordance with § [92.15](#).

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.15 HEARING OFFICER.

(A) Eligibility.

(1) The Code Enforcement Board may assign any of its members, including the Chair, to be a Hearing Officer.

(2) The Board may assign an individual who is not a member of the Board to be a Hearing Officer as long as the individual does not hold any elected or appointed office or position of employment with the city. A Hearing Officer may be compensated by the city with the approval of the Commission for his or her duties.

(B) Experience and training. A person assigned to be a Hearing Officer by the Code Enforcement Board shall have experience or shall have received training in the code enforcement process and basic procedural due process. At a minimum, the experience or training shall include acquired knowledge regarding a party's fundamental due process right to:

- (1) Be accompanied and advised by counsel at the hearing;
- (2) Present evidence and witnesses on his or her behalf at the hearing;
- (3) Examine the evidence opposing the party; and
- (4) Confront and cross-examine the witnesses opposing the party.

(C) Hearing powers and procedures.

(1) An assigned Hearing Officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses, and evidence.

(2) Any hearing conducted by a Hearing Officer shall conform to the procedural requirements in [§ 92.17](#).

(D) Final order.

(1) Following a hearing, the assigned Hearing Officer shall make written findings of facts and conclusions of law, and enter a final order in accordance with [§ 92.17](#)(E).

(2) Within twenty-four (24) hours of entry, these findings, conclusions, and final order shall be forwarded to the alleged violator, and to the Code Enforcement Board. The findings, conclusions, and recommended order may be delivered to the alleged violator by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the delivery. The person personally delivering the findings, conclusions and recommended order to the violator shall record the date and time of personal delivery, the individual upon whom delivery was made and a statement that the individual was informed of the contents of the delivery.

(E) Appeal from final order.

(1) An alleged violator may appeal a final order issued by a Hearing Officer to the Code Enforcement Board.

(2) The appeal shall be filed in writing to the Code Enforcement Board within seven (7) days of receipt of the final order as reflected on the returned certified mail card or the date of personal delivery as noted by the delivery person. Failure to file an appeal within seven (7) days shall render the order final for all purposes. If the appeal is mailed, the appeal must be properly addressed and postmarked by the post office or other publicly recognized delivery service on or before the deadline.

(3) An alleged violator shall exhaust the administrative remedy of appeal to the Code Enforcement Board before pursuing an appeal to District Court in accordance with § [92.19](#).

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.16 ENFORCEMENT PROCEEDINGS.

The following requirements shall govern all enforcement proceedings before the Code Enforcement Board or Hearing Officer:

(A) Enforcement proceedings shall only be initiated by the issuance of a citation by a Code Enforcement Officer.

(B) Except when immediate action is necessary pursuant to § [92.24](#)(A) or to the extent modified in § [92.24](#)(B) Commercial Premise Nuisances, if a Code Enforcement Officer believes, based on his or her personal observation or investigation, that a person has violated a city ordinance, he or she may issue a notice of violation allowing the alleged violator seven (7) days to remedy the violation without incurring a fine. If the alleged violator fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation for the first offense. If the violation is not remedied within seven (7) days of the citation for the first offense the Code Enforcement Officer shall issue a citation for second offense. If the violation is not remedied within three (3) days of the issue of the second offense the Code Enforcement Officer may issue a citation for each day thereafter that the violation remains. All fines shall be as prescribed in § [92.20](#).

(C) If the Code Enforcement Officer believes that there are genuine extenuating circumstances that will require more time to remedy the violation then he or she may complete a plan of action with the property owner to describe what action must be taken to remedy the violation and the date by which it shall be completed by the property owner. During the time period that the plan of action is in place, all fines and fees shall continue to be assessed and accrue. If the property owner defaults on the plan of action, in part or in whole, then all fines and fees assessed up to the time of default and any additional fines and fees assessed shall become due immediately upon default. If the property owner follows the plan of action and remedies the violation in accordance with the terms of the plan, then the fines shall be reduced, upon remedy of the violation, to the amount of fines and fees due at the time when the plan of action was begun. Any plan of action must be approved by the City Manager or designee and the property owner. The property owner's signature will be considered acceptance of the terms and provisions provided for in the plan.

(D) The Code Enforcement Officer shall issue the citation by one (1) of the following methods:

(1) Personal service to the alleged violator;

(2) Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or

(3) Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first-class mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.

(E) The citation issued by the Code Enforcement Officer shall contain the following information:

- (1) The date and time of issuance;
 - (2) The name and address of the person to whom the citation is issued;
 - (3) The physical address of the premises where the violation occurred;
 - (4) The date and time the offense was committed;
 - (5) The facts constituting the offense;
 - (6) The section of the code or the number of the ordinance violated;
 - (7) The name of the Code Enforcement Officer;
 - (8) The civil fine that may be imposed for the violation;
 - (9) The procedure for the person to follow in order to pay the civil fine or to contest the citation;
- and
- (10) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation within the time allowed: the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board or Hearing Officer to contest the citation; the determination that the violation was committed shall be final; the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation; and the person shall be deemed to have waived the right to appeal the final order to District Court.
- (F) After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Code Enforcement Board by delivering the citation to the Code Enforcement Board Clerk.
- (G) (1) The person to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing, to the City Clerk at the address maintained for City Hall, a hearing to contest the citation. If the request for a hearing to contest a citation is mailed to the City Clerk, the request must be postmarked by the United States Post Office or other publicly recognized delivery service on or before the deadline. The request for a hearing shall provide the requester's true and accurate mailing address and telephone number. If the person fails to respond to the citation within seven (7) days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.
- (2) Notice of the final order shall be delivered to the cited violator by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the delivery.
- (Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17; Am. Ord. 0-2018-03, passed 3-12-18)

§ 92.17 HEARING; NOTICE AND FINAL ORDER.

