

AN ORDINANCE OF THE CITY OF EMINENCE, KENTUCKY REGULATING MAINTENANCE OF STRUCTURES AND REAL ESTATE

Table listing ordinance sections from § 151.001 to § 151.991 with corresponding page numbers.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF EMINENCE, KENTUCKY AS FOLLOWS:

§ 151.001: PURPOSE.

It is the intent of the enactment of ORDINANCE NO. 2009- 005 to protect, promote, and

improve the health, safety, and welfare of the citizens residing in or passing through the incorporated area of Eminence, Kentucky; and, to cause the abatement of nuisances for the citizens residing in or passing through the incorporated area of Eminence, Kentucky; and, to eliminate or suppress those practices that cause or tend to cause substantial diminution of the value of nearby properties or tends to render such properties as dangerous, detrimental or adverse to the health and welfare of or offensive to the senses of the residents of Eminence, Kentucky, or those citizens passing through Eminence, Kentucky.

This Ordinance is intended to and shall supersede all prior ordinances inconsistent herewith to the extent of said inconsistency. The standards set forth in this Ordinance shall be considered minimum standards for the maintenance of certain structures and real estate within the City of Eminence. This Ordinance shall be enforceable against a high managerial agent or high managerial agents, the owner or owners, occupants, lessees and any and all persons claiming interest in structures and/or real estate within the city.

This Ordinance expressly repeals Ordinance Number 94-012 and Ordinance Number 2002-06 and called An Ordinance Setting Certain Standards for Maintenance of Structures and Real Estate Within

§ 151.002 TERRITORIAL APPLICABILITY

- (1) A person may be convicted under this Ordinance of an offense committed by his own conduct or the conduct of another for which he is legally accountable when:
- (a) Either the conduct or the result which is an element of the offense occurs within this city; or
 - (b) Conduct occurring outside this city is sufficient to constitute an attempt to commit an offense within this city; or
 - (c) Conduct occurring outside this city is sufficient to constitute a conspiracy to commit an offense within this city and an overt act in furtherance of the conspiracy occurs within this city; or
 - (d) Conduct occurring within this city establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this city; or
 - (e) The offense consists of the omission to perform a legal duty imposed by the law of this city regardless of where that person is when the omission occurs; or
 - (f) The offense is a violation of this Ordinance that expressly prohibits conduct outside this city.

§ 151.003: PERSONAL, CORPORATE OR BUSINESS LIABILITY.

- (1) A person, association, corporation or business is guilty of an offense defined in this Ordinance when:
- (a) The conduct constituting the offense consists of a failure to discharge a specific duty imposed upon a person, corporation, association or business by law; or
 - (b) The conduct or act or failure to act constituting the offense is engaged in, authorized, commanded or wantonly tolerated by the board of directors, by a mortgagee or by a high managerial agent acting within the scope of his employment in behalf of the person, corporation, association or business; or
 - (c) The conduct constituting the offense is engaged in by an agent of the person, association, corporation or business acting within the scope of his employment and in behalf of the person, corporation, association or business and:
 - 1. The offense is a misdemeanor or violation; or
 - 2. The offense is one defined by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same which clearly indicates a legislative intent to impose such criminal liability on a person, corporation or business.
- (2) As used in this Ordinance:
- (a) "Agent" means any officer, director, servant or employee of the person, corporation, association or business or any other person authorized to act in behalf of the person, corporation or business.
 - (b) "High managerial agent" means an officer of a person, corporation or business or any other agent of a person, corporation or business who has duties of such responsibility that his conduct reasonably may be assumed to represent the policy of the person, corporation or business.

§ 151.004: RULE OF CONSTRUCTION

All provisions of this Ordinance shall be liberally construed according to the fair import of their terms, to promote justice, and to effect the objects of the law.

§ 151.005: DEFINITIONS FOR ORDINANCE

The following definitions apply in this Ordinance unless the context otherwise requires:

- (1) "Abandoned Vehicle" means any vehicle which remains unlicensed or unregistered for a period of ninety (90) days.
- (2) "Building" in addition to its ordinary meaning, means any structure; and, includes homes, fences, carports, garages, sheds, bridges or frameworks. "Building" shall also mean any combination of materials, whether portable or fixed AND which comprises a structure or underground area affording facilities or shelter for any human occupancy, whether infrequent or regular, and also means single-family dwellings, including those sold or constructed under a trade or brand name. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein," unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, as well as above grade on site. "Building" shall also mean a manufactured home governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq. "Building," in addition to its ordinary meaning, also means any structure, vehicle, watercraft or aircraft: (a) Where any person lives; or (b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation. Each unit of a building consisting of two (2) or more units separately secured or occupied is a separate building.
- (3) "Business district": For purposes of this Ordinance "business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.
- (4) "Premises" includes the term "building" as defined herein and any real property.
- (5) "Dwelling unit" or "home" means a building which is usually occupied by a person lodging therein.
- (6) "Eyesore Vehicle" means any vehicle that is inoperable or is not roadworthy for 30 or more days if the vehicle is not wholly covered by a form fitting cover made for that purpose, or is not otherwise

shielded from public view by enclosure, if any of the following conditions are associated with the vehicle:

