## Chapter 12 - HOUSING [[1]](#BK_DDAE613959DDB629408BD989FDFA72D8)

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FOOTNOTE(S):

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**Charter reference—** Department of housing and community development, § 6.11; homes for the aged, § 7.09; housing board of appeals, § 7.11; public housing, § 7.12; urban renewal, § 7.13. [(Back)](#BK_6407734A460ABB325B82CD94D10DE7CF)

**Cross reference—** Building code, § 5-1; fire prevention regulations, ch. 9. [(Back)](#BK_6407734A460ABB325B82CD94D10DE7CF)

**State Law reference—** Housing projects, etc., KRS ch. 80; urban renewal and redevelopment, KRS ch. 99. [(Back)](#BK_6407734A460ABB325B82CD94D10DE7CF)

### ARTICLE I. - IN GENERAL

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Sec. 12-1. - Property maintenance code.

(a) *Adopted; filed.* The International Code Council, Inc., International Property Maintenance Code, 1998 Edition (hereinafter referred to as "this code"), with the revisions shown in paragraph (b) herein, is hereby approved and adopted as the existing structures code of the urban county government. A copy of said code is incorporated herein by reference and filed with the urban county council clerk as a part of the public records of this government.

(b) *Revisions.* Certain sections of this code are hereby revised to read as follows:

*PM-101.1
Title:* These regulations shall be known as the International Property Maintenance Code of Lexington-Fayette Urban County, hereinafter referred to as this Code.

*PM-103.1
General:* The director of the division of code enforcement shall be the code official and shall enforce all the provisions of this code.

*PM-103.2
Appointment:* The code official shall be employed in conformance with KRS 67A.230 through 67A.350 and [Chapter 21](../level2/COOR_CH21COPLCLCISESY.docx#COOR_CH21COPLCLCISESY) of the Code of Ordinances.

*PM-103.4
Restriction of employees:* All officials or employees, including the members of the board of appeals established under the provisions of section PM 111.0, are subject to [article 16](../level3/LEYE_URCOGOCH_ART16COET.docx#LEYE_URCOGOCH_ART16COET) of the Urban County Charter—Code of Ethics and [chapter 25](../level2/COOR_CH25ETAC.docx#COOR_CH25ETAC) of the Lexington-Fayette Urban County Government Code of Ordinances—Ethics Act.

*PM-104.6
Notice and orders:* The code official may issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with the requirements of this code for the safety, health, and general welfare of the public.

*PM-104.7
Official records:* An official record shall be kept of all business and activities of the department specified in the provisions of this code, and such records shall be open subject to KRS 61.870 et seq.

*PM-106.4.1*

(a) Every person, firm, or corporation failing to perform the duties required of them by or to comply with the provisions of [section 12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO) shall for every offense be fined not less than one hundred dollars ($100.00) nor more than two thousand five hundred dollars ($2,500.00), and each day's continuance of any such violation shall be a separate offense.

(b) As an alternative remedy to subsection (a), any person, firm or corporation who violates any provision of this code may be subject to civil penalties of not less than one hundred dollars ($100.00) nor more than ten thousand dollars ($10,000.00) per parcel of real property for each separate instance in which civil penalties are imposed. Such penalties may be assessed on each separate structure or dwelling unit located on a parcel of real property, pursuant to the civil penalty guidelines as set forth below. In addition, the urban county government may assess the administrative cost involved with any inspection(s), in an amount not to exceed two hundred fifty dollars ($250.00). Each day that a violation continues after due notice has been served, as provided herein, shall be deemed a separate offense.

|  |
| --- |
| Number of Inspections After Time Provided By Code Enforcement to Come into Compliance Elapses |
| Number of Violations at Time of Inspection | 1 | 2 | 3 | 4 | 5+ |
| 1—5 | $100.00 | $200.00 | $300.00 | $400.00 | $500.00 |
| 6—10 | $200.00 | $300.00 | $400.00 | $500.00 | $750.00 |
| 11—15 | $300.00 | $400.00 | $500.00 | $750.00 | $1,000.00 |
| 16—20 | $400.00 | $500.00 | $750.00 | $1,000.00 | $1,500.00 |
| [21](../level2/COOR_CH21COPLCLCISESY.docx#COOR_CH21COPLCLCISESY) or more  | $500.00 | $750.00 | $1,000.00 | $1,500.00 | $2,000.00 |

*PM-107.1
Notice to owner or to person or persons responsible:* Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice in the form prescribed in PM 107.2 shall be given to the owner of the property as it appears on the current tax assessment roll. If the owner of the property cannot be ascertained from the tax rolls in the exercise of reasonable diligence, the commissioner of public safety or his designated officer shall make an affidavit to that effect; and the serving of such notice upon such owners may be made by publication in a newspaper of general circulation for two (2) consecutive days. If the property owner employs or utilizes a management company or other agent for the maintenance of the property, the owner may designate in writing, on a form provided by and filed with the division of code enforcement, the name and address of the company or agent to which said notices shall also be provided; however, it shall remain the responsibility of the property owner to comply with the provisions of this code. The property owner shall be responsible for updating any such information filed with the division of code enforcement as necessary. Notices for condemnation procedures shall also comply with section PM-108.3. In addition to the notice of violation, a separate notice of the assessment of a civil penalty shall also be made in the manner prescribed in sections PM-107.2 and PM-107.3.

*PM-107.2
Form:* Such notice prescribed in section PM-107.1 shall:

1. Be in writing;

2. Include a description of the real estate sufficient for identification;

3. Include a statement of the reason or reasons why the notice is being issued;

4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit into compliance with the provisions of this code;

5. Include information regarding the procedure for the person to follow to contest the correction order and a statement to the effect that should the person fail to contest the correction order within the time allowed, the person shall be deemed to have waived the right to contest the correction order and that the determination that a violation was committed shall be final;

6. Include a statement to the effect that civil penalties of not less than one hundred dollars ($100.00) nor more than ten thousand dollars ($10,000.00) per parcel of real property may be imposed if the person fails to comply with the correction order.

7. In cases where a civil penalty is assessed for failure to correct the violation(s), such notice shall include:

a. The amount of the civil penalty to be imposed;

b. The procedure for the person to follow to pay the civil penalty or to contest the penalty;

c. A statement that if the person fails to pay the civil penalty set forth or fails to contest the civil penalty within twenty (20) days, the person shall have been deemed to have waived the right to a hearing before the board to contest the civil penalty and that the assessment of the civil penalty shall be final; and that if the civil penalty is not paid, a notice of lien claimed for the amount of the civil penalty will be placed against the property.

*PM-108.1
Utility removal:* When, in the opinion of the code official, continued utility service could pose a threat to occupants or to the public, the code official may order discontinuance of utility service until such time as necessary repairs have been completed.

*PM-108.2
Closing of vacant structures:* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to place a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed through any available public agency or by contract or arrangement with private persons and the cost thereof, including an administrative cost of seventy-five dollars ($75.00), shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

*PM-109.5
Costs of emergency work:* Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the code official. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs including an administrative cost not to exceed two hundred fifty dollars ($250.00), by placing a lien against said property.

*PM-110.1
General:* The code official shall order the owner of any premises upon which is located any structure or part thereof, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use and to raze and remove such structure or part thereof; or if such structure can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than one (1) year, to raze and remove such structure or part thereof.

*PM-110.3
Failure to comply:* Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the code official shall cause the structure or part thereof to be razed and removed, or otherwise disposed of, as deemed appropriate, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal, including an administrative cost not to exceed two hundred fifty dollars ($250.00), shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

*PM-110.4
Salvage materials:* When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable, or allow as a credit to offset the contract price. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

*PM-111.2
Appeals board:* In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, there shall be and is hereby created an administrative hearing board, hereafter referred to as the board, as provided in [section 12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO) of the Code of Ordinances, Lexington-Fayette Urban County Government. The powers and conduct of the board and the membership thereof shall be as set forth in sections [12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO) through [12-16](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-16ORAP) of the Code of Ordinances, and those provisions shall supersede and replace sections PM-111.2. through and including PM-111.8 of this International Property Maintenance Code.

*PM-202.0
The following definition shall be added to this section:* Graffiti: Any inscription, word, figure, or design marked, etched, scratched, drawn or painted on any surface that damages, mutilates or defaces such surface.

*PM-302.8
Vehicles:* The keeping, parking or storing of vehicles on any premises shall conform with and be subject to [section 12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR) of the Code of Ordinances.

*PM-303.19*All manufactured homes, mobile homes or house trailers that are occupied or are let for occupancy within the urban county shall meet the standards enumerated in this code and shall be installed and anchored in accordance with the provisions of American National Standards Institute (ANSI) A225.1 as provided in 815 KAR 25:010. Transient recreational vehicles parked in a campground, state or local park are exempted from this requirement.

*PM-304.15
Insect screens:* During the period from April 1 to December 1, every door, window and other outside opening used or required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than sixteen (16) mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

*PM-504.4
Floors:* Bathrooms and toilet rooms shall be provided with floors of moisture-resistant material.

*PM-602.2
Residential buildings:* Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees F. (18 degrees C.) in all habitable rooms, bathrooms and toilet rooms based on the outside design temperature required for the locality by the mechanical code listed in [chapter 8](../level2/COOR_CH8MIQU.docx#COOR_CH8MIQU).