(A) When a hearing has been requested, the Code Enforcement Board or its administrative staff shall schedule a hearing before the Hearing Officer.

(B) Not less than seven (7) days before the date of the hearing, the Code Enforcement Board shall notify the requester of the date, time, and place of the hearing. The notice may be given by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(C) (1) Any person requesting a hearing who fails to timely appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation, and the determination that a violation was committed shall be final. In this event, the citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

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

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

(E) The Hearing Officer shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The Hearing Officer may impose a fine up to the maximum authorized by ordinance, impose cost incurred by the city remediating any violation if provided for by ordinance or require the offender to remedy a continuing violation to avoid a fine, or both.

(F) (1) Every final order following a hearing shall be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy shall be furnished to the person named in the citation.

(2) If the person named in the citation is not present when the final order is issued, the order shall be delivered by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.18 PRESENTATION OF CASES.

Each case before the Hearing Officer shall be presented by an attorney selected by the city, a Code Enforcement Officer for the city, or by a member of the city's administrative staff. The City Attorney may

either be counsel to the Hearing Officer, or may present cases before the Hearing Officer, but shall in no case serve in both capacities.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.19 APPEALS; FINAL JUDGEMENT.

(A) An appeal from a final order of the Hearing Officer following a hearing conducted pursuant to § 92.17(E) may be made to the Pike District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the final order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) If no appeal from a final order following a hearing is filed within the time period set in division (A), the order shall be deemed final for all purposes.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2017-24, passed 8-14-17)

§ 92.20 FINES.

Violations of ordinances that are enforced by the City Code Enforcement Board or an assigned Hearing Officer shall be subject to the following schedule of civil fines. If a citation for a violation of this chapter is not contested by the person charged with the violation, the penalties set forth in this section shall apply:

<i>Violation</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>All Others</i>
Weeds and grass	\$75.00	\$150.00	\$300.00
Dilapidated structure	\$150.00	\$300.00	\$1,000.00
Violation of property maintenance code	\$75.00	\$300.00	\$500.00
Commercial premise	\$100.00	\$300.00	\$1,000.00
Illegal burning (plus suppression costs)	\$100.00	\$200.00	\$500.00

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2018-03, passed 3-12-18; Am. Ord. O-2019-11, passed 4-8-19; Am. Ord. O-2020-01, passed 2-24-20)

§ 92.21 LIENS; FINES; CHARGES AND FEES.

(A) Pursuant to KRS 65.8840(9) the city shall possess a lien on property owned by the person found by a nonappealable final order as defined by § 92.11(D) or by a final judgment of the court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the chapter, including abatement costs and attorney's fees. An affidavit of the Code Enforcement Officer shall constitute prima

facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

(B) The lien shall be recorded in the office of the Pike County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate until paid. The lien shall continue for ten (10) years following the date of the nonappealable final order or final court judgment.

(C) Subject to § [92.23](#), the lien shall take precedence over all other liens, except state, county, school board, and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

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

(Ord. 0-2016-14, passed 8-22-16)

§ 92.22 LIEN HOLDER NOTIFICATION SYSTEM.

The city shall obtain and maintain priority over previously filed liens, as provided in § [92.21](#), in accordance with the following provisions:

(A) Individuals and entities, including but not limited to lienholders, may register with the city to receive electronic notification of final orders entered pursuant to this chapter.

(B) In order to receive the notification, the registrant shall submit the following information to the City Clerk.

- (1) Name;
- (2) Mailing address;
- (3) Phone number; and
- (4) Electronic mailing address.

(C) A registrant may use the electronic form provided on the city website to submit the information required by division (B) of this section. It shall be the responsibility of the registrant to maintain and update the required contact information with the city. The city shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

(D) Once per month, the city shall send electronic mail notification of all final orders entered pursuant to this chapter since the last date of notification to each party registered pursuant to this section. The notification shall provide an electronic link to the city code enforcement database located on the city web site. The database shall include the following information regarding each final order:

- (1) The name of the person charged with a violation;
- (2) The physical address of the premises where the violation occurred;

- (3) The last known mailing address for the owner of the premises where the violation occurred;
- (4) A copy of the full citation;
- (5) A copy of the full final order or summary of the order; and
- (6) The status of the final order regarding its ability to be appealed pursuant to this chapter.

(E) If an appeal is filed on a final order pursuant to this chapter, the city shall send electronic mail notification to all registrants.

(F) Within ten (10) days of the issuance of a final order pursuant to this chapter, the city shall update its code enforcement database to reflect the issued final order, and shall post the notification required by division (D) of this section containing an updated link to the code enforcement database on the city website.

(G) The city shall maintain the records created under this section for ten (10) years following their issuance.

(Ord. 0-2016-14, passed 8-22-16)

§ 92.23 LIEN PROCESS.

(A) A lienholder of record who has registered pursuant to § [92.22](#)(B) of this chapter may, within forty-five (45) days from the date of issuance of notification under § [92.22](#)(D) of this chapter:

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

(B) Nothing in this section shall prohibit the city from taking immediate action if necessary under § [92.24](#) of this chapter.

(C) The lien provided by § [92.21](#) shall not take precedence over previously recorded liens if:

(1) The city failed to comply with the requirements of § [92.22](#) of this chapter for notification of the final order; or

(2) A prior lienholder complied with division (A) of this section.