- (a) Two or more tires are flat or do not hold air; or
 - (b) One or more windows is broken or reveals two or more cracks or a crack greater than six inches in area; or
 - (c) One or more windows is absent; or
 - (d) Any major part of the body is missing, including but not limited to a window, door, quarter panel, fender, bumper, or side panel; or
 - (e) Any part of the body utilizes any form of cardboard, board, paper, tape, wire, rope or other like device or adhesive to maintain the structural integrity or shape of the vehicle or vehicle part beyond that generally accepted by a bona fide car repair center or manufacturer; or,
 - (f) Due to defect or damage to the vehicle the interior portion thereof admits rain or snow.
- (7) "Eyesore Vehicle Part" means any unattached part or parts of a vehicle that would normally be attached to a vehicle, including but not limited to a tire or tires, a window or windows, a door or doors, a quarter panel or quarter panels, a fender or fenders, a bumper or bumpers, a hood or hoods, a side panel or panels, an axle or axles.
- (8) "He" or "His" means any natural person or persons and, where relevant, a corporation or an unincorporated association or business.
- (9) "Highway": For purposes of this Ordinance "highway" means a highway, thoroughfare, artery, road or street maintained by the Kentucky Department of Highways or by the City of Eminence.
- (10) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law.
- (11) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, tin, metal, nails, limbs, sticks, debris, boxes, cartons, clutter, or any foreign substance of whatever kind or description and whether or not it is of value.
- (12) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed.
- (13) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same.
- (14) "Open field" means undeveloped ground that is not covered in whole or in part by asphalt, which sits mostly unattended, and is not otherwise used for either the long or short term to store vehicles, equipment, debris or artificial material of any kind.
- (15) "Owner" means a person who holds the legal title to real estate or personalty or a person who pursuant to a bona fide sale has received physical possession of the real estate or personalty subject to any applicable security interest.
- (16) "Person" means a human being, any individual person (or persons), a person, a mortgagee, a firm, a business, a corporation or other legal entity. Where appropriate, "person" also means a public or private corporation, an unincorporated association, a partnership, a government, a business or a governmental authority.
- (17) "Plumbing Fixture" means the pipes and/or fixtures that carry or use water or gas in a building.
- (18) "Possession or possesses" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object. With respect to residential property a person is deemed, for purposes of this Ordinance, to possess such property if the person owns, rents, lives or resides in or on such property.
- (19) "Residential District": For purposes of this Ordinance "residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved
- (20) "Roadworthy" means a vehicle or motor vehicle, which if operated on any highway, public road, street, avenue, alley, boulevard, bridge, viaduct, or trestle or the approaches to the same in this state, would not be in violation of any of the provisions of KRS Chapter 189 merely by the sake of such operation thereupon.
- (21) "Rooming House" means a structure wherein persons rent rooms for residential occupancy and the persons residing in separate rental rooms or suites share common facilities, such as bathroom or kitchen areas.
- (22) "Sanitary Facility" or "Sanitary Facilities" means kitchen sink(s), toilet(s), restroom(s), bathroom(s), washroom(s), tub(s), shower(s), water pipe(s) or fixture(s), waste pipe(s) or fixture(s), or water closet(s).
- (23) "Sidewalk" or "public walkway" means a way for pedestrian travel of the general public.
- (24) "Sidewalk debris" means the accumulation of litter, as defined in this Ordinance, upon any concrete sidewalk or public walkway made of concrete or like material.
- (25) "Sidewalk deficiency" means a hole or holes, a depression or depressions, a break or breaks, crack or cracks in the foundational or surface area of a concrete sidewalk or public walkway made of concrete or like material in excess of 1/16th inch in width or depth; and/or, to such an extent that earth, grass, foreign matter (including dirt or mud) or plant material is visible in any crack or break; and/or, to such an extent that earth, grass, foreign matter (including dirt or mud) or plant material covers any

portion thereof. "Sidewalk deficiency" also means scouring of the foundational or surface area of a concrete sidewalk or public walkway made of concrete or like material.

(26) "Structure" shall have the same meaning as "building".

(27) "Structure/Building Commercial" shall have the same meaning as "building".

(28) "Unfit for Human Habitation, Occupancy or Use" means any building or structure within this city, either in whole or in part, which is found to be dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of this city.

Additionally, "Unfit for Human Habitation, Occupancy or Use" means any building or structure within this city, either in whole or in part, which is not in compliance with the provisions of this Ordinance.

Additionally, "Unfit for Human Habitation, Occupancy or Use" means any building or structure within this city, either in whole or in part, which permits rain or snow to enter the interior aspect of the structure, or which, by using a reasonable-person standard, any part thereof is subject to falling or collapse.

(29) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean immoral.

(30) "Vehicle" means and includes all agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and all vehicles passing over or upon the highways. Vehicle includes every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, or which was built for such intended purpose and includes devices used exclusively upon stationary rails or tracks, but excepting devices ordinarily moved by human and animal power.

(31) "Vacant" means any structure or real estate that is left unoccupied by a possessor and/or owner for a period of thirty days.

(32) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

(33) "Wooded area" means an area that is predominantly covered by woody vegetation and trees.

§ 151.006 COMPLIANCE.