*PM-602.2.1
Heat supply:* Every owner and operator of any building who rents, leases or lets one (1) or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain the room temperatures specified in section PM-602.2 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.) during other hours.

*PM-602.2.2
Room temperature exception:* When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in [chapter 8](../level2/COOR_CH8MIQU.docx#COOR_CH8MIQU), the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in full open position.

*PM-602.3
Nonresidential structures:* Every enclosed occupied work space shall be supplied with sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

*PM-602.5
Climate control:* When facilities for interior climate control (heating, cooling, and/or humidity) are integral functions of structures used as dwelling units or other occupancies, such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.

*PM-605.2
Receptacles:* Every habitable space in a dwelling unit and every guest room shall contain at least two (2) separate and remote receptacle outlets. Every bathroom shall contain at least one (1) receptacle outlet, and all receptacle outlets in the bathrooms shall be ground-fault circuit interrupter (GFCI). Every laundry room and kitchen shall contain at least one (1) grounded receptacle outlet. Any receptacle outlet located within six (6) feet of an uncovered water receptacle, such as a sink, wherever located, shall be a ground-fault circuit interrupter (GFCI). Any accessible outlet located on the exterior of a structure shall be a ground-fault circuit interrupter (GFCI).

*PM-701.1
Scope:* The provisions of chapter 227 of the Kentucky Revised Statutes shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises of one- and two-family structures, including fire safety facilities and equipment to be provided. All other structures shall be governed by the Kentucky Fire Standards of Safety.

*PM-705.5.2
Power source:* Existing battery-powered smoke detectors in operational condition shall be acceptable. However, when battery-powered smoke detectors are found to be nonoperational or where no smoke detectors exist, approved hard-wired smoke detectors shall be required.

*PM-801.1
Violations library:* The division of code enforcement shall prepare and maintain a comprehensive list for existing structure violations to be known as the violations library. A copy of the violations library is incorporated herein by reference and shall be filed with the urban county council clerk as a part of the public records of this government.

*PM-901.1
General:* The owner of any condemned vacant building, who has been issued a condemned vacant building license, shall be responsible for maintaining the structure in compliance with the requirements of [chapter 9](../level2/COOR_CH9FIPR.docx#COOR_CH9FIPR) of this code and any rules and regulations promulgated by the code official pursuant to PM 105.7.

*PM-901.2
Vacant building license:* The owner of any condemned vacant building may apply for and obtain a vacant building license. The owner shall submit the license application within twenty (20) days of service of the condemnation order. The condemned vacant building license shall expire one (1) year from the date of issuance. The code official shall not exercise his power to close, board up, placard, or demolish any structure for which the owner holds a valid condemned vacant building license.

*PM-901.2.1
Form:* The application required in PM 901.2 shall be made on a form prescribed by the code official and shall:

(a Be verified by the applicant;

(b) Include a statement of all measures to be taken by the applicant to secure the structure and keep it free from nuisance; and

(c) Include a statement of all repairs and improvements the applicant shall make to bring the structure into compliance with the provisions of [chapter 9](../level2/COOR_CH9FIPR.docx#COOR_CH9FIPR)

*PM-902.2
License issuance:* The code official may issue the vacant building license after:

(a) The owner satisfies the following requirements:

(1) Submits a timely and complete application;

(2) Allows the code official to inspect the exterior and interior of the structure in the presence of the owner or agent of the owner having responsibility for maintenance of the property;

(3) Completes all the measures specified in the application and other work required by the code official; and

(4) Tenders the prescribed fee.

(b) The code official in his discretion determines that, although the structure may not satisfy the code provision or provisions which resulted in the issuance of the condemnation order, the issuance of the license will not be detrimental to the public health, safety, or welfare; will not unreasonably interfere with the use and enjoyment of other property in the neighborhood; will not be an economic burden to the adjacent properties; will not create an extraordinary hazard to police or firefighters in emergency situations; and will not detract from the general appearance and order of the neighborhood.

The code official may specify the time for completion of the measures specified in the application and the other work required by the code official for issuance of the license.

*PM-902.3
Maintenance requirements:* The applicant for and holder of a vacant building license shall:

(a) Make all repairs, within the period of time specified by the code official, and maintain the property in compliance with the regulatory standards promulgated by the code official to preserve the structure from deterioration and blight;

(b) Notify the code official of the completion of repairs mandated by the code official in the application process to allow for the reinspection of the structure;

(c) Submit in a timely manner any application for renewal of the license; and

(d) Make a good faith effort to cooperate with the code official.

*PM-903.1
License renewal:* A condemned vacant building license may be renewed by the code official for a period of one (1) year if the owner satisfies the requirements of PM 902.2 and the owner has maintained the building in accordance with the conditions of the previously issued license. The application for renewal must be submitted sixty (60) days prior to the expiration of the initial license. The renewal period shall run from the date of expiration of the previous license.

*PM-904.1
Fees:* The following is the fee schedule for condemned vacant building licenses:

(a) *License application fee:* The condemned vacant building license application fee is two hundred dollars ($200.00) for each condemned structure or fifty dollars ($50.00) for each condemned dwelling unit in a partially condemned structure when the condemnation order affects only three (3) or fewer dwelling units. The fee shall be paid upon submission of the license application, but the application fee, reduced by any costs and expenses incurred by the code official during the application review process, shall be returned to the owner if the application is denied.

(b) *License fee:* The condemned vacant building license fee is an amount equal to ten cents ($0.10) for each square foot of the gross floor area in the condemned structure; provided, however, that the license fee shall not be less than one hundred dollars ($100.00). Gross floor area shall be calculated by measuring the exterior dimensions of the building, excluding any basement area, or of all dwelling units in a partially condemned structure for which the license is sought.

(c) *Renewal fee:* The condemned vacant building license renewal fee shall be calculated in the same manner as the initial license fee; provided, however, that a credit shall be allowed against the renewal fee for the value of improvements made to the condemned building during the initial license period. The credit shall be determined by the code official and calculated as an amount equal to twenty (20) percent of the value of improvements, including the value of donated labor and materials, made to bring the structure into compliance with the code.

(d) *Refund of fee:* Should the owner of a structure subject to a condemned vacant building license bring the structure into compliance with the Code, then the code official shall refund all or part of the fee paid by the owner. The refund shall be equal to one-twelfth (1/12) of the license fee or renewal fee for each calendar month remaining in the license period as of the date that all necessary certificates of occupancy or appropriate certificates are issued for the building.

*PM-905.1
License revocation:* The code official may revoke any license upon discovery of the existence of a violation or condition which would result in the denial of a license application. The code official in his discretion may reinstate a revoked license for the remaining term of the license if the violation is corrected.

*PM-906.1
Failure to comply:* Any owner who fails to comply with the requirements of this chapter or any related provision of the code shall be subject to the penalty provided in PM 106.2, the immediate revocation of any license held by that owner, and to all other enforcement measures authorized by this code.

(Ord. No. 78-79, § 2, 4-5-79; Ord. No. 172-82, § 1, 9-23-82; Ord. No. 115-87, § 1, 6-11-87; Ord. No. 155-87, § 1, 7-9-87; Ord. No. 33-91, § 2, 2-21-91; Ord. No. 182-91, § 1, 8-29-91; Ord. No. 79-93, § 1, 5-6-93; Ord. No. 66-94, § 1, 5-5-94; Ord. No. 56-95, § 1, 3-23-95; Ord. No. 64-95, § 2, 4-6-95; Ord. No. 4-96, § 1, 1-11-96; Ord. No. 26-96, § 1, 2-22-96; Ord. No. 27-96, § 2, 2-22-96; Ord. No. 127-97, § 1, 6-26-97; Ord. No. 62-98, § 1, 3-19-98; Ord. No. 339-99, § 1, 12-7-99; Ord. No. 13-2010, §§ 1—3, 1-28-10; Ord. No. 131-2010, §§ 1, 2, 7-6-10)

**Editor's note—**

Section 1 of Ord. No. 78-79, adopted April 5, 1979, repealed §§ [12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO)—12-8, relating to the adoption, scope, administration and standards of the housing code; and § 2 reenacted [§ 12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO), reading as set out. Formerly §§ [12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO)—12-8 were derived from the following:

|  |  |  |
| --- | --- | --- |
| Ord. No. | Date | Section |
| 190-67 |  8- 3-67 | 2 |
| 20-71 |  2- 4-71 | 1 |
| 184-76 |  9- 9-76 | 1 |
| 158-78 |  7-11-78 | 1 |
| 23-79 |  1-25-79 | 1—3 |

[Section 12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO) formerly adopted the BOCA property maintenance code. Reference to the property maintenance code in the remainder of this chapter has been changed to refer to the existing structures code adopted in this section.

The official title of the code adopted in this section by Ord. No. 182-91 is "The BOCA National Property Maintenance Code/1990." This replaces the existing buildings code. Reference in the remainder of this chapter will be to the property maintenance code.

Ord. No. 107-2008, § 1, adopted May 22, 2008, repealed §§ 12-1.1—12-1.3, which pertained to BOCA review commission—created; definition, same—membership; terms; qualifications and same—powers, duties. See the Code Comparative Table for complete derivation.