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

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

(F) Failure of the city to comply with §§ [92.22](#) and [92.23](#), or failure of a lien to take precedence over previously filed liens as provided in division (C) of this section, shall not limit or restrict any other remedies the city has against the property of the violator.

(Ord. 0-2016-14, passed 8-22-16)

§ 92.24 IMMEDIATE ACTION.

(A) Nothing in this section shall prohibit the city from taking immediate action to remedy a violation of this chapter when there is reason to believe that the violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

(B) In the case of commercial premises nuisance violations set forth in § [92.25](#)(B) as a result of the accumulation of trash, litter, garbage, refuse, or waste of any kind, or other obnoxious materials, whether solid or liquid, or the excessive growth of weeds or grass the violator shall only be required to be given only one (1) “notice of violation” provided for in § 92.16(B) without incurring a fine in any thirty (30) day period. After the issuance of a “first notice of violation” any additional violations within the next thirty (30) day period may be issued within twenty-four (24) hours of the issuance of the “notice of violation” and will result in the issuance of a citation for a first offense. An additional citation may be issued for each twenty- four (24) hour period thereafter. A violator must be violation free for a thirty (30) day period before they will be entitled to the issuance of a “notice of violation” provided for in § [92.16](#)(B) without incurring a fine and an opportunity to remedy.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2018-03, passed 3-12-18)

§ 92.25 ENVIRONMENTAL NUISANCE.

(A) *Nuisances.* It shall be unlawful within the city for the owner, occupant, or person having control or management of any premises within local government to permit a public nuisance, health hazard, or source of filth to develop upon their premises through the accumulation of:

(1) Junked or wrecked automobiles, vehicles, machinery or other similar scrap or salvage material, excluding an operative farm equipment;

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

(3) Trash, litter, garbage, refuse, or waste of any kind, or other obnoxious materials, whether solid or liquid;

(4) The excessive growth of weeds or grass has described herein; or

(5) Any other condition which would be a violation of the Kentucky Building Code, the Kentucky State Plumbing Code and/or the International Property Maintenance Code as the same are adopted herein by reference.

(6) *Open burning.*

(a) All open burning is prohibited during periods of extraordinary forest fire hazard or fire emergency has been determined by the Division of Forestry or the Pikeville Fire Chief.

(b) Subject to the limitations, conditions, or prohibitions contained in this section, and when prohibited by division (A)(6)(a), open burning shall be allowed for:

1. Fires set for the cooking of food for human consumption;
2. Fires set for recreational or ceremonial purposes;
3. Small fires set by construction and other workers for comfort heating purposes if:
 - a. The ambient temperature is below fifty (50) degrees Fahrenheit;
 - b. Excessive or unusual smoke is not created;
 - c. Only clean lumber or vegetative matter is burned; and
 - d. The fire is burned in a container not exceeding fifty- five (55) gallons in size;
4. Fires set for the purpose of weed abatement, disease, and pest prevention;
5. Fires set for prevention of a fire hazard, including the disposal of dangerous materials if no safe alternative is available;
6. Fires set for the purpose of instruction and training of public and industrial employees in the methods of fighting fires;
7. Fires set for recognized agricultural, silvicultural, range, ecological, and wildlife management practices;
8. Fires set by individual homeowners for burning of leaves;
9. Fires for disposal of household rubbish, which shall not include garbage, originating at dwellings of five (5) family units or less, if the fires are maintained by an occupant of the dwelling at the dwelling;
10. Fires set for the purpose of disposing of accidental spills or leaks of crude oil, petroleum products, or other organic materials, and the disposal of absorbent materials used in their removal, if no other economically feasible means of disposal is available and practical. Permission shall be obtained from the Cabinet prior to burning;
11. Fires set for disposal of natural growth for land clearing and maintenance, and trees and tree limbs felled by storms if no extraneous materials, such as tires or heavy oil which tend to produce dense smoke, are used to cause ignition or aid combustion and the burning is done on days when conditions do not pose a threat of igniting a forest fire;
12. Heating ropes that are set on fire to repair steel rails during cold weather; and
13. Fires set by county or municipal governments to dispose of wood waste or clean lumber.

(c) Open burning is prohibited to the extent that it causes inconvenience, annoyance, irritation, bother, or difficulty to other persons or property.

(d) Pursuant to state law it is illegal to burn animal bedding; hay; muck piles; grass clippings; agricultural plastic; barns; trailers; asbestos material; construction debris; renovation debris; shingles;

buildings; drywall; animal or vegetable matter; plastic; coated paper products; cans; glass; fenceposts; sawdust; wood mulch; painted, stained or pressure-treated woods; wood chips; wood shavings; chemical containers; insulation; carpet; tires; coated wire; furniture; rubber; used goals; and industrial waste of any type. For a more comprehensive list of items which are illegal to burn, contact the Kentucky Division for Air Quality. Open burning of any materials prohibited under state law is prohibited.

(e) Open burning is prohibited:

1. Within fifty (50) feet of any structure;
2. Near land fills;
3. Near a stream or sinkhole;
4. Under or near utility lines; and
5. On windy days.

(f) No person shall violate KRS 149.370 (acts creating fire hazards in forest); KRS 149.375 (Setting fire on own land); KRS 149.380 (setting fire on land owned by another) or any other law adopted by the Commonwealth of Kentucky related to fire hazards.