(1) The terms of this Ordinance shall be applicable to and enforceable upon the following persons: owners, tenants, lessees, mortgagees, possessors, occupants, agents, and high managerial agents of any and/or all commercial, residential and industrial real estate, buildings and structures within the City of Eminence.

§ 151.007 FAILURE TO COMPLY

A person is guilty of failure to comply if he:

(a) Occupies, lets, or sublets to another for occupancy or otherwise any dwelling, dwelling unit, commercial structure or other property, structure or building which does not comply with the requirements of this Ordinance; or

(b) Permits a building, dwelling unit, home or structure to sit occupied or unoccupied when it or the grounds thereupon are not in compliance with this Ordinance or any part thereof.

§ 151.008 ABSOLUTE LIABILITY.

A person may be guilty of any offense defined in this Ordinance without having one (1) of the culpable mental states defined in KRS 501.020.

§ 151.009 TIME LIMITATIONS.

(1) For any offense defined in this Ordinance in which a second or greater offense calls for a higher penalty than the first offense during a specified period, the date the offense was charged or cited on a uniform citation or, in the absence of a uniform citation, then the date of issuance of a warrant or summons issued by the court shall be used to calculate the period.

(2) If for any reason subsection (1) of this section is held to be unconstitutional then the time shall start on the day of the conviction of the prior offense.

§ 151.010 FAILURE TO MAINTAIN A SIDEWALK

(1) A person is guilty of failure to maintain a sidewalk when, being a lessee, mortgagee, possessor and/or owner or occupant of real estate that has a sidewalk existing upon the perimeter of the real estate or adjacent to the perimeter of the real estate, he:

(a) Fails to remove sidewalk debris from such sidewalk; or

(b) Fails to correct a sidewalk deficiency.

(2) Either the owner of such property, a lessee, a mortgagee, a possessor or occupant of such property or all may be found guilty under this section.

§ 151.011 TAMPERING WITH A SIDEWALK

(1) A person is guilty of tampering with a sidewalk when, being a lessee, mortgagee, possessor and/or owner or occupant of real estate that has a sidewalk existing upon the perimeter of the real estate or adjacent to the perimeter of the real estate, he:

(a) Constructs a blacktop or asphalt driveway in such manner that any part thereof overlaps or covers any portion of any sidewalk; or

(b) Intentionally, knowingly, wantonly or recklessly tampers with a sidewalk so as to interfere with the integrity of the same.

§ 151.012 FAILURE TO MAINTAIN A REQUIRED SANITARY FACILITY

(1) A person is guilty of failure to maintain a required sanitary facility when, being a lessee, mortgagee, Sublette, possessor and/or owner, or high managerial agent, of real estate that is defined in this Ordinance as a dwelling unit or home, he:

(a) Fails to have within the dwelling unit or home, the following:

1. A working kitchen sink, and
2. A room that is set apart from other parts of the dwelling unit or home, which contains a toilet, sink and washing tub or shower; or

(b) Fails to have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water

(c) Fails to maintain the sanitary facility or any part thereof in proper working order or condition within a reasonable time of learning that the sanitary facility or any part thereof is not in proper working order or condition; or

(d) Fails to correct a defect, leak or obstruction in, within or about a plumbing fixture within a reasonable time of learning of said defect, leak or obstruction; or

(e) Fails to install the sanitary facility or plumbing fixtures in such manner that the facility or fixture(s) are free of defects, leaks or obstructions; or

(f) Fails to maintain the sanitary facility in a sanitary condition; or,

(g) Fails to have the sanitary facility or facilities properly connected to an approved water and sewer or septic system.

(2) There shall be a per se presumption of guilt regarding "reasonable time" in (1) (c) and (d) of this section if there is discovered within the structure or upon the premises of any dwelling unit, home, commercial or industrial property or structure any of the following:

1. Excrement or feces present upon or within a toilet that will not work or flush; or
2. Excrement or feces present upon or within in a bathtub or bathtubs, shower or showers, bucket or buckets or other container or containers on the premises; or
3. Excrement or feces present upon or lying around the building or structure
4. Excrement or feces present upon or lying upon or attached to floors or furniture; or
5. Water present upon or attached to ceilings or floors; or
6. Water present upon or pooling under foundations.

(3) A person is also guilty of failure to maintain a required sanitary facility when, being a lessee, Sublette, possessor and/or owner, or high managerial agent, of real estate that is defined in this Ordinance as a commercial and/or industrial property, he:

1. Fails to have at least one sink and/or lavatory in good condition and properly connected to an approved water and sewer system; or,
2. Fails to have water supplied through an approved distribution system connected to a potable water supply.

§ 151.013 FAILURE TO MAINTAIN A HEATING FACILITY

(1) A person is guilty of failure to maintain a heating facility when, being a lessee, Sublette, mortgagee, possessor and/or owner, or high managerial agent, of real estate that is defined in this Ordinance as a dwelling unit or home that is occupied or open to the public, he:

(a) Fails to have within the dwelling unit or home a properly installed heating facility that is:

1. Safe and in good working condition; and,
2. Capable of safely and adequately heating all habitable rooms and bathrooms in every part of the dwelling unit or home located therein to a temperature of at least 70-Degrees Fahrenheit at a distance of three (3) feet above floor level under ordinary winter conditions.