Sec. 12-2. - Legal proceedings for collection of delinquent demolition liens and board-up liens authorized.

(a) The department of law is authorized and directed to institute legal proceedings in the name of the urban county government in any court having jurisdiction over such matter for the collection of delinquent demolition liens and board-up liens, and to take any actions necessary in such proceedings to protect the interests of the urban county government.

(b) The mayor is authorized and directed to execute a release of any lien or *lis pendens* filed of record upon payment in full of the delinquent demolition liens and board-up liens and applicable costs or upon conclusion of court proceedings which result in a sale of the property regardless of whether any part or portion of the liens and costs were paid from the proceeds of the sale. The department of law shall cause this release to be filed in the county clerk's office.

(Ord. No. 153-92, § 1, 8-27-92)

**Editor's note—**

See the editor's note to [§ 12-1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-1PRMACO). Ord. No. 153-92 added a new [§ 12-2](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-2LEPRCODEDELIBOLIAU)

Sec. 12-3. - Reserved.

**Editor's note—**

Ord. No. 223-2004, § 1, adopted Sept. 9, 2004, repealed [§ 12-3](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-3RE) in its entirety. Former [§ 12-3](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-3RE) pertained to licensing of home inspectors and derived from Ord. No. 64-95, § 1, adopted Apr. 6, 1995; Ord. No. 27-96, § 1, adopted Feb. 22, 2996 and Ord. No. 335-98, § 1, adopted Dec. 10, 1998.

Sec. 12-4. - Nuisance abatement; litter regulations.

(a) *Depositing of litter prohibited.* It shall be unlawful for any person, in person or by his agent, employee or servant, to cast, throw, sweep, sift or deposit in any manner in or upon any public way or other public place in the urban county, or any river, canal, public water, drain, sewer or receiving basin within the jurisdiction of the urban county government, any ashes, debris, garbage, refuse or waste of any kind, whether liquid or solid. Nor shall any person cast, throw, sweep, sift or deposit any of the aforementioned items anywhere within the jurisdiction of the urban county government in such manner that it may be carried or deposited in whole or in part, by the action of the sun, wind, rain or snow, into any of the aforementioned places.

This section shall not apply to the deposit of material under a permit authorized by any ordinance of the urban county government; or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade, and removed therefrom within two (2) hours after being so deposited; or to articles for things deposited in or conducted into the urban county government sewer system through lawful drains in accordance with the ordinances of the urban county government relating thereto.

(b) *Vehicles to be covered.* It shall be unlawful for any person, in person or by his agent, employee or servant, to use any vehicle to haul any ashes, debris, garbage, refuse or waste of any kind, whether liquid or solid, unless such vehicle is covered to prevent any part of its contents from spilling or dropping at all times while such vehicle is in motion on any street or alley in the urban county. However, the requirements herein for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material if such matter is securely lashed to such vehicle to prevent spilling or dropping as aforesaid.

(c) *Definitions.* With relation to sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE) through [12-8.2](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8.2PE) of this chapter:

(1) *Ashes* shall mean the residue from the burning of wood, coal, coke and other combustible materials in homes, stores, institutions and small industrial establishments for the purpose of heating, cooking and disposing of waste combustible material. Cinders that are produced in large quantities at steam-generating plants are not included within the meaning of the term.

(2) *Debris* shall mean the remains of anything broken or destroyed; ruins, fragments and shall include but not be limited to concrete blocks, concrete slabs, wood scraps and other material generated by construction activity.

(3) *Garbage* shall mean animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods, paper and other kitchen-type wastes generated from normal household activities. It is composed largely of putrescible organic matter and its natural moisture content. It includes a minimum amount of free liquids. Garbage originates primarily in home kitchens, and also may originate in stores, markets, restaurants, hotels and other places where food is stored, prepared or served.

(4) *Nuisance* shall mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping of the following:

(1) Ashes, debris, garbage, lumber, bricks, cinder blocks, insulation material, building debris, refuse, trash or waste of any kind, whether liquid or solid.

(2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

(5) Trash shall mean a variety of both combustible and noncombustible solid waste from materials from homes, stores and institutions. Trash shall include, but is not limited to, brush, tree limbs, fallen trees, scrap lumber, scrap metal, scrap plastic, plastic bags, car parts, appliances, rags, paper, general yard waste and the like.

(d) Material such as that identified in subsections (c)(4)(A) and (B) shall not be dumped, buried, covered over, plowed under, used as "fill" or otherwise disposed of upon private property within the urban county which is zoned for agricultural uses. Material disposed of in violation of this subsection is hereby declared a nuisance. The foregoing prohibition shall not apply to private property zoned for agricultural uses where the property owner has obtained a valid landfill permit in accordance with [chapter 16](../level2/COOR_CH16SEGAREWE.docx#COOR_CH16SEGAREWE) of this Code, or where the material has been generated solely by the property owner through construction or other activity for the business of agriculture upon his or her private property subject to any state or local regulations regarding water quality or groundwater restrictions.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 320-99, §§ 1, 2, 11-18-99)

**Editor's note—**

The council deems it beneficial to consolidate the nuisance abatement functions performed by the division of property management with similar functions performed by the division of code enforcement. Therefore, Ordinance No. 268-95, § 1, adopted 11-30-95, repealed §§ [16-1](../level3/COOR_CH16SEGAREWE_ARTIINGE.docx#COOR_CH16SEGAREWE_ARTIINGE_S16-1DE)(c)(1)—(5), 16-29—16-34 and 16-34.2, relating to definitions, litter regulations, weeds declared a nuisance, nuisance conditions on private property, cellars, abatement of nuisance, accumulation of water forming ice declared nuisance and authority of general services commissioner and derived from Ord. No. 126-83, § 1, 7-21-83; Ord. No. 167-87, § 1, 7-16-87; Ord. No. 205-88, § 1, 9-8-88; Ord. No. 251-89, §§ 5—9, 12-14-89; Ord. No. 116-91, § 1, 7-2-91; Ord. No. 200-91, § 1, 9-5-91; Ord. No. 211-92, § 1, 12-3-92; and reenacted such sections as §§ [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)—12-8.1.

Sec. 12-5. - Weeds declared a nuisance.

(a) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, poison ivy, poison oak or other weeds of a like kind found growing in any lot or tract of land within the urban county are hereby declared to be a nuisance; and it shall be unlawful to permit any such weeds to grow or remain in any such place. This section shall not apply to property for which a current riparian buffer area permit is in effect.

(b) It shall be unlawful for the owner or occupant of any building or lot to permit any weeds, grass or plants, other than crops, trees, bushes, flowers or other ornamental plants, to grow to a height exceeding twelve (12) inches anywhere on such lot, including those portions thereof abutting any street, road, alley or other thoroughfare, and in the event such lot is crossed by a sidewalk, ditch, pathway, private roadway, fence or other natural or manmade boundary or divider, including those portions thereof between such boundary or divider and the edge of the thoroughfare; any such weeds, grass or plants exceeding such height are hereby declared to be a nuisance. This section shall not apply to property for which a current riparian buffer area permit is in effect.

(c) It shall be unlawful for the owner or occupant of any building or lot to permit any tree, brush, hedge or other vegetation to grow in a manner which interferes with normal sidewalk traffic.

(d) There is hereby exempted from the scope of the provisions of subsections (a) and (b) above property within the urban county zoned for agricultural uses, except that such exemption shall not apply when the property has been planned for development and a subdivision plat has been filed of record in the office of the county clerk reflecting the property as residential.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 339-99, § 5, 12-7-99)

**Note—**See the editor's note to [§ 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)

Sec. 12-6. - Nuisance conditions on private property.

(a) *Duty of maintenance of private property:* No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such persons are located.

(b) *Exterior storage of nonoperating or nonlicensed vehicles prohibited:* No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle or any motor vehicle which is not properly licensed pursuant to KRS 186.020 to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the urban county for a longer time than ten (10) days; except that this section shall not apply to historic motor vehicles registered and licensed in conformance with KRS 186.043, property where such use is allowed under zoning ordinances or other applicable laws, or to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the urban county government or any other public agency or entity.

(c) *Exterior use or storage of indoor furniture prohibited:* No person owning, leasing, occupying or having charge of any premises shall allow the use or storage of furniture which is upholstered or not designed for outdoor use, or equipment or appliances which are not designed for outdoor use, in an outdoor area such as a porch, patio or yard.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 339-99, § 6, 12-7-99)

**Note—**See the editor's note to [§ 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)

Sec. 12-6.1. - Reserved.

**Editor's note—**

Ord. No. 339-99, § 7, adopted December 7, 1999, repealed former [section 12-6.1](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6.1RE), which pertained to cellars and derived from Ord. No. 268-95, § 1, 11-30-95.

Sec. 12-7. - Abatement of nuisance.