(g) Penalties for open burning in violation of this division are set forth in § [92.20](#). Violators shall be assessed the cost of suppression of fires in violation of this chapter. Manpower hours cost shall be assessed to the violator(s) in the sum of the actual cost thereof including overtime hours and all benefits provided. Equipment cost shall be assessed to the violator(s) in a sum equal to the schedule of equipment rates adopted by the U.S. Department of Homeland Security and FEMA as the same may change from time to time. Violators are entitled to an appeal before the Code Enforcement Board pursuant to the procedures provided for in §§ [92.16](#)(G) and [92.17](#).

(B) *Commercial premise nuisance*. It shall be unlawful within the city for the owner, lessee, lessor, occupier or person having control or management of any commercial premises to permit a public nuisance as described in division (A) above. Additionally, a public nuisance on a commercial premises open to the general public shall include but not be limited to failing to maintain proper lighting, parking, directional signage, roadways, roadway surfaces and parking surfaces or permitting any unsafe condition in violation of the Kentucky Building Code, the Kentucky State Plumbing Code and/or the International Property Maintenance Code or the Americans with Disabilities Act (ADA). Violations of this section relating to commercial premises nuisances shall be designated as a “commercial premises nuisance violation.” A commercial premise shall include residential apartment houses, buildings, or complexes consisting of two (2) or more apartments.

(1) All roadways and/or streets not maintained by the City of Pikeville or other governmental agency providing ingress and egress to a commercial establishment open to the public and its parking surfaces therefor shall at all times be maintained in good order free of potholes or other defects which may be fall or trip hazards or are dangerous to vehicular traffic.

(2) All roadways and/or streets not maintained by the city or other governmental agency parking lot for commercial premises shall at all times be regularly inspected no less than on a daily basis for trash,

litter, garbage, refuse, obnoxious materials or waste of any kind and when discovered during inspection immediately removed. The city recommends that commercial establishments operating commercial premises designate personnel to be assigned to conduct regular inspection of the commercial premises parking facilities, roadways and streets on no less than a daily basis to remove trash, litter, garbage, refuse, obnoxious materials or waste of any kind and to otherwise look for unsafe conditions warranting remediation.

(3) All roadways and/or streets not maintained by the city or other governmental agency providing ingress and egress to a commercial establishment open to the public and parking lot shall be properly lighted so to provide for the safety and security for pedestrians and vehicular traffic and any lighting in disrepair or not functioning shall immediately be repaired.

(4) All lighted signs upon a commercial premise shall be maintained and fully lighted during times of darkness.

(5) All ADA compliant handicap parking shall be well marked and posted with signs designating handicap parking.

(6) All parking lot striping, marking and other directional markings and signage shall be maintained in good order and state of repair so to be visible to the public.

(7) Trash receptacles shall be placed in convenient location to reduce the likelihood that trash will be discarded next to vehicles or as litter. Trash receptacles are to be regularly emptied and not allowed to be overflowing with trash or other litter.

(Ord. 0-2016-14, passed 8-22-16; Am. Ord. 0-2018-03, passed 3-12-18; Am. Ord. O-2019-11, passed 4-8-19; Am. Ord. O-2019-13, passed 5-13-19; Am. Ord. O-2020-01, passed 2-24-20)

§ 92.26 DILAPIDATED STRUCTURE.

(A) Any owner shall not permit any structure upon his or her premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises which are dangerous or interest to the health or safety of the occupants of the structure, occupants of the neighboring structure, or other residents of the city. The standards for which all structures within the city must comply and be maintained are the Kentucky Building Code, the Kentucky State Plumbing Code and or the International Property Maintenance Code as the same are adopted herein by reference.

(B) In the event that an owner of any structure upon his premises allows the same to become unfit and unsafe for human habitation, occupancy or use or use or to permit conditions to exist on the structure or premises which are dangerous or interest to the health or safety of the occupants of the structure, occupants of the neighboring structure, or other residents of the city and the owner fails to timely remediate or remove said conditions on the structure after being given notice or citation by the city to do so by the Code Enforcement Officer, the Code Enforcement Officer may issue a "Notice of Demolition" which notice shall require the owner to demolish the structure and returned the existing premises to grade within 90 days. The owner shall have a right to appeal this notice to the Code Enforcement Board has provided for in the city's ordinance establishing the Code Enforcement Board. If after a final order upholding the notice of demolition the owner fails to demolish the property within the time provided for in the final order, the city shall be entitled to demolish the property and shall have

a lien upon the property the cost of doing so has provided for in Pikeville's ordinance establishing a Code Enforcement Board and liens for violations.

(Ord. 0-2016-14, passed 8-22-16)

§ 92.27 NOTICES.

(A) Notices to the City of Pikeville Code Enforcement Board or hearing officer shall be given to the Pikeville City Clerk in person or if by mail to the regular maintained address for City Hall.

(B) If to violator;

(1) Property owner. It shall be the duty of all property owners within the city to continuously and properly maintain their correct mailing address with the Pike County P.V.A. Office. The City of Pikeville, Code Enforcement Officer or Code Enforcement Board shall have the right to solely rely upon the address so maintained by the P.V.A. Office although they may also rely on the address where the owner may be found. Notices to the address of the entity or property owner listed with the P.V.A. Office shall be considered notice to all owners who may have an interest in the property. In the event that the property owner submits a request for hearing, the Code Enforcement Board shall also be entitled to serve notices to the property owner at the address provided by the property owner in their request for hearing.