§ 151.014 FAILURE TO MAINTAIN A LAWN, TERRITORY OR TERRAIN

(1) A person is guilty of failure to maintain a lawn, territory or terrain, when being the owner and/or occupant, mortgagee, or a high managerial agent of any commercial, residential or industrial real estate within this city, he fails to maintain the lawn, territory or terrain within the boundary of the entire property, including easements or right of ways, in such manner that:

(a) Grass and/or weeds grows to a height in excess of six (6) inches; or

(b) Plant growth encroaches over or upon any public walkway or way, including any highway, public road, street, avenue, alley, boulevard, thoroughfare, or public approaches to the same within this city to the extent that such encroachment hinders either pedestrian or vehicular traffic; or

(c) Plant growth upon the property or debris or objects or things upon the property obscures or hinders the vision or ability of another person to safely negotiate a street, roadway or other public way due to the hindrance; or,

(d) Limbs or vegetation from a tree or trees or a bush or bushes or vegetation itself has grown in such manner as to eliminate light and ventilation to a residence or structure; or the limbs and/or vegetation from a tree or trees or bush or bushes or vegetation itself has grown upon or into a roof and/or an exterior wall or walls or any enclosures of a structure in such manner that the weather protection materials of the residence or structure or the structure itself is damaged or is likely to become damaged

if the condition continues to exist unabated; or limbs or vegetation from a tree or trees or bush or bushes or vegetation itself is overgrown or lacks such maintenance so as to be unsightly to neighboring property or because of the lack of maintenance the overgrowth devalues or tends to devalue neighboring property; or, potentially because of size or lack of maintenance or because of being diseased it may be or is likely to become dangerous to the public health, safety and welfare.

(2) The provisions of this section shall not be construed to prohibit the growth of ornamental grasses in limited landscaped areas as long as they are otherwise in compliance with (1) (b) (c) and (d) of this section.

(3) Any patches or areas of grass or weeds on the premises not in compliance with subsection (1) (a) of this section, the aggregate dimensions grounded of which exceeds a surface area six square feet or greater will place the whole property in violation of this section.

(4) Any open field in this city is exempted from this section, as long as:

(a) No building or structure is contained upon the property within 100 feet of any public street or highway; and

(b) The grass and weeds do not exceed 18 inches in height; and

(c) The property is otherwise in compliance with (1) (b), (c) and (d) of this section; and

(d) The property was existing as an open field prior to the adoption of this ordinance; and,

(e) The proportions of the property are greater than 2 acres.

(5) Wooded areas are exempt from this section, as long as the wooded area:

(a) Was existing as a wooded area prior to the adoption of this ordinance; and

(b) Is not used either intentionally or otherwise for the storage or concealment of litter, trash, junk or debris; and

(c) Is not allowed to grow beyond its existing borders; and

(d) Is in compliance with (1) (b), (c) and (d) of this section; and

(e) Does not encroach upon the private lands of another, unless permission from the other party is obtained and is in writing and is immediately producible and available upon request by a code enforcement officer or agent.

§ 151.015 FAILURE TO MAINTAIN RESIDENTIAL PREMISES

(1) A person is guilty of failure to maintain residential premises, when being the owner and/or occupant, or high managerial agent, of any residential property or real estate, he:

(a) Fails to maintain the premises within the boundary of the entire property or real estate, including easements or right of ways, in such manner that any of the following items are placed or stored or are allowed to be placed or stored in or upon any unenclosed area upon the property where any such item is readily capable of being seen from property not belonging to the occupant or owner:

1. Any stove, oven, ice box, refrigerator, washer, dryer, couch, mattress, glass, box springs, building material, building rubbish, litter, abandoned motor vehicle or eyesore vehicle (unless wholly covered with a form fitting cover made for that purpose), vehicle part, trash or garbage (if not properly placed in a receptacle approved for such use and disposal); or

(b) Fails to maintain the premises within the boundary of the entire property or real estate, including easements or right of ways, in such manner that any of the following items are allowed to accumulate, other than in trash receptacles approved for such use and disposal, upon such property:

1. Litter, including dead limbs, grass, tires, junk, or debris.

§ 151.016 FAILURE TO HAVE A HOT AND COLD WATER SUPPLY.

(1) A person is guilty of failure to have a hot and cold water supply when, being the owner and/or occupant, or high managerial agent, of any residential, commercial or industrial property or real estate, he:

(a) Fails to have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water; or

(b) Fails to have the water supplied through an approved distribution system connected to a potable water supply; or,

§ 151.017 FAILURE TO MAINTAIN COOKING AND HEATING EQUIPMENT.

(1) A person is guilty of failure to maintain cooking and heating equipment, when:

(a) Any cooking and or heating equipment is not installed in accordance with the state building, mechanical, gas, or electrical code; or,

(b) Is not maintained in a safe and good working condition.

§ 151.018 FAILURE TO PROPERLY UTILIZE GARBAGE DISPOSAL FACILITIES.