(a) *Notice to abate:* It shall be the duty of the commissioner of public safety, citation officers as specifically authorized by ordinance, or others authorized by ordinance to serve or cause to be served a notice upon the owner of any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter. Such notice shall describe the nuisance so maintained and shall demand abatement of such nuisance within ten (10) days of notice, unless such nuisance constitutes an immediate danger to health and well-being of the community, in which case the notice shall demand abatement within twenty-four (24) hours of the notice. The notice shall also include the following:

(1) A statement to the effect that if the situation is not remedied within the prescribed time, the urban county government will proceed to abate the nuisance;

(2) A statement to the effect that the cost of abatement constitutes a lien against the property in favor of the urban county government;

(3) A statement to the effect that if the urban county government is required to abate the nuisance, the commissioner of public safety will send a bill for the cost of the abatement, to include the administrative cost, not to exceed two hundred fifty dollars ($250.00), to the property owner, and if the bill is not paid within seven (7) days following the mailing of the bill, that a notice of lien claimed for the cost of the abatement will be placed against the property. The property owner shall further be informed that in the event the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill;

(4) A statement to the effect that civil penalties of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) may be imposed if more than one (1) notice to abate a nuisance has been issued to the same owner, on the same property, within a twelve-month period and that civil penalties so imposed will be added to the bill for the cost of abatement, if any; and

(5) The procedure and time frame established by [section 12-8.3](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8.3AP) for appealing the notice to abate or the imposition of civil penalties, when applicable.

(b) *Service of notice to abate:* Notice to abate and/or a notice of civil penalty shall be personally served upon the owner or shall be mailed to the last known address of the owner of the property as it appears on the current tax assessment roll. If the owner of the property cannot be ascertained from the tax rolls in the exercise of reasonable diligence, the commissioner of public safety or his designated officer shall make an affidavit to that effect; and the serving of such notice upon such owners may be made by publication in a newspaper of general circulation for two (2) consecutive days. If notice is made by publication, a copy of such notice shall be posted in a conspicuous place on the premises affected by the notice. If the property owner employs or utilizes a management company or other agent for the maintenance of the property, the owner may designate, in writing on a form provided by and filed with the division of code enforcement, the name and address of the company or agent to which said notices shall also be provided; however, it shall remain the responsibility of the property owner to comply with the provisions of this Code. The property owner shall be responsible for updating any such information filed with the division of code enforcement as necessary.

(c) *Abatement by urban county government:* If the owner so served does not abate the nuisance or file a notice of appeal within ten (10) days, the urban county government may proceed to abate such nuisance, keeping an account of the expense of the abatement; and such expense, including an administrative cost fee and the cost of publication, if any, shall be charged to and paid by such owner or occupant. The ten-day period provided for in this subsection shall be deemed to commence as follows:

(1) Where notice is personally served, on the day following service.

(2) Where notice is by mail, on the third day following mailing.

(3) Where notice is by publication and posting, on the third day following the initial day of publication.

(d) *Lien:* The urban county government shall have a lien against the property for its costs incurred in such nuisance abatement and for any civil penalties assessed for violations of [chapter 12](../level2/COOR_CH12HO.docx#COOR_CH12HO). This lien shall be superior to and have priority over all other liens on the property, except state, county, school board, and city taxes pursuant to KRS 82.720. This lien shall be evidenced by a notice of lien claimed, filed in the county clerk's office, which notice shall include the affidavit of the commissioner [of] public safety or the citation officer, setting forth the property in question, the amount of the urban county government's cost of abatement, the date of abatement, and that the notice provisions of this section were complied with before abatement. The commissioner of public safety or his designee shall bill the property owner of such premises at least once following abatement or the assessment of a civil penalty. No notice of lien claimed shall be filed against the property in the case of abatement until seven (7) days have elapsed since the bill is sent, and in the case of a civil penalty, no notice of lien claimed shall be filed against the property until the time for appeal has expired. If the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill. A copy of the notice of lien claimed shall be mailed to the owner of the premises, or published in a newspaper of general circulation, as required by statute, where the owner of the property cannot be ascertained. However, the failure of the clerk to record such notice of lien claimed or the failure to mail the owner a copy of such notice or publish same, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in subsection (e).

(e) *Property to be sold:* Property subject to a lien for unpaid nuisance abatement charges or unpaid civil penalties shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the urban county government.

(f) *Court proceedings:* The commissioner of law is hereby authorized and directed to institute such proceedings, in the name of the urban county government, in any court having jurisdiction over such matter, against any property for which a bill for nuisance abatement or civil penalties remains unpaid for twenty-one (21) days after it is mailed. If the property is the subject of litigation, the proceedings may be initiated immediately upon the mailing of the bill.

(g) *Release of lien:* The mayor is hereby authorized and directed to execute a release of the lien provided for in subsection (d) upon payment in full of the nuisance abatement cost evidenced by the lien or upon conclusion of court proceedings resulting in the sale of the property regardless of whether any portion of the costs were paid from the proceeds of the sale. The lien release shall be filed in the county clerk's office.

(h) *Unenforceable liens:* The commissioner of law is hereby authorized to make the determination that liens shall not be filed for the cost of nuisance abatement if the cost of nuisance abatement is five hundred dollars ($500.00) or less and the cost of collection of the lien would be greater than the lien itself, or when intervening in existing litigation is not cost effective, or when the lien would not be enforceable as a matter of law. All liens now of record meeting these criteria may be released upon signature of the mayor and all prior releases of such liens are hereby ratified and adopted as an act of this council.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 83-97, § 1, 5-29-97; Ord. No. 339-99, § 8, 12-7-99; Ord. No. 13-2010, § 4, 1-28-10)

**Note—**See the editor's note to [§ 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)

Sec. 12-8. - Accumulation of water forming ice declared nuisance.

(a) Water which is directed, or collected and discharged, by any person on or across any sidewalk, and which forms the accumulation of ice on the sidewalk, so as to endanger the public health and safety by preventing safe or reasonable flow of pedestrian traffic, is hereby declared a nuisance.

(b) Any person who causes or maintains a nuisance in violation of subsection (a) of this section is subject to the abatement procedure pursuant to [section 12-7](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-7ABNU) of this Code.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 339-99, § 9, 12-7-99)

**Note—**See the editor's note to [§ 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)

Sec. 12-8.1. - Authority of housing and community development commissioner.

The commissioner of the department of public safety is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the provisions of [section 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE) through [12-8.2](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8.2PE), including the following powers in addition to any others herein granted:

(1) To enter upon all properties within the urban county for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article.

(2) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this article.

(3) To delegate any of his functions or powers under this article to such officers, agents and employees as he may designate.

(4) To promulgate regulations which may be necessary to carry out and effectuate the provisions of this article.

(Ord. No. 268-95, § 1, 11-30-95; Ord. No. 339-99, § 10, 12-7-99)

**Note—**See the editor's note to [§ 12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE)

Sec. 12-8.2. - Penalties.

(a) Every person failing to perform the duties required of him by or to comply with the provisions of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR) or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) shall for every offense be fined not less than one hundred dollars ($100.00) nor more than two thousand five hundred dollars ($2,500.00), and each day's continuance of any such violation shall be a separate offense.

(b) As an alternative remedy to subsection (a), any owner who violates any provision of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR), or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) and has been previously issued at least one (1) notice to abate a nuisance on the same property within a twelve-month period, may be assessed civil penalties of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), pursuant to the civil penalty guidelines as set forth herein. Notice of the assessment of a civil penalty for a violation of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR) or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) shall be made in the manner specified in subsection [12-7](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-7ABNU)(b) herein.

(c) Civil penalties assessed for violations of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR), or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) shall be based on the number of notices to abate issued within a twelve-month period, as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | 2 | 3 | 4 | 5+ |
| Number of Notices | $100.00 | $250.00 | $500.00 | $1,000.00 |

(Ord. No. 268-95, § 2, 11-30-95; Ord. No. 83-97, § 2, 5-29-97; Ord. No. 339-99, § 11, 12-7-99; Ord. No. 13-2010, § 5, 1-28-10)

Sec. 12-8.3. - Appeal.

(a) Any person affected by a notice to abate a nuisance and/or a notice of civil penalty which has been issued or assessed in connection with the enforcement of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR), or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) of the Code shall have the right to request, and shall have granted, a hearing on the matter; provided that such person shall file, with the administrative hearing board or its designee, a written request for such hearing and the grounds therefore within ten (10) days. The ten-day period provided for in this subsection shall be deemed to commence as specified in subsection [12-7](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-7ABNU)(c).

(b) *Failure to appeal.* The notice to abate and the assessment of a civil penalty for violations of sections [12-4](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-4NUABLIRE), [12-5](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-5WEDENU), [12-6](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-6NUCOPRPR), or [12-8](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-8ACWAFOICDENU) of the Code shall represent a determination that the violation has been committed and that determination shall be final, unless appeal is taken to the administrative hearing board within the applicable time period.

(c) An appeal from the board's determination may be made to the Fayette District Court within seven (7) days of the board's determination.

(Ord. No. 83-97, § 3, 5-29-97; Ord. No. 339-99, § 12, 12-7-99; Ord. No. 13-2010, § 6, 1-28-10)

Sec. 12-9. - Reserved.

**Editor's note—**

Ord. No. 339-99, § 16, adopted December 7, 1999, repealed former [§ 12-9](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-9RE), which pertained to rehabilitation, and derived from Ord. No. 190-67, § 2, 8-3-67; Ord. No. 184-76, § 1, 9-9-76; and Ord. No. 115-91, § 1, 7-2-91.