(2) Lessees, tenants and other violators. The city shall give notice to a violator at their known mailing address or by leaving the notice at the person's usual place of residence with an individual residing there in who is 18 years of age or older who is informed of the content of the notice. The city may also be entitled to rely upon the address provided for utility services for the violator within the city. In the event that the violator submits a request for hearing, the Code Enforcement Board shall be entitled to serve notices to the violation at the address provided by the property owner in their request for hearing.

(Ord. 0-2016-14, passed 8-22-16)

§ 92.28 INTERFERENCE WITH HOUSING INSPECTOR DURING PERFORMANCE OF DUTIES.

It shall be unlawful for any person to interfere with the duties of the Housing Inspector or other city employees as required hereunder or to refuse entry upon any premises or into any structure in which the Housing Inspector or the Environmental Codes Officer 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; Am. Ord. 0-2020-15, passed 10-26-20) 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 Department or other city department designated by the City Manager before engaging in the business. The annual license fee shall be the fee set forth in [Chapter 115](#) of this Code of Ordinances. Said applicant shall state their name and address and identify the number of tenants occupying his or her property and the location thereof to include the physical address of each unit. The City Tax Department or other city office designated by the City Manager shall present an updated list of all license holders the first working day of each month and/or will maintain a continuous list to be made available to other city departments as necessary which will be updated on either a monthly or more frequent basis. The City Tax Department or other city office designated by the City Manager shall issue said license if:

(1) The applicant's property is not in violation of any ordinance of the city as determined by inspections completed in accordance with [§ 92.36](#) by both the Housing Inspector and the Environmental Codes Officer or other city official(s) designated by the City Manager;

(2) All city taxes and fees shall be fully paid;

(3) The applicant provides a full legal description of all parcels of property he or she rents;

(4) The applicant shall pay the annual inspection fee for one half of all units for which they have or are requesting a permit prior to issuance of the license excepting those units which the landlord can document as having been inspected by the City of Pikeville under contract by the Pikeville Housing Authority shall not count toward this total. In addition, a credit will be granted for any inspections the city, for whatever reason, failed to complete during the year following the prior renewal;

(5) The initial landlord license application can be submitted at any time and should be completed at least thirty (30) days prior to tenant occupancy in order to allow for sufficient time for the initial inspection to be completed;

(6) The annual renewal will be due on or before January 1 of each year; and

(7) A licensed landlord must acquire a permit for each unit prior to renting that unit even if it falls outside of the annual license renewal schedule. For clarification, it should be noted that the landlord license allows the landlord to conduct business as such, but each unit is considered to have its own permit.

(B) The Tax Administrator or other city employee or department designated by the City Manager 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 acquire a permit for each rental unit they operate. This will require them to pay the City Tax Office for the required inspection fees for each separate unit they are renting as outlined above prior to receiving the permit. Said permit shall state the landlord's name, address, contact number and e-mail address if one is available. The permit shall have the physical address for each separate rented or leased unit owned and operated by the landlord. Upon approval of the license and permits, the Tax Administrator shall, as soon as practical, provide a list of permitted rental units, including physical addresses, to the Utility Department and to the Commissioner of Public Safety or other city department designated by the City Manager. This list shall include a designation to indicate which units were inspected under contract by the Pikeville Housing Authority.

(2) The Commissioner of Public Safety or other city employee or department designated by the City Manager 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 than three (3) repeated violations on a same property in a twelve (12) month period.

(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; Am. Ord. 0-2012-021, passed 8-27-12; Am. Ord. 0-2012-025, passed 10-22-12; Am. Ord. 0-2018-15, passed 7-23-18; Am. Ord. 0-2020-15, passed 10-26-20)

§ 92.36 INSPECTION; ENFORCEMENT.

(A) The Commissioner of Public Safety or other city employee designated by the City Manager shall ensure that the Housing Inspector and the Environmental Codes Officer, or other such appropriate public official(s) as the City Commission or City Manager shall designate, shall inspect rental units within the City of Pikeville subject to the following schedule and procedures:

(1) Each unit shall be inspected by the designated inspectors before it is initially occupied by tenants or will be inspected within seven days upon learning that a unit has been occupied prior to receiving an inspection.

(2) The Commissioner of Public Safety or other city employee designated by the City Manager shall select one half of the rental units permitted at the annual landlord license renewal for inspection. These units shall be selected from the list provided by the Tax Administrator and shall not include those units which the landlord documented as having been inspected by the City of Pikeville under contract by the Pikeville Housing Authority. The number of assigned inspections shall equal the number for which the landlord paid at his license renewal and the selection shall be such that all rental units located within the City of Pikeville shall be inspected at least every two years.

(3) The designated inspectors shall inspect the rental units designated by the Commissioner of Public Safety within one year from the issuance of the unit's permit. Documentation of these inspections shall be returned to the Commissioner of Public Safety. Except for those inspections done for the Pikeville Housing Authority, as outlined above, these inspections shall be 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.

(4) The designated inspectors shall also provide documentation of inspections completed for the Pikeville Housing Authority to the Commissioner of Public Safety.

(5) On or before December 15 of each year, the Commissioner of Public Safety shall submit to the Tax Administrator a list of units that have been inspected since their last permit renewal. This list shall include the date of each unit's inspection and identify any units which were scheduled for inspection, but not completed.

(B) For the purpose of making this inspection, the Housing Inspector and, if necessary, the Environmental Codes Officer is hereby authorized to enter, examine, and survey at all reasonable times 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 Housing Inspector free access only to the leased portion of same or central facility serving same for the purpose of such inspection, examination, and survey. Similar access will be granted to the Environmental Codes Officer to review all exterior grounds and facilities for review of compliance with environmental codes.