(1) A person is guilty of failure to properly utilize garbage disposal facilities when he:

(a) Places garbage, including organic waste and rubbish, on the ground outside a residential or commercial structure; or,

(b) Being an owner or tenant or high managerial agent, allows garbage, including organic waste and rubbish, to be placed upon the ground outside a residential or commercial structure; or,

(c) Fails to place garbage, including organic waste and rubbish, in the approved garbage storage containers with lids; or

(d) Places his garbage in unapproved containers; or,

(d) Fails to immediately remedy any condition upon which he has notice that results in a violation of this section.

§ 151.019 FAILURE TO MAINTAIN A RESIDENTIAL OR COMMERCIAL STRUCTURE

(1) A person is guilty of failure to maintain a residential or commercial structure when, being the owner and/or occupant, or high managerial agent, of any commercial, residential or industrial real estate, he:

- (a) Fails to maintain the foundation system upon the grounds of any structure or building on the real estate in a safe manner and to the extent that the system is fully capable of supporting the load which is or may thereafter be placed thereon; or
- (b) Fails to maintain the walls of any structure or building contained upon the grounds of the real estate in such manner that the walls of the structure are free of holes, breaks, mold, decay, loose or rotting boards, timbers, siding or panels, or missing boards, timbers, siding or panels; or
- (c) Fails to maintain the walls of any structure or building contained upon the grounds of the real estate in such manner that the walls of the structure admit rain or dampness to the interior aspect of the walls or structure or any room or part of the interior structure; or
- (d) Fails to maintain the walls of any structure or building contained upon the grounds of the real estate in such manner that the walls of the structure demonstrate recognizable chipping or the outward splaying of paint or siding, or demonstrate missing mortar, brick or sealants; or
- (e) Fails to maintain any opening into or out of any structure contained upon the grounds of any real estate, including windows, doors, hatchways or gates, in such manner, that the opening is not substantially weather-tight, watertight, and rodent-proof; or
- (f) Fails to maintain any exterior window or door, or part thereof, contained upon any real estate, in such manner that the window or door, or part thereof, is not substantially weather-tight, watertight, and rodent-proof; or
- (g) Fails to maintain any exterior window or door in such manner that the same, or any part thereof, demonstrates cracks, holes, breaks or gaps that may admit rain or dampness;
- (h) Fails to maintain any exterior window sash or frame, or door frame or sash, in such manner that the same is not fully supplied with secure glass window panes or an approved like-substitute and which are without open cracks, holes, breaks or gaps, or are decayed;
- (i) Fails to maintain the roof of any structure contained upon the grounds of any real estate in such manner that the roof is not structurally sound; or, in such manner, that the roof admits rain or dampness into the walls or attic of the structure or within any interior portion of the structure; or
- (j) Fails to provide or maintain, in any new construction, a safe and unobstructed means of egress and with a minimum ceiling height of seven- (7) feet leading to a safe and open space at ground level; or
- (k) Where stairs are provided in any new construction, fails to have a minimum headroom of 6' 8"; or
- (l) Fails to maintain or properly install any porch, stairs or appurtenance in such manner that the same is unsafe to use or is incapable of supporting the load which by normal use is or may be placed thereon; or
- (m) Fails to provide and/or maintain defect-free protective railing(s) on any unenclosed structure over thirty- (30) inches from ground level or on any steps containing four- (4) or more risers; or
- (n) Fails to provide and/or maintain defect-free hardware on any exterior door or window sash; or
- (o) Fails to provide and/or maintain any exterior door or frame in such manner that the door or frame does not fit reasonably well within the frame or structure so as to substantially exclude rain, dampness, rodents or wind from entering the building or structure; or
- (p) Fails to provide for and maintain the exterior surface or parts thereof of any structure on the grounds of any real estate in such manner that the surface, or any part thereof, demonstrates decay, mold, splintering, breaking, chipping or masonry defect; or, fails to protect from the elements and decay by painting or other protective covering or treatment all exterior wood surfaces of the structure, or part thereof, so as to keep the structure impervious to water; or, fails to repair and or maintain the exterior surface of any structure, or part thereof, existing on the grounds of the real estate so as to present a pleasant aesthetic appearance without loose, missing or decayed mortar, boards, siding or like covering on said structure; or
- (q) Fails to maintain the interior floor, walls and ceilings, or any part thereof, of any structure existing on the grounds of the real estate in such manner that such floors, walls or ceilings, or parts thereof, demonstrate decay, breaking, molding, or splintering; or
- (r) Fails to maintain the interior floor, walls and ceilings, or any part thereof, of any structure existing on the grounds of the real estate in such manner that such floors, walls or ceilings, or any part thereof, are not structurally sound or safe; or
- (s) Fails to maintain the interior floor, walls and ceilings of any structure existing on the grounds of the real estate in such manner that such floors, walls or ceilings or any part thereof are susceptible to collapse; or
- (t) Fails to maintain the interior floor, walls and ceilings of any structure existing on the grounds of the real estate in such manner that such floors, walls or ceilings, or any part thereof, are not substantially rodent-proof; or
- (u) Fails to maintain the interior floor, walls and ceilings of any structure existing on the grounds of the real estate in such manner that such floors, walls or ceilings, or any part thereof, are not safe to use or