Sec. 12-10. - Conflicts.

The provisions of this Code shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing but are supplemental thereto; and where the provisions of this code are similar to provisions of other applicable laws, codes or ordinances, the more stringent provision shall apply.

(Ord. No. 190-67, § 2, 8-3-67; Ord. No. 339-99, § 13, 12-7-99)

Sec. 12-11. - Reserved. [[2]](#BK_80CB915F51D2404D57A22030D66AAFE2)

**Editor's note—**

Ord. No. 339-99, § 16, adopted December 7, 1999, repealed former [§ 12-11](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-11RE), which pertained to low-rent housing—elimination of unsafe and unsanitary dwelling units; cooperation between city and commission, and derived from Ord. No. 190-67, § 2, 8-3-67.

Sec. 12-12. - Reserved.

**Editor's note—**

Ord. No. 339-99, § 16, adopted December 7, 1999, repealed former [§ 12-12](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-12RE), which pertained to low-rent housing—form of elimination agreement, and derived from Ord. No. 190-67, § 2, 8-3-67.

Sec. 12-13. - Administrative hearing board; establishment; powers.

(a) An administrative hearing board is hereby created pursuant to KRS 82.700 through 82.725 and KRS 381.770. The board shall be composed of five (5) members appointed by the mayor and confirmed by a majority of the urban county council. Board members may individually serve as hearing officers pursuant to this section. Any action of a hearing officer shall be deemed to be the action of the board.

(b) Terms and qualifications: Appointed board members shall serve a term of four (4) years from the date of appointment, provided that the terms of those originally appointed shall be for two (2) years, three (3) years, and four (4) years so as to be staggered in the manner required by [section 7.02](../level3/LEYE_URCOGOCH_ART7BOCOAU.docx#LEYE_URCOGOCH_ART7BOCOAU_S7.02TECOQUME) of the Urban County Charter. Vacancies shall be filled for an unexpired term in the manner prescribed for the original appointment. Board members shall either be licensed to practice law in Kentucky or have completed a course in mediation training, and shall have been a resident of Fayette County for a minimum of one (1) year prior to appointment.

(c) Financial interest: A member of the board shall not participate in any hearings or vote on any appeal in which the member has a direct or indirect financial interest, or is engaged as a contractor, or is engaged in the preparation of plans and specifications, or in which that member has any personal interest. The board shall be subject to [Article 16](../level3/LEYE_URCOGOCH_ART16COET.docx#LEYE_URCOGOCH_ART16COET) of the Urban County Charter—Code of Ethics and [Chapter 25](../level2/COOR_CH25ETAC.docx#COOR_CH25ETAC) of the Lexington-Fayette Urban County Government Code of Ordinances—Ethics Act.

(d) The code official shall designate a staff person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the code official.

(e) Meetings: The board shall meet on the fourth Thursday of each calendar month if written applications for appeal have been filed or other business is pending before the board, or at such other times as deemed necessary by the board. The board secretary shall give ten (10) days public notice of board meetings. An application for appeal shall not be heard by the board until the required public notice has been given.

(f) The jurisdiction of hearing officers to conduct hearings, issue orders and impose civil penalties shall be only that specifically granted by ordinance or statute.

(Ord. No. 83-97, § 4, 5-29-97; Ord. No. 339-99, § 14, 12-7-99)

Sec. 12-14. - Notice.

(a) A hearing officer shall give notice of a hearing to the parties not less than ten (10) days in advance of the date set for the hearing. The notice shall be served on the parties by regular U.S. mail to the last known address of the parties address indicated by the appellant in his or her written request for hearing.

(b) The notice required by this section shall include:

(1) A statement of the date, time, place, and nature of the hearing;

(2) A reference to the specific ordinances and regulations which relate to the issues involved;

(3) A statement advising the parties of their right to legal counsel;

(4) A statement advising that any party who fails to attend or participate in the hearing shall be deemed to have waived the right to a hearing to contest the notice and the determination that a violation was committed shall be considered final.

(Ord. No. 83-97, § 5, 5-29-97; Ord. No. 339-99, § 15, 12-7-99)

Sec. 12-15. - Conduct of hearing.

(a) A hearing officer shall preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

(b) To the extent necessary for the full disclosure of all relevant facts and issues, a hearing officer shall afford all parties the opportunity to respond, present documentary or tangible evidence, conduct cross-examination, and submit rebuttal evidence.

(c) Any party to an administrative hearing may participate in person or may be represented by counsel.

(d) If a party fails to attend or participate in a hearing, the hearing officer may adjourn the proceedings and issue a default order upholding the notice.

(e) All testimony shall be made under oath or affirmation. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be accurately and completely recorded. Any person, upon request, may receive a copy of the recording, provided, however, that the party making the request shall be responsible for the cost of any transcript or copy.

(f) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right, upon reasonable request, to inspect the documentary or tangible evidence relating to an administrative hearing, either in person or through counsel. Copies of documentary evidence may be obtained by parties upon the payment of a fee, except where disclosure is protected by state or federal law.

(g) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(h) A hearing officer may take official notice of any matter of which a court of the Commonwealth of Kentucky may take such notice.

(i) At the hearing, the hearing officer shall determine, based on the evidence presented, whether a violation was committed. When the hearing officer determines that no violation was committed, an order dismissing the civil penalty shall be entered. When the hearing officer determines that a violation was committed, the hearing officer shall issue an order upholding the citation and may order the offender to pay a civil penalty in an amount up to the maximum authorized by ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a penalty, or both, as authorized by ordinance.

(Ord. No. 83-97, § 6, 5-29-97)

Sec. 12-16. - Orders; appeals.

(a) Within a reasonable time after the conclusion of the hearing, the hearing officer shall issue a written order which shall include the date issued, findings of fact, conclusions of law, and the disposition of the hearing, including penalties, if any. A copy of the order shall be provided to the person named in the notice by certified mail, return receipt requested.

(b) An appeal from any final order issued by a hearing officer may be made to the Fayette District Court within thirty (30) days of the date the order was issued pursuant to KRS 82.720. There shall be no appeals from such orders to the board.

(Ord. No. 83-97, § 7, 5-29-97; Ord. No. 77-2011, § 10, 6-23-11)

Secs. 12-17—12-53. - Reserved.

**Editor's note—**

Section 6 of Ord. No. 98-84, adopted June 28, 1984, repealed §§ [12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO)—12-53, relating to landlord-tenant relations, pursuant to the provisions of HB 224 of the 1984 General Assembly, which authorizes local governments to enact the provisions of the Uniform Residential Landlord and Tenant Act. Formerly, §§ [12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO)—12-53 were derived from Ord. No. 199-82, § 1, adopted Nov. 4, 1982, and Ord. No. 241-83, § 1, adopted Dec. 15, 1983.

Sec. 12-54. - Landlord-tenant act adopted.

The urban county government hereby enacts the provisions of the Uniform Residential Landlord and Tenant Act as set forth in the Kentucky Revised Statutes.

(Ord. No. 98-84, § 2, 6-28-84)

**State law reference—** Uniform Residential Landlord and Tenant Act, KRS 383.500 et seq.

Secs. 12-55—12-59. - Reserved.

FOOTNOTE(S):

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**Cross reference—** Similar provisions, §§ 17-2—17-4. [(Back)](#BK_5C67C8FC0E1380AF95CEAFD7748B7AD6)

### ARTICLE II. - PUBLIC NUISANCES

[Sec. 12-60. - Definition.](#BK_B03E8D126F0D09088E88BE184DC3442F)

[Sec. 12-61. - Prohibition.](#BK_126D8E74394E00B6448D4A8B3001D42F)

[Sec. 12-62. - Enforcement.](#BK_52A2A68856CA4E550BB7185968E6A53D)

[Sec. 12-63. - Abatement procedure.](#BK_155AD97E5F875B7AA573B10C9EA70E98)

[Sec. 12-64. - Action on failure to comply.](#BK_13E472707478CE8FBF7E7E6EA3B1CBED)

[Sec. 12-65. - Destroying, etc., notice; disobeying order.](#BK_90072E750C11A07E353F13116BC3CBEC)

[Sec. 12-66. - Multiple unit dwellings.](#BK_2D3DE11FA70C5F7B055C9E2629F86B55)

[Sec. 12-67. - Defense to violation.](#BK_292EDEA045F936C72A9F4EEB4C15A608)

[Sec. 12-68. - Hearing.](#BK_1CD54B3957AE7CF92B553FB333CA6BBD)

[Sec. 12-69. - Notice of hearing; conduct of hearing.](#BK_A6C8EC1ADFB0584B9A7B51EB5DF81837)

[Sec. 12-70. - Written order of hearing officer; appeal.](#BK_12112CCBCC6428D8D98485BC7C7179C7)

Sec. 12-60. - Definition.

For purposes of sections [12-60](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-60DE) through [12-70](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-70WRORHEOFAP), the term public nuisance is hereby defined as any premises or place where law enforcement officers have, on more than two (2) occasions in a twelve (12) month period, criminally cited or arrested a person for violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises or any felony or executed a court-issued search warrant for violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises or any felony. Instances in which the owner or occupant is the victim of the crime and had no control over the criminal act shall not be considered in the number of occasions including domestic violence calls for service.