(C) The Tax Administrator will assess a twenty-five dollar (\$25.00) inspection fee to the property owner for each rental unit to be inspected as part of the landlord license application as outlined above. This fee will be a pre-payment for the initial or annual renewal inspections, depending upon whether this is the initial inspection of the unit or part of the landlord's annual renewal. This fee will also cover the Environmental Codes inspection. 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 Housing Inspector or the Environmental Codes Officer are satisfied that the violation(s) have been corrected.

(D) A tenant may request an inspection of their unit as outlined in division (B) above at any time, but no more than once in any six (6) month period. Upon receipt of this request and payment of the inspection fee being made to the Tax Administrator by the tenant, the Housing Inspector and Environmental Codes Officer shall complete the inspection within thirty (30) days. The landlord will be notified prior to the inspection and both the tenant and the landlord will be notified of the results of the inspection. 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 such time the Housing Inspector or the Environmental Codes Officer are satisfied that the violation(s) have been corrected. This inspection shall not constitute the annual inspection of this unit.

(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; Am. Ord. O-2018-15, passed 7-23-18; Am. Ord. O-2020-15, passed 10-26-20)

§ 92.37 NOTICE OF REVOCATION HEARING.

The Commissioner of Public Safety or Tax Administrator 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 Code Enforcement Board pursuant to § [92.17](#). 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; Am. Ord. O-2020-15, passed 10-26-20)

§ 92.38 VIOLATION.

(A) Failure to secure a license or permit 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 Housing Inspector or other city employee or department designated by the City Manager determines there to be a violation of either Federal, state or local regulations the landlord's permit for that unit(s), or if landlord's unit or units are subject to repeat violations, their license or permit may be revoked immediately until which time the item(s) are corrected. If the items are not corrected within thirty (30) days, the permit or license shall be revoked specific to the unit or facility that is in violation. 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 and utilities shall not be provided to any unit. If the unit is occupied, the city shall give notice to the landlord and tenant that the unit has been declared by the city as uninhabitable as the result of violation(s) and that the tenants/occupants must vacate the premises within thirty (30) days and at that time the utilities shall be discontinued to the unit.

(C) When a violation occurs, the Housing Inspector or other city employee or department designated by the City Manager 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 Tax Administrator. If it is a violation of a building code, the City Codes Enforcement Officer (Building Inspector) shall be contacted to inspect for compliance before their permit or license may be reinstated by the Tax Administrator. If it is an environmental nuisance violation, the City Environmental Nuisance Officer (Environmental Codes Officer) shall be contacted to inspect for compliance before their permit or license may be reinstated by the Tax Administrator. It is the Housing 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 Housing Inspector their position. When the Housing Inspector receives remedy statements from each department that all issues have been address it will then be the Housing Inspector's responsibility to notify the Tax Administrator and the Commissioner of Public Safety that the landlord's permit or license to continue to operate may be reinstated.

(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; Am. Ord. 0-2012-021, passed 8-27-12; Am. Ord. 0-2018-15, passed 7-23-2018; Am. Ord. 0-2020-15, passed 10-26-20) 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 or Police 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; Am. Ord. 0-2015-021, passed 12-28-15) 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)

SHORT-TERM RENTALS

§ 92.65 DEFINITIONS.

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

HOST. Any person who is the owner of record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short-term rental.

HOSTING PLATFORM. A person or entity that provides a means through which, a host may offer a dwelling unit, or portion thereof, for short-term rental use. Most platforms are internet-based and allow a host to advertise a dwelling unit as a short-term rental through a website or mobile app

SHORT-TERM RENTAL. A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than thirty (30) consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

SHORT-TERM RENTAL ADVERTISEMENT. Any method of soliciting use of a dwelling unit or portion thereof as a short-term rental.

TAX COLLECTOR. The Occupational Tax Collector of the City of Pikeville.

TRANSIENT USER. A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than thirty (30) consecutive days duration.

(Ord. O-2020-02, passed 3-23-20)

§ 92.66 ANNUAL REGISTRATION REQUIRED.

No person, firm, or corporation shall own or operate a short-term rental on any premises within the City of Pikeville unless the short-term rental has been registered annually with the City of Pikeville.

(A) The Tax Collector may refuse to issue or renew the registration of a short-term rental until all outstanding penalties associated with violations of §§ [92.65](#) through [92.72](#) that have been assessed against the property owner and/or host are paid in full.

(B) The Tax Collector may refuse to issue or renew the registration of a short-term rental until all outstanding fines and liens that have been assessed by City of Pikeville against the subject property are paid in full.

(C) The Tax Collector may deny or refuse to renew the registration of any host for violating or failing to comply with any applicable provision of §§ [92.65](#) through [92.72](#). If the property is subject to two (2) or more substantiated civil and/or criminal complaints or the host is found to have twice violated or failed to comply with any applicable provision of §§ [92.65](#) through [92.72](#) with respect to a given property within a twelve (12) month period, the Tax Collector may revoke the registration. When the Tax Collector revokes a registration under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Code Enforcement Board. If no appeal is requested, the revocation shall become final on the thirty-first day after the initial action by the Tax Collector. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes.

(D) Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

(E) When any owner or host has a short-term rental registration revoked, they shall be ineligible to receive any new short-term rental registrations for a period of one (1) calendar year.

(Ord. O-2020-02, passed 3-23-20)

§ 92.67 ANNUAL REGISTRATION; FEE.