- are not capable of supporting the load which by use may cause to be placed thereupon; or
- (v) Fails to provide for and maintain any toilet, bathroom and/or kitchen floor surface in such manner that it is not substantially impervious to water; or
 - (w) Fails to provide for and maintain any toilet, bathroom and kitchen floor surface in such manner that such surface may not be easily kept in a clean and sanitary condition;
 - (x) Fails to provide for and to maintain any structural support in a structure on the grounds of any real estate in such manner that said structural support is not structurally sound; or
 - (y) Fails to provide for and to maintain any structural support in a structure on the grounds of any real estate in such manner that said structural support evidences signs of deterioration which would render such support incapable of carrying loads which by normal use may cause to be placed thereon;
 - (z) Fails to provide and maintain on any occupied floor above ground level a minimum of two- (2) safe and accessible exits to ground level; or
 - (aa) Fails to provide and maintain at least one operational smoke alarm per floor of any structure where people work, or reside; or
 - (bb) If an apartment unit, fails to provide and maintain at least one operational smoke alarm per floor for each occupied apartment unit.

§ 151.020 HABITUAL FAILURE TO MAINTAIN A RESIDENTIAL OR COMMERCIAL STRUCTURE

- (1) A person is guilty of habitual failure to maintain a residential or commercial structure when he:
- (a) Violates any provision of §151.019 after having been convicted of a fourth offense under that section.

§ 151.021 FAILURE TO KEEP PREMISES SANITARY

- (1) A person is guilty of failure to maintain a sanitary premises when, being the owner and/or occupant, or high managerial agent, of any commercial, residential or industrial real estate, he:
- (a) Fails to maintain the premises in such manner so as to keep the premises free of vermin, rodents, filth or debris; or,
 - (b) Fails to maintain the shared or common areas of the premises to keep the same clean and sanitary; or
 - (c) Being the occupant of any structure or real estate, fails to keep that part of the structure and/or real estate which he occupies or which is provided for his use in a clean and sanitary condition.

§ 151.022 FAILURE TO SHIELD EYESORE VEHICLE OR EYESORE VEHICLE PART FROM PUBLIC VIEW

- (1) A person is guilty of failure to shield and eyesore vehicle or eyesore vehicle part from public view, when being the owner and/or operator, high managerial agent, lessee, lodger, occupant, renter, boarder or guest of any business or entity that collects, or deals in the collection, sell, repair or modification of vehicles, or their parts and/or accessories, he:
- (a) Places, permits or allows the storing or standing of an eyesore vehicle or eyesore vehicle part upon any premises in this city, and:
 - (b) Fails to have each such vehicle wholly covered by a bona fide form fitting cover made for that purpose; or,
 - (c) Fails to shield any such vehicle or vehicle part from view of any public way or from view of any private residence by means of enclosing such vehicle or vehicle part within a building or properly erected and maintained fence, which building or fence shall be kept in sound, sightly or attractive condition and repair.
- (2) A person is guilty of failure to shield and eyesore vehicle or eyesore vehicle part from public view, when being the owner and/or operator, high managerial agent, lessee, lodger, occupant, renter, boarder or guest, in, of or upon any commercial or residential property in this city, he:
- (a) Places, permits or allows the storing or standing of an eyesore vehicle or eyesore vehicle part upon any premises in this city, and:
 - (b) Fails to have each such vehicle wholly covered by a bona fide form fitting cover made for that purpose; or,
 - (c) Fails to shield any such vehicle or vehicle part from view of any public way or from view of any private residence by means of enclosing such vehicle or part within a building or fence, which building or fence shall be kept in sightly or attractive condition and repair.
- (3) A fence or building which is unsightly or in an unattractive condition or repair shall preclude the actor from using such an argument as a defense under this section.
- (4) A fence or building that fails to comply with any provision of this Ordinance shall prohibit the actor from using such an argument as a defense under this section.

§ 151.023 FAILURE TO KEEP PLUMBING FIXTURES IN A CLEAN AND SANITARY CONDITION

- (1) A person is guilty of failure to keep plumbing fixtures in a clean and sanitary condition, when being an occupant, or high managerial agent, of any residential rental structure or business rental structure, he:
- (a) Fails to keep any plumbing fixture therein in a clean and sanitary condition; or
 - (b) Fails to exercise reasonable care in the proper use and operation thereof.

§ 151.024 FAILURE TO ABIDE BY ROOMING HOUSE REGULATIONS

(1) A person is guilty of failure to abide by rooming house regulations when, he operates, occupies, lets or sublets to another for occupancy any rooming unit in any rooming house and he:

(a) Fails to acquire a valid rooming house license; or

(b) Fails to supply for each four- (4) rooms within the rooming house, wherever those facilities are shared, at least the following:

1. At least one- (1) flush water closet, lavatory basin, and bathtub or shower, each of which is properly connected to an approved water and sewer system and in good working condition; and

2. Ensures that the facilities are located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing those facilities.

(c) Fails to at all times supply with each lavatory basin and bathtub or shower, hot water; and

(d) Fails to provide for at least seventy- (70) square feet of floor space per primary occupant, and an additional fifty- (50) square feet of floor space for each additional person occupying the room; and

(e) Fails to provide for each rooming unit a safe, unobstructed means of egress leading to a safe and open space at ground level; and

(f) Fails to provide for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and

(g) Fails to provide for the sanitary maintenance of the entire premises, including the grounds, or structure where the room, rooms, or building is leased or occupied; and

(h) Fails to provide for a minimum of two- (2) safe and accessible exits to ground level for any occupied floor above or below ground level; and,

(i) Fails to provide a minimum of one- (1) operational, battery supplied smoke alarm per floor; or,

1. In the case of apartment units, fails to provide a minimum of one- (1) operational smoke alarm per floor for each occupied apartment unit.