(Ord. No. 332-98, § 2, 12-10-98; Ord. No. 24-2013, § 1, 3-7-13)

Sec. 12-61. - Prohibition.

No owner of property located within the urban county shall allow his or her property to be used as the site for any public nuisance after having received notice pursuant to [section 12-63](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-63ABPR) that the property has been used for the commission of a public nuisance. This prohibition shall apply to both rental and owner-occupied property. A legal or equitable owner of the property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this Code.

(Ord. No. 332-98, § 2, 12-10-98; Ord. No. 24-2013, § 2, 3-7-13)

Sec. 12-62. - Enforcement.

The division of police shall be responsible for enforcement of sections [12-60](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-60DE) through [12-70](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-70WRORHEOFAP) relating to public nuisances. The term code official as used in these sections shall refer to the chief of police or his or her designated representative.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-63. - Abatement procedure.

(a) *Duty to notify owner.* Whenever the code official receives information that a public nuisance exists in or upon the property, he shall notify the owner of the property, and any representative designated by the owner pursuant to subsection (d) below, that the property is being used in a manner so as to constitute a public nuisance and that the public nuisance must be abated.

(b) *Notice to abate.* It shall be the duty of code official to serve or cause to be served a notice upon the owner of any premises upon which there is kept or maintained a public nuisance in violation of sections [12-60](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-60DE) through [12-70](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-70WRORHEOFAP). Such notice shall describe the nuisance so maintained and shall demand abatement of such nuisance. The notice shall be mailed by certified mail, return receipt requested, or may be personally served upon the owner. The notice shall include a statement to the effect that civil penalties of not less than five hundred dollars ($500.00) nor more than five thousand dollars ($5,000.00) may be imposed if the public nuisance is not abated and shall state the procedure and time frame established by [section 12-68](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-68HE) for appealing the notice to abate or the imposition of civil penalties, when applicable.

(c) *Order to close and vacate.* Should the public nuisance not be abated by or before the date stated in the notice to abate, the code official shall be authorized at any time thereafter to issue an order closing and vacating the premises to the extent necessary to abate the public nuisance. Such closing and vacating shall be for such period of time as the code official reasonably may direct, but in no event shall the closing and vacating be for a period of more than one (1) year from the date of closing. An order to close and vacate issued pursuant to this section is not an act of possession, ownership or control by the urban county government. An order to close and vacate order shall be rescinded within fourteen (14) days of an abatement, unless such premises is the site of repeated orders to close and vacate.

(d) *Service of notice to abate or order to close and vacate.* A notice to abate or an order to close and vacate shall be personally served upon the owner or shall be mailed by certified mail, return receipt requested, to the last-known address of the owner of the property as it appears on the current tax assessment roll. If the owner of the property cannot be ascertained from the tax rolls in the exercise of reasonable diligence, the code official shall make an affidavit to that effect; and the serving of such notice upon such owners may be made by publication in a newspaper of general circulation for two (2) consecutive days. A copy of such notice or order shall be posted in a conspicuous place on the premises affected by the notice. Any property owner may voluntarily file with the division of police a completed certificate, on a form provided by the division, that provides the name and address of a management company or designated representative with authority over the subject property or an alternative address of the property owner to which all notices issued under this article also shall be served.

(e) *Lien.* The urban county government shall have a lien against the property for any civil penalties, charges and fees imposed and for the reasonable value of labor and materials used to abate the public nuisance if necessary. This lien shall be superior to and have priority over all other liens on the property, except state, county, school board, and city taxes pursuant to KRS 82.720. This lien shall be evidenced by a notice of lien claimed, filed in the county clerk's office, which notice shall include the affidavit of the code official, setting forth the property in question, the amount of the urban county government's cost and date of abatement, if any, and the amount of the civil penalty, if any, and shall recite that the notice provisions of this section were complied with before abatement or assessment of civil penalty. The code official shall bill the property owner of such premises at least once and no notice of lien claimed shall be filed against the property until twenty (20) days have elapsed since the bill is sent. If the property is the subject of litigation, the lien may be filed immediately upon the mailing of the bill. A copy of the notice of lien claimed shall be mailed to the owner of the premises, or published in a newspaper of general circulation, as required by statute, where the owner of the property cannot be ascertained. However, the failure of the clerk to record such notice of lien claimed or the failure to mail the owner a copy of such notice or publish same, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in subsection (f).

(f) *Property to be sold.* Property subject to a lien for unpaid public nuisance abatement costs or civil penalties shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the urban county government.

(g) *Court proceedings.* The commissioner of law is hereby authorized and directed to institute such proceedings, in the name of the urban county government, in any court having jurisdiction over such matter, against any property for which a bill for public nuisance abatement or civil penalty remains unpaid for twenty (20) days after it is mailed. If the property is the subject of litigation, the proceedings may be initiated immediately upon the mailing of the bill.

(h) *Release of lien.* The mayor is hereby authorized and directed to execute a release of the lien provided for in subsection (e) upon payment in full of the nuisance abatement cost or civil penalty evidenced by the lien or upon conclusion of court proceedings resulting in the sale of the property regardless of whether any portion of the costs were paid from the proceeds of the sale. The lien release shall be filed in the county clerk's office.

(Ord. No. 332-98, § 2, 12-10-98; Ord. No. 24-2013, § 3, 3-7-13)

Sec. 12-64. - Action on failure to comply.

If any person fails to comply with a notice to abate a public nuisance or an order to close and vacate issued pursuant to [section 12-63](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-63ABPR), the code official may:

(a) Assess civil penalties of not less than five hundred dollars ($500.00) nor more than five thousand dollars ($5,000.00), with notice of the assessment of a civil penalty for a violation to be made in the manner specified in [section 12-63](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-63ABPR) herein;

(b) Revoke the certificate or occupancy of the premises; or

(c) Use any other legal remedy available under the laws of the Commonwealth.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-65. - Destroying, etc., notice; disobeying order.

No person shall destroy, remove or deface any notice or order posted by the code official. No person shall disobey any order to close and vacate, or use or occupy or permit any other person to use or occupy any premises ordered closed.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-66. - Multiple unit dwellings.

If the premises consist of multiple unit dwellings or mixed uses and the public nuisance has occurred solely within a unit or units, the authority to issue an order to close and vacate is restricted to the unit or units in which the public nuisance has occurred and does not extend to any other unit in the premises.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-67. - Defense to violation.

It shall be a defense to a violation of this section if the owner has instituted an eviction proceeding within thirty (30) days of the notice or order against the offending tenant(s) and all occupants of the premises, and completes the eviction within seventy-five (75) days of commencement of the eviction proceeding or as soon thereafter as court procedure will allow. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, enforcement under this section will be stayed until the judicial or quasi-judicial proceeding is resolved. It shall be the responsibility of the owner to provide, in writing to the code official, notice that an eviction proceeding has been instituted and to provide such other proof of such proceeding as may reasonably be requested by the code official.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-68. - Hearing.

(a) Any person affected by a notice to abate, order to close and vacate, or civil penalty assessment which has been issued in connection with the enforcement of sections [12-60](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-60DE) through [12-70](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-70WRORHEOFAP) of the Code shall have the right to request and shall have granted a hearing on the matter; provided that such person shall file, with the administrative hearing board as established by [section 12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO) of this Code, or its designee, a written request for such hearing and the grounds therefor within twenty (20) days. The code official shall make available, upon request, a preprinted appeal form. The twenty (20) day period provided for in this subsection shall be deemed to commence as follows:

(1) Where notice is personally served, on the day following service;

(2) Where notice is by certified mail, on the third day following mailing;

(3) Where notice is by publication, on the third day following the initial day of publication.

(b) Failure to Appeal. A notice to abate, an order to close and vacate, or the assessment of a civil penalty for violations of sections [12-60](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-60DE) through [12-70](../level3/COOR_CH12HO_ARTIIPUNU.docx#COOR_CH12HO_ARTIIPUNU_S12-70WRORHEOFAP) of the Code shall represent a determination that the violation has been committed and that determination shall be final, unless appeal is timely taken to the administrative hearing board established by [section 12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO) as specified herein.

(c) Pursuant to KRS 82.715(4), an appeal from the board's determination may be made to the Fayette District Court within seven (7) days of the board's determination.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-69. - Notice of hearing; conduct of hearing.

A hearing officer shall give notice of a hearing to the parties not less than ten (10) days in advance of the date set for the hearing, in the form and manner provided in [section 12-14](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-14NO) of this code. The hearing shall be conducted in the form and manner provided by [section 12-15](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-15COHE) of this code.

(Ord. No. 332-98, § 2, 12-10-98)

Sec. 12-70. - Written order of hearing officer; appeal.

Within a reasonable time after the conclusion of the hearing, the hearing officer shall issue a written order in the form and manner provided in [section 12-16](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-16ORAP) of this code. An appeal from any final order issued by a hearing officer may be made to the Fayette District Court within seven (7) days of the date the order was issued pursuant to KRS 82.720. There shall be no appeals from such orders to the board.