(A) Each annual registration for a short-term rental shall be per the procedure prescribed by the Tax Collector. The registration form, at a minimum, shall include the following:

(1) The name, address, phone number, and email address of the host and an emergency contact residing or located in Pikeville Kentucky and/or within twenty-five (25) miles of the short-term rental who shall be responsible for addressing any maintenance, safety concerns, or nuisance complaints. The host shall provide the emergency contact's information to transient users prior to commencing their stays; and

(2) The location of the short-term rental.

(B) A non-refundable fee of one hundred dollars (\$100) shall accompany the annual registration form of a short-term rental.

(C) A registration shall expire one (1) year from the date it is issued and shall be renewed annually.

(D) A change in host, ownership, or tenancy of a dwelling unit used as short-term rental invalidates any existing registration. The new host, property owner, and/or tenant must apply for a registration in their name.

(Ord. O-2020-02, passed 3-23-20)

§ 92.68 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

Each separate short-term rental shall be in compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

(Ord. O-2020-02, passed 3-23-20)

§ 92.69 TRANSIENT ROOM TAX.

(A) Pursuant to § [35.25](#), transient room taxes are to be collected and paid by the host to the city pursuant to this code. Transient occupancy taxes are ultimately the responsibility of the host, but the collection and remission of all required taxes pursuant to [Chapter 35](#) may be paid by a hosting platform on behalf of host if the short-term rental is created through a hosting platform that has an agreement with the City of Pikeville for collection and payment of such taxes to the city;

(B) Pursuant to [Chapter 115](#), the host is subject to occupational license taxes to the City of Pikeville; and

(C) The host shall register with the Tax Department of the City of Pikeville to ensure compliance with all applicable local taxes including the transient room tax and occupational license tax.

(Ord. O-2020-02, passed 3-23-20)

§ 92.70 DUTIES OF A HOST.

It shall be the duty of a host under this subchapter to ensure that:

(A) The short-term rental meets the smoke detector requirements set forth in Kentucky Residential Building Code has at least one functional carbon monoxide detector installed in an appropriate location as set forth in Kentucky Residential Code; has at least one properly maintained and charged fire extinguisher on each habitable floor; every sleeping room shall have at least one operable emergency and rescue opening as set forth in the Kentucky Residential Code; and that a clearly marked evacuation plan is posted on the premises;

(B) There shall be no more than one (1) contract per short-term rental at a time;

(C) At no time shall more persons reside in the short-term rental than two (2) times the number of bedrooms plus four (4) individuals;

(D) The name and telephone number of the host and any emergency contact shall be conspicuously posted within the short-term rental; and

(E) Any host using a hosting platform shall include the valid City of Pikeville issued registration number for the short-term rental in the short-term rental advertisement.

(Ord. O-2020-02, passed 3-23-20)

§ 92.71 ADVERTISING ON A HOSTING PLATFORM.

(A) Short-term rentals registered in accordance with § [92.66](#) may be advertised for short-term stays of less than thirty (30) days on a hosting platform. A host and/or property owner that advertises an un-registered short-term rental on a hosting platform is subject to enforcement as stated in §§ [92.72](#) and [92.99](#)(E).

(B) The Tax Collector may request that a hosting platform remove any listing or short-term rental advertisement from the platform where the registration number associated with a short-term rental listing is invalid, expired, or has been revoked. The Tax Collector must identify the listing(s) to be removed by the listing URL and displayed registration number (whether valid or invalid) and state the reason for removal. The hosting platform shall remove the listing within ten (10) business days of notification by the Tax Collector.

(C) (1) The Tax Collector may request that a hosting platform provide the following information to the City of Pikeville on a monthly basis:

(a) The total number of short-term rentals in City of Pikeville that were listed on the platform during the applicable reporting period; and

(b) The total number of nights all short-term rental units were rented through the platform during the applicable reporting period.

(2) These reports shall be due at the end of each month to include information from the preceding month.

(D) (1) Pursuant to KRS 65.8821, the Code Enforcement Board shall have the authority to subpoena information from any hosting platform. Any such subpoena shall:

(a) Be submitted in writing by the Code Enforcement Board attesting that City of Pikeville has a reasonable belief based on evidence that a short-term rental may be in violation of §§ [92.65](#) through [92.72](#):

(b) Be served on the platform via its registered agent;

(c) Be related to a specific investigation by City of Pikeville relating to a short-term rental that is identified in the subpoena; and

(d) Identify the alleged violations of §§ [92.65](#) through [92.72](#).

(2) The platform shall notify their user/host of the information requested in the subpoena within ten (10) business days of receiving the subpoena and produce responsive records within twenty-one

(21) days of providing notice to the user/host, except to the extent that the user/host has sought relief in a court of competent jurisdiction.

(Ord. O-2020-02, passed 3-23-20)

§ 92.72 ENFORCEMENT.

In addition to the penalties provided in § [115.99](#), the Tax Collector is authorized to enforce the provisions of this subchapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

(Ord. O-2020-02, passed 3-23-20)

PUBLIC NUISANCES

§ 92.85 NUISANCES PROHIBITED.

No person shall make, or cause or suffer, or permit to be made upon any nuisance.

(Ord. O-2020-03, passed 3-23-20)

§ 92.86 DEFINITIONS.