§ 151.025 VIOLATING MAXIMUM OCCUPANCY REGULATIONS

(1) A person is guilty of violating maximum occupancy regulations when, having a home or residential dwelling unit that is other than owner-occupied, he:

(a) Allows more than four- (4) persons to occupy the home or residential dwelling unit, when there is 1000 square feet or less of habitable floor space; and,

(b) Fails to provide for an additional seventy- (70) square feet of habitable floor space for each additional person.

§ 151.026 ABANDONING A VEHICLE

(1) A person is guilty of abandoning a vehicle when, he:

(a) Abandons a vehicle on property that is not his own without immediately obtaining written permission of the property owner; or

(b) Leaves a vehicle on any public property within the city under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(2) It shall be prima facie evidence that a vehicle is abandoned if the vehicle remains in violation of subsection (1) (a) or (b) of this section for a period in excess of 7 hours.

(3) Any vehicle found in violation of this section may be removed by the owner or constructive owner of such property, by causing the same to be towed to an impound lot by any bona fide wrecker service.

(4) Any vehicle found in violation of subsection (1) (b) of this section may be removed by the Eminence Police Department, by causing the same to be towed to an impound lot by any bona fide wrecker service.

§ 151.027 LEAVING A WRECKED OR NON-OPERATING VEHICLE ON STREET

(1) A person is guilty of leaving a wrecked or non-operating vehicle on the street when, he:

(a) Leaves any partially dismantled, dismantled, non-operating, wrecked or junked vehicle on any street or highway within the city.

§ 151.028 VIOLATING STORAGE TANK REGULATIONS

(1) A person is guilty of violating storage tank regulations when, being the owner or occupant, or high managerial agent, of any commercial or residential property or structure, he:

(a) Allows or permits to exist thereon, any storage tank (whether above ground or below ground) in excess of five hundred (500) gallons unless the said tank meets the following requirements:

1. Complies with all state and federal regulations; and

2. Is properly sealed to prevent leakage; and

3. Is screened by structure or vegetation that is not otherwise in violation of any section of this Ordinance.

(b) Fails to actively utilize said tanks for a period of twelve- (12) months

§ 151.029 ENFORCEMENT OFFICIALS

(1) The office of Enforcement Official is hereby established.

(2) An Enforcement Official shall be appointed by the Mayor to exercise any powers as are necessary and/or convenient to carry out and effectuate the purposes and provisions of this Ordinance. The Enforcement Official may be an employee of the city or an independent contractor and may be a person

holding other employment responsibilities with the city. Powers of the Enforcement Official shall include the following in addition to all others herein granted:

- (a) To investigate the structural conditions in the city in order to determine which structures or real estate therein are unfit for human habitation, occupancy, or use;
- (b) To administer oaths, affirmations, examine witnesses, and receive evidence;
- (3) The Enforcement Official shall have the authority and power to:
 - (a) Enforce the provisions of this Ordinance and, he or she or his or her duly authorized representatives or designees, upon presentation of proper identification to the owner, agent, high managerial agent, or tenant in charge of or in possession or constructive possession of any property within the city, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours, except in cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage in which case the above limitations shall not apply; and
 - (b) Make or cause to be made inspections to determine the condition of all buildings and premises in the interest of safeguarding the health and safety of the occupants of those buildings and of the general public; and
 - (c) For the purpose of making inspections, the Enforcement Official, or his or her agent(s) or designee(s), is authorized to enter, examine, and survey at all reasonable times all buildings and premises. The owner or occupant of every building or the person in charge thereof shall give the Enforcement Official or his or her agent(s) or designee(s) free access to the building and its premises, at all reasonable times for the purpose of inspections, examinations, and surveys; and,
 - (d) Appoint and fix the duties of any officers, agents, and employees as he or she deems necessary to carry out the purposes of this Ordinance; and, may delegate any of his functions and power under this Ordinance to those officers and agents as he designates.

§ 151.030 ENFORCEMENT PROCEDURE

(1) When a code enforcement officer, based upon personal observation, complaint or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance under this Ordinance, the officer is authorized to issue a courtesy notice of violation to the violator or may issued a uniform citation or may seek a summons from the court. If the person is issued a courtesy notice of violation he or she shall have the burden of correcting the violation no later than the date indicated on the courtesy notice of violation and shall have the burden of requesting a re-inspection to determine whether the property is in full compliance. The request for re-inspection shall occur within the time frame identified on the courtesy notice of violation for correction. Each day that a violation exists shall be considered a separate offense and the fact that a courtesy notice of violation has been previously issued shall not preclude an officer from issuing a uniform citation.