(Ord. No. 332-98, § 2, 12-10-98)

### ARTICLE III. - RIPARIAN AREAS

[Sec. 12-71. - Permit.](#BK_F857F30AF4748EE34D25FEDC335D2CDA)

[Sec. 12-72. - Maintenance; species; compliance.](#BK_D09839787AD018A8A86A3C8D557FF9F1)

[Sec. 12-73. - Revocation of permit.](#BK_8B77AE28B167E915BFA8800480780B9F)

[Sec. 12-74. - Appeal.](#BK_91082C99401CC44443F6D21F9F41DB3E)

[Sec. 12-75. - Lists of acceptable vegetation.](#BK_7039D93796B5BC1B445C398D6980374F)

[Sec. 12-76. - Penalty.](#BK_B86DA70274C6D8DE63209CBC5922303D)

[Secs. 12-77—12-80. - Reserved.](#BK_4624FF7727C62FE6A3B07013D851CB60)

Sec. 12-71. - Permit.

Any person whose property contains a riparian area, as defined herein, may create a buffer area bordering the riparian area upon obtaining a permit from the urban forester or his designee. Such a buffer area shall be exempt from the nuisance provisions of [chapter 12](../level2/COOR_CH12HO.docx#COOR_CH12HO) provided that the area is properly maintained as defined herein and acceptable species of vegetation are utilized. Upon application, the urban forester shall inspect the area and determine whether a permit should be granted. The permit shall be granted providing the following conditions are met:

(1) The property must contain a riparian area, hereby defined as real property related to or located in conjunction with a wetland, river or stream, or along the edge of a lake, which real property is influenced by and influences the neighboring body of water.

(2) A buffer zone is real property which adjoins or includes a riparian area and which is maintained in a natural state consistent with the provisions of this article.

(3) The maximum area for a buffer zone shall be twenty-five (25) feet from the edge of the wetland, river, stream or lake, unless a larger area is approved by the urban forester and so designated on the permit.

(4) The buffer zone shall not interfere with designated greenways as set forth in the comprehensive plan.

(5) The urban forester or his designee may deny a permit although all conditions have been met, for just cause based on circumstances unique to the property affected which would create a threat to public welfare and/or safety if the proposed planting were permitted.

(6) The decision of the urban forester or his designee shall be made within thirty (30) days after an application is filed. Failure to issue such decision within said time period shall have the same effect as approval of the application.

(Ord. No. 28-2000, § 1, 2-10-00)

Sec. 12-72. - Maintenance; species; compliance.

(1) The property owner shall maintain the area after it is established. Proper maintenance shall include, as necessary, selection and use of approved species of vegetation, watering, pruning, removal of hazardous or diseased vegetation and insect control.

(2) Riparian species shall be approved by the urban forester prior to planting. Riparian species include vegetative species of trees and understory which have adapted to conditions that constitute root systems surviving where there are shallow water tables, and can exist adjacent to streams, creeks, rivers, lakes and in wetlands or other saturated soil conditions. Examples of riparian species are green ash, willow, sycamore, boxelder and cypress.

(3) The urban forester or his designee shall check proposed planting sites for compliance with requirements under this article. The urban forester or his designee may waive any of the conditions in granting a permit where such action would promote the preservation of the health, integrity or appearance of an area's riparian characteristics. Further, where such action would promote the public welfare, the urban forester or his designee may condition the granting of a permit upon the applicant's agreement to plant only a certain species of vegetation.

(Ord. No. 28-2000, § 1, 2-10-00)

Sec. 12-73. - Revocation of permit.

If a buffer area for which a permit has been issued is not properly maintained or has not met the conditions set forth in the permit, the urban forester or his designee may revoke the permit by providing written notice of the revocation to the permit holder. If a permit is revoked, the buffer area shall become subject to the nuisance provisions of [chapter 12](../level2/COOR_CH12HO.docx#COOR_CH12HO).

(Ord. No. 28-2000, § 1, 2-10-00)

Sec. 12-74. - Appeal.

Any applicant for or holder of a permit required by this chapter adversely affected by the decision of the urban forester or his designee in the application or interpretation of any of the provisions of this chapter may appeal the decision of the division to the administrative hearing board established by [section 12-13](../level3/COOR_CH12HO_ARTIINGE.docx#COOR_CH12HO_ARTIINGE_S12-13ADHEBOESPO) of this Code. The appeal provided herein shall be taken by filing written notice thereof with the clerk of the urban county council, with a copy thereof to be filed with the urban forester within ten (10) days from notification of the decision. The written notice provided for herein shall recite the reasons why the appeal is being taken. The appeal provided herein shall be heard at the first administrative hearing board meeting following the filing of the appeal, and the appellant shall be notified in writing.

(Ord. No. 28-2000, § 1, 2-10-00)

Sec. 12-75. - Lists of acceptable vegetation.

Vegetation with characteristics which make them acceptable for use in riparian areas and which are recommended for buffer zones shall be set forth in lists provided by the current planning section and the division of engineering.

(Ord. No. 28-2000, § 1, 2-10-00)

Sec. 12-76. - Penalty.

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine of not less than fifty dollars ($50.00), nor more than five hundred dollars ($500.00).

(Ord. No. 28-2000, § 1, 2-10-00)

Secs. 12-77—12-80. - Reserved.

### ARTICLE IV. - BLIGHTED, DETERIORATED, AND VACANT PROPERTIES [[3]](#BK_99177387A92327EE6CD584B74FC6B312)

[Sec. 12-81. - Definitions.](#BK_49362E5E0971133E20020CB928990CA0)

[Sec. 12-82. - Vacant property review commission.](#BK_98CDC3DFF295F571A640ED20A62DA8E0)

[Sec. 12-83. - Membership.](#BK_102BDADDDFB932DE4796F1D52CC33820)

[Sec. 12-84. - Terms of members.](#BK_31718D76F683AEB0A5E61C69EC018A0A)

[Sec. 12-85. - Officers.](#BK_867F8655E8B9B6E5CC2E7C5A5B87363E)

[Sec. 12-86. - Quorum.](#BK_AFD17AFF3E0CE02B9292742078E1EE11)

[Sec. 12-87. - Meetings.](#BK_87E3F8483E0A87426708039866A08600)

[Sec. 12-88. - Rules of procedure.](#BK_4CE8F3A92C9DAC7FF0FB30FD25026F8A)

[Sec. 12-89. - Power and duties.](#BK_74212F8BBA6E2BFE6441B42D10157BCC)

[Sec. 12-90. - Appeal of determination or valuation.](#BK_1F7A63205E682E226F17279768A7F65C)

[Sec. 12-91. - Conduct of hearing.](#BK_AD035FC80A2FE7CA7A35355A5C2FD2D0)

[Sec. 12-92. - Eminent domain proceedings.](#BK_FE49FF845B2CBBD4155E2023F4D55CED)

[Sec. 12-93. - Acquisition by employees prohibited; disclosure required.](#BK_1951778A7A9672AC67D43CF425F607FD)

Sec. 12-81. - Definitions.

(a) Blighted or deteriorated property shall mean any vacant structure or vacant or unimproved lot or parcel of land in a predominantly built-up residential neighborhood:

(1) Which because of its physical condition or use is regarded as a public nuisance at common law or has been declared a nuisance in accordance with the housing, building, plumbing, fire or related codes; or

(2) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or

(3) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in facilities or equipment required by the International Property Maintenance Code as adopted in [chapter 12](../level2/COOR_CH12HO.docx#COOR_CH12HO) of this Code, has been designated by the division of code enforcement as unfit for human habitation; or

(4) Which is a fire hazard or is otherwise dangerous to the safety of persons or property; or

(5) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property is unfit for its intended use; or

(6) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris or a haven for rodents or other vermin; or

(7) Which has been tax delinquent for a period of at least three (3) years; or

(8) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate governmental agency.

(b) Redevelopment shall mean the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property and the preparation of such property for residential or related uses as may be appropriate or necessary.

(c) Residential and related use shall mean residential property for sale or rental, and related uses including, but not limited to, park and recreation areas, neighborhood community services and neighborhood parking lots.

(d) Vacant property review commission or review commission shall mean the commission established by this code to review vacant properties to make a written determination of blight and deterioration.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-82. - Vacant property review commission.

There is hereby created a vacant property review commission, whose purpose shall be as follows:

(a) To certify, to the urban county council, properties within the urban county that are blighted or deteriorated in the manner and form set forth in this article;

(b) To fulfill the duties provided in [chapter 7](../level2/COOR_CH7FITA.docx#COOR_CH7FITA), article IV, of the Code of Ordinances pertaining to abandoned urban properties;

(c) To assist the Lexington-Fayette Urban County Landbank Authority and the urban county council in identifying properties of any classification or use that are abandoned, blighted, deteriorated, or otherwise in a condition of non-productive use; and

(d) To perform other duties as may be assigned to it by the urban county council that are consistent with the general purpose of this article.

(Ord. No. 78-2000, § 1, 3-23-00; Ord. No. 138-2009, § 2, 7-7-09; Ord. No. 229-2009, § 1, 11-5-09)

Sec. 12-83. - Membership.