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

NUISANCE. Is in addition to that which is otherwise described in [Chapter 92](#), in any act, omission, obstruction, activity, physical condition or conduct or knowingly permitting or allowing the same to occur that:

(1) Is injurious to the health; offensive or irritating to the senses or which causes an unreasonable and substantial annoyance to a person or the occupants of property, a neighborhood or society;

(2) Which unreasonably and materially interferes with the ordinary comfort, use and enjoyment of properties, and thereby causes the fair market value of the affected properties or properties within the affected neighborhood to be materially reduced; or

(3) Unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, stream, or any public park, square, sidewalk, street, or highway. A nuisance can be created, along other things, by criminal or illegal activity or conduct; repeated violations of laws, regulations or ordinances of the jurisdiction; illegal drug activity or use; negligent or intention trespass upon property rights; large gatherings of persons on private property; vagrant resort, harboring of animals or birds; fighting of discord between people, animals or birds, destruction of or damage to public or private property; creation of public disorder, disturbances, the creation or permitting of odors, fumes, smoke, noise, vibrations or light.

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

(Ord. O-2020-03, passed 3-23-20)

§ 92.87 PROPERTY OWNERS.

Property owners, landlord, tenants, lessors and lessees and each or all can be charged with creating a nuisance if they knowingly permit or allow a nuisance as defined in § 92.86 above to occur or continue. Property owners, landlords, tenants, lessors and lessees are expected to cause their properties, residences, occupants and tenants to refrain from violations of this subchapter.

(Ord. O-2020-03, passed 3-23-20)

§ 92.88 DISORDERLY CONDUCT.

The failure of a person to abate or quit a nuisance when so ordered by the police shall constitute disorderly conduct and subject to criminal citation and/or arrest pursuant to KRS 525.055 or KRS 525.056 in addition to a citation issued hereunder.

(Ord. O-2020-03, passed 3-23-20)

§ 92.89 RIGHT OF APPEAL.

Violators of this subchapter shall be subject to the enforcement procedures set forth in §§ [92.16](#) through [92.19](#).

(Ord. O-2020-03, passed 3-23-20)

§ 92.90 FINES.

Violator shall be subject to the fines imposed in § [92.99](#), Penalty.

(Ord. O-2020-03, passed 3-23-20)

§ 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, with the exception of any violation of the Property Maintenance Code, §§ [92.02](#) and [92.04](#), in which case fines shall be as prescribed in § [92.20](#):

OFFENSE

FINE

(a) Failure to acquire landlord license (§§ [92.35](#) - [92.37](#)). A landlord is considered to be violating this chapter if the landlord has any rental unit occupied by a tenant for which a permit has not been acquired or without the landlord having a current license. A first offense is defined as having occurred as of the date the city notifies the landlord that they are in violation. A second offense is defined as having occurred if the landlord is violating this chapter with any rental unit after thirty (30) days have passed from the date of the first offense. Subsequent offenses occur every thirty (30) days if the landlord is still violating this chapter with any rental unit after the date of the second offense.

First offense 150.00

Second offense 300.00

Subsequent offenses 1,000.00

(b) Landlord violations (§§ [92.28](#) and [92.38](#)) 500.00

(c) Unreasonable and loud noises (§§ [92.50](#), [92.51](#)) 2nd, 3rd and thereafter offense is determined if a repeat offender within one hundred twenty (120) days of each violation:

First offense	25.00
Second offense	75.00
Third offense (and every offense thereafter)	100.00

(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 this chapter.

(B) (1) If the Housing Inspector determines there to be a violation of either federal, state or local regulations, the landlord's permit for that unit(s), or if the landlord's unit or units are subject to repeat violations, their permit or license may be revoked immediately until which time the item(s) are corrected. If the items are not corrected within thirty (30) days, the permit or license shall be revoked specific to the unit or facility that is in violation. If a landlord's permit or license is revoked, then they shall not be permitted to allow their premises/unit to be occupied by a tenant and utilities shall not be provided to any premise unit. If the unit is occupied, the city shall give notice to the landlord and tenant that the unit has been declared by the city as uninhabitable as the result of violation(s) and that the tenants/occupants must vacate the premises within thirty (30) days and at that time the utilities shall be discontinued to the unit.

(2) The city shall not be permitted to allow a structure or premises to be occupied by a tenant and utilities shall not be provided to any structure or premises or may discontinue utility service for any structure or premise for outstanding and delinquent fines assessed against the structure or premise 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.

(E) (1) Any person who violates any provision of §§ [92.65](#) through [92.72](#) will be subject to a civil penalty of one hundred twenty-five dollars (\$125) as imposed by an Enforcement Officer. A second offense will be subject to a civil penalty of two hundred fifty dollars (\$250) as imposed by the Enforcement Officer. A third offense will be subject to a civil penalty of five hundred dollars (\$500) as imposed by an Enforcement Officer. Any additional offense beyond the third offense will be subject to a civil penalty of one thousand dollars (\$1,000) as imposed by an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed a separate offense. Any person who receives a citation for violating §§ [92.65](#) through [92.72](#) may appeal the violation to the Code Enforcement Board.

(2) Any person who violates any provision of § [92.71](#) related to advertising on a hosting platform shall receive a notice of violation as a warning for a first offense. Any additional offense will be subject to a civil penalty of one hundred twenty-five dollars (\$125) as imposed by an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed a separate offense. Any person who receives a citation for violating § [92.71](#) may appeal the violation to the Code Enforcement Board.

(3) In addition to the penalties provided herein, the Tax Collector is authorized to pursue remedial civil actions for violations of §§ [92.65](#) through [92.72](#) by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Pike County, Kentucky Circuit Court.

(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; Am. Ord. 0-2012-021, passed 8-27-12; Am. Ord. 0-2015-021, passed 12-28-15; Am. Ord. 0-2016-14, passed 8-8-16; Am. Ord. 0-2020-02, passed 3-23-20; Am. Ord. 0-2020-15, passed 10-26-20)

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