(2) When a code enforcement officer, based upon personal observation, complaint or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance under this Ordinance whether or not a courtesy notice of violation has previously been issued to that person for any offense in this Ordinance, whether concerning the same property, offense or otherwise, the officer is authorized to issue a uniform citation to the violator. The person to whom the uniform citation is issued shall then be required appear in court, as instructed on the uniform citation to answer the charge presented thereon. Each day that a violation exists shall be considered a separate offense.

(3) Enforcement action with the District Court may be initiated by complaint or citation. Complaints or citations pursuant to this ordinance shall be served upon persons either personally or by mail; however, if the whereabouts of the person is unknown and cannot be ascertained in the exercise of reasonable diligence, or the person is so conducting himself as to avoid service personally or by mail, and the Enforcement Official makes an affidavit to that effect, service of the complaint, order or citation shall be by newspaper publication for three successive weeks pursuant to KRS Ordinance 424. A copy of the complaint, courtesy notice, citation or order shall be posted in a conspicuous place on premises affected by the complaint or order. Additionally, a Warning Order Attorney shall be appointed for such person who cannot be located. However, no fine shall be imposed against any person lest there be personal service upon that person.

§ 151.031 COST OF ACTION FOR CORRECTING DEFICIENCIES IN REAL ESTATE OTHER THAN STRUCTURES

The procedure for correcting deficiencies in real estate other than structures shall be as follows: Remedial action shall be required of the offending person or persons for any condition or act which is in violation hereof. Additionally, should any condition exist on premises which condition is deemed by the enforcement official to constitute a threat to the health and safety of the public as to warrant immediate attention, then the city may, in its' discretion, remediate the violation and charge back the cost thereof to the offending person. The city shall have a lien against the premises to secure it in payment of such cost.

§ 151.032 COURTESY NOTICE OF VIOLATION – STANDARD FORM

(1) The *COURTESY NOTICE OF VIOLATION* may be on a standard form that is ordinarily used by the Eminence Police Department and titled *COURTESY NOTICE*.

§ 151.990 PENALTIES

(1) Any person who violates any of the provisions of this Ordinance, with the exception of 151.020, shall:

(a) For the first offense within a five (5) year period, be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) and may be imprisoned in the county jail for not less than one (1) day.

(b) For the second offense within a five (5) year period, be fined not less than two hundred dollars (\$200) nor more than three hundred dollars (\$300) and may be imprisoned in the county jail for not less than one (1) day nor more than five (5) days, or both fine and imprisonment.

(c) For a third offense within a five (5) year period, be fined not less than three hundred (\$300) dollars nor more than four hundred dollars (\$400) and may be imprisoned in the county jail for not less than one (1) day nor more than five (5) days, or both fine and imprisonment and may, in addition to fine and imprisonment, be sentenced to community labor for not less than eight (8) hours nor more than forty (40) hours.

(d) For a fourth or subsequent offense within a five (5) year period, be fined not less than four hundred dollars (\$400) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than five (5) days nor more than twelve (12) months, and in addition to fine and imprisonment, may be sentenced to community labor for not less than forty (40) hours.

(2) Any person who is found guilty of violating any provision of this Ordinance shall be responsible for any costs incurred by the City of Eminence to correct the damage caused by the actor's conduct or failure to act. Failure to reimburse the City within fifteen (15) days of repair or correction upon notice of the same may result in a lien against the property of the actor and may also result in damages.

(3) Any person found guilty of violating any provision of this Ordinance shall be liable for civil penalties in an amount equal to the court imposed fine.

§ 151.991 PENALTIES AND DEMOLISHMENT AND REMOVAL

(1) Any person who violates any of the provisions of section 151.020 shall:

(a) For a first or subsequent offense within a five (5) year period, be fined not less than four hundred dollars (\$400) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than five (5) days nor more than twelve (12) months, and in addition to fine and imprisonment, may be sentenced to community labor for not less than forty (40) hours.

(2) If the person is found guilty under this section, the Henry District Court shall, upon motion of the county attorney and upon written request of the city attorney acting at the behest of the Mayor of the City of Eminence, state the findings of fact in support of the determination of guilt and shall enter an order requiring the owner, within a time specified by the Court not to exceed thirty (30) days, to repair, alter, correct or improve the structure or real estate to render it in complete conformity with this ordinance or, at the option of the owner, to vacate, demolish, and remove the structure.

(3) If the owner fails to comply with the Court's order in subsection (2) of this section, the Court shall enter an order requiring the owner to vacate the premises, which shall be enforced by the Sheriff within 48 hours; and, further order that a placard with the words *CLOSED: THIS BUILDING IS UNFIT FOR HUMAN HABITATION, OCCUPANCY OR USE; HUMAN HABITATION, OCCUPANCY, USE OR TRESPASS IS PROHIBITED AND UNLAWFUL* be placed thereupon by the Eminence Police Department; and, approve the demolition and removal of the structure and debris left from the structure.

(4) The City of Eminence may then act at its convenience to demolish and remove the debris left from the structure or cause at its convenience the structure to be demolished and the debris left from the structure to be removed.

(5) Any cost associated with the demolition or removal of the structure and or removal of debris left from the structure shall be a lien upon the real property upon which cost was incurred.

Adopted this 13th day of July, 2009.

**JIM PETITT, MAYOR
CITY OF EMINENCE**

ATTEST:

Sandra A. Doane, City Clerk

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