The review commission shall consist of seven (7) members appointed by the mayor and approved by majority vote of the urban county council. The members of the review commission shall consist of:

(1) One (1) real estate agent or appraiser;

(2) One (1) representative of a local lending institution knowledgeable in the financing of residential property;

(3) One (1) representative who is a home builder or owner of rental property within the urban county;

(4) One (1) representative who holds an elected position within a neighborhood association;

(5) One (1) at-large member;

(6) One (1) member of the urban county council, who shall not be considered for purposes of determining the presence of a quorum and shall not be a voting member of the review commission; and

(7) One (1) member of the Office of Property Valuation Administrator, Fayette County, Kentucky, who shall not be considered for purposes of determining the presence of a quorum and shall not be a voting member of the review commission.

Members shall be at least twenty-one (21) years of age and shall have lived within the urban county for at least one (1) year immediately prior to appointment. The members of the commission shall serve without compensation. No officer or employee of the urban county government whose duties include enforcement of housing, building, plumbing, fire, or related codes shall be appointed to the review commission.

(Ord. No. 78-2000, § 1, 3-23-00; Ord. No. 229-2009, § 2, 11-5-09)

Sec. 12-84. - Terms of members.

All review commission members shall serve four (4) years from the date of appointment, provided that the initial terms shall be staggered so that three (3) members are appointed for four (4) years and two (2) members are appointed for two (2) years. Vacancies shall be filled for the unexpired term in the manner prescribed for the original appointment.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-85. - Officers.

The officers of the review commission shall consist of a chairman and a vice-chairman to be designated by vote of the commission.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-86. - Quorum.

A majority of the five (5) voting members of the review commission shall constitute a quorum for the transaction of business at any meeting of the board. The acts of a majority of the quorum in any regular or special meeting of the review commission shall constitute acts of the review commission.

(Ord. No. 78-2000, § 1, 3-23-00; Ord. No. 229-2009, § 3, 11-5-09)

Sec. 12-87. - Meetings.

Regular meetings shall be held at least once quarterly, and special meetings may be held as specified in the bylaws. All meetings shall be open to the public in a manner consistent with KRS 61.805—61.810.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-88. - Rules of procedure.

The review commission shall determine its own bylaws, rules and order of business and shall provide for keeping a record of its proceedings.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-89. - Power and duties.

(a) The urban county council shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the review commission has certified that the property is blighted or deteriorated.

(b) A property which has been referred to the review commission by the appropriate government agency as blighted or deteriorated may only be certified to the urban county council as blighted or deteriorated after the review commission has determined:

(1) That the owner of the property, as determined by reference to the current tax assessment roll in the office of the property valuation administrator, or the owner's designated agent, has been notified through a notice or order by the appropriate government agency to eliminate the conditions which are in violation of local codes or law;

(2) That the property is vacant;

(3) That the property is blighted or deteriorated;

(4) That the review commission has notified the property owner or the owner's designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice;

(5) That the property owner has been afforded the opportunity to a hearing before the review commission with regard to the finding of blight;

(6) That the planning commission has determined that the reuse of the property for residential and related uses is in keeping with the comprehensive plan.

(c) The findings required by subsection (b) of this section shall be in writing and included in the report to the urban county council.

(d) Upon making an initial determination of blight or deterioration and prior to the above certification to the urban county council, the review commission shall notify the owner of the property or the owner's designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the urban county government under this article and KRS chapter 99. This notice shall include the statement that the owner may request a hearing before the review commission to dispute the determination of blight or deterioration and the process by which such a hearing must be requested. Notice shall be mailed to the owner by certified mail, return receipt requested, at the owner's last known address as recorded with the Fayette County property valuation administrator or to the owner's designated agent. However, if the owner cannot be ascertained by the review commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected.

(e) The written notice to the property owner or the owner's designated agent shall describe the conditions that render the property blighted or deteriorated and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice. This notice shall include the statement that the owner may request a hearing before the review commission to dispute the determination of blight or deterioration and that such a request must be made in writing within twenty (20) days of the date of the notice from the review commission. If the notice is returned as not deliverable, the ninety (90) days shall commence upon the posting of the notice on the property. An extension of the ninety-day period may be granted by the review commission if the owner or his designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

(Ord. No. 78-2000, § 1, 3-23-00; Ord. No. 229-2009, § 4, 11-5-09)

Sec. 12-90. - Appeal of determination or valuation.

(a) The owner or the owner's designated agent of a property initially declared by the review commission to be blighted or deteriorated shall have the right to a hearing before the review commission for purposes of contesting the finding of blight or deterioration. Such hearing, if one is requested, shall be held by the review commission prior to any certification to the urban county council regarding the property. This appeal right does not affect any other appeal right afforded to the property owner elsewhere in [chapter 12](../level2/COOR_CH12HO.docx#COOR_CH12HO)

(b) The owner or other party in interest of any abandoned urban property, as determined pursuant to [chapter 7](../level2/COOR_CH7FITA.docx#COOR_CH7FITA), article IV of the Code, who believes that the property has been incorrectly classified, may appeal such classification to the review commission. Appeal to the review commission may only be made on the basis that the property was incorrectly classified as abandoned urban property in that it did not meet the criteria established in [section 7-39](../level3/COOR_CH7FITA_ARTIVABPR.docx#COOR_CH7FITA_ARTIVABPR_S7-39DE) of the Code as of January 1 of that tax year. Such appeal shall be in writing, and must be received by the review commission within thirty (30) days of the date the notice was mailed.

(c) If a hearing is requested by the property owner or his or her designated agent pursuant to subsection (a), above, he or she shall notify the review commission in writing, within twenty (20) days of the date of the notice from the review commission. The request must state the name, address and phone number of the property owner, the address of the property for which the hearing is requested, and a brief statement of the grounds for appeal. The government shall make available forms for such appeals.

(d) The review commission shall attempt to schedule and hear all matters within thirty (30) days of the receipt of the written request.

(Ord. No. 78-2000, § 1, 3-23-00; Ord. No. 229-2009, § 5, 11-5-09)

Sec. 12-91. - Conduct of hearing.

(a) Upon receipt of a request for hearing, the review commission shall set a time and place for hearing and shall give the appellant written notice thereof. The hearing shall be commenced within thirty (30) days after a request has been filed. At such hearing, the appellant shall be given an opportunity to be heard and to show cause why the notice appealed from should be modified, or withdrawn. The failure of the appellant or a legal representative to appear and participate in the hearing, shall have the same effect as if no request was filed.

(b) The review commission shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

(c) To the extent necessary for the full disclosure of all relevant facts and issues, the review commission shall afford all parties the opportunity to respond, present documentary or tangible evidence, conduct cross-examination, and submit rebuttal evidence.

(d) Any party to a hearing may participate in person or may be represented by counsel.

(e) If a party fails to attend or participate in a hearing, the review commission may adjourn the proceedings and issue a default order upholding the notice.

(f) All testimony shall be made under oath or affirmation. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be accurately and completely recorded. Any person, upon request, may receive a copy of the recording, provided, however, that the party making the request shall be responsible for the cost of any transcript or copy.

(g) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right, upon reasonable request, to inspect the documentary or tangible evidence relating to a hearing, either in person or through counsel. Copies of documentary evidence may be obtained by parties upon the payment of a fee, except where disclosure is protected by state or federal law.

(h) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(i) The review commission may take official notice of any matter of which a court of the Commonwealth of Kentucky may take such notice.

(j) After a hearing, the review commission may sustain, modify, or withdraw the notice appealed from by a majority vote, and the appellant shall be notified in writing by certified mail of such action.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-92. - Eminent domain proceedings.

(a) The urban county council may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted and/or deteriorated by the review commission pursuant to this article, provided that, in addition, the urban county council finds:

That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

That such property is likely to continue to deteriorate unless corrected;

That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

That the owner of such property has failed to correct the deterioration of the property.

(b) The urban county government may acquire by eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to this article, and shall have the power to hold, clear, manage, develop or dispose of the property so acquired, for residential and related uses pursuant to the provisions of this article and KRS chapter 99.

(Ord. No. 78-2000, § 1, 3-23-00)

Sec. 12-93. - Acquisition by employees prohibited; disclosure required.

(a) Pursuant to KRS 99.730, no member of the review commission or officer or employee of the urban county government who in the course of his or her duties is required in any way to participate in the determination of property blight or deterioration or the issuance of notices of code violations which might lead to a determination of blight or deterioration, shall acquire any interest in any property which has been declared to be blighted or deteriorated by the review commission.

(b) If any such member, officer or employee owns or has a financial interest, direct or indirect, in any property at the time it is certified to be blighted or deteriorated by the review commission, he or she shall immediately disclose, in writing, such interest to the review commission and to the urban county council and such disclosure shall be entered in the minutes of the review commission and council. Failure to so disclose such interest shall constitute misconduct. No payment shall be made to any member, officer or employee for any property or interest therein acquired by the urban county from such member, officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings or unless payment is unanimously approved by the council.

(Ord. No. 78-2000, § 1, 3-23-00)

FOOTNOTE(S):

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**Editor's note—** Ord. No. 78-2000, § 1, adopted March 23, 2000, set out provisions intended for use as Article III, §§ 12-71—12-83. Inasmuch as Ord. No. 28-2000, adopted February 10, 2000, set out provisions codified herein as Article III, §§ 12-71—12-76, these new provisions have been included as Article IV, §§ 12-81—12-93. [(Back)](#BK_32221B8257A9A650EDB9B65BAE92439A)