

ORDINANCE NO. 138 -2009

AN ORDINANCE CREATING ARTICLE IV, SECTIONS 7-39 THROUGH 7-43 OF THE CODE OF ORDINANCES, LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, TO ESTABLISH AN ABANDONED URBAN PROPERTY CLASSIFICATION FOR THE PURPOSE OF AD VALOREM TAXATION, WHICH RATE IS TO BE SET BY THE URBAN COUNTY GOVERNMENT AT A RATE WHICH DOES NOT EXCEED THE MAXIMUM RATE ALLOWABLE BY LAW AND WHICH IS BASED UPON EACH \$100 OF THE JANUARY 1 ASSESSMENT VALUE OF THE PROPERTY, AND PROVIDING FOR A DETERMINATION BY THE VACANT PROPERTY REVIEW COMMISSION OF EACH SUCH PROPERTY WITH A LIST TO BE PROVIDED TO THE DIVISION OF REVENUE AND THE OFFICE OF THE FAYETTE COUNTY PROPERTY VALUATION ADMINISTRATOR BY JANUARY 1 OF EACH YEAR, THE REMOVAL OF PROPERTIES FROM THE LIST UPON A SHOWING THAT THE PROPERTY NO LONGER MEETS THE CRITERIA, AN ANNUAL NOTICE OF DETERMINATION MAILED TO OWNERS OR OTHER INTERESTED PARTIES, AN APPEAL WITHIN THIRTY DAYS, AND THE VACANT PROPERTY REVIEW COMMISSION TO ESTABLISH POLICIES AND PROCEDURES; AND AMENDING SECTION 12-82 OF THE CODE OF ORDINANCES TO PROVIDE FOR FULFILLMENT OF DUTIES BY THE VACANT PROPERTY REVIEW COMMISSION.

WHEREAS, KRS 92.305 provides that a city of the second class may levy a separate rate of taxation on abandoned urban property as defined in KRS 132.012; and

WHEREAS, the Lexington-Fayette Urban County Government enjoys the same rights and privileges as a second class city, and may utilize the benefit of KRS 92.305 and KRS 132.012; and

WHEREAS, the Lexington-Fayette Urban County Council finds and declares that abandoned urban property as defined in the applicable state law exists and hereby exercises its right to establish a separate and higher rate of taxation on abandoned urban property pursuant to KRS 92.305 and KRS 132.012; and

WHEREAS, KRS 132.012 provides that abandoned urban property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one year and which meets one or more additional criteria; and

WHEREAS, the Lexington-Fayette Urban County Council herein adopts the definitions provided by state law, and establishes an appropriate process for determining which properties within Fayette County are abandoned urban properties and the separate and higher rate of taxation on such properties.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article IV, Sections 7-39 through 7-43 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is created read as follows:

Sec. 7-39

“Abandoned urban property” is established as a separate classification of real property for the purpose of ad valorem taxation. As used in this Article, abandoned urban property means any vacant structure or vacant

or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

- (a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or
- (b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or
- (c) Has been tax delinquent for a period of at least three (3) years; or
- (d) Is located within a development area established under KRS 65.7049, 65.7051, and 65.7053.

Sec. 7-40

Pursuant to KRS 92.035 and 132.012 there is hereby established an ad valorem real property tax on the assessed value of all abandoned urban property within Fayette County as of the January 1 assessment date of each year, in addition to all other ad valorem taxes. The rate of ad valorem taxation levied upon abandoned urban properties shall be as set forth from time to time by the urban county government per \$100 of assessed value of such real property, but in no instance shall it exceed the maximum tax rate allowable by law.

Sec. 7-41

The Vacant Property Review Commission shall each year determine which properties are abandoned urban properties, based upon referrals provided to it by the division of code enforcement or other appropriate government agencies. A list of such properties shall be prepared and furnished to the urban county government's division of revenue and Office of the Fayette County Property Valuation Administrator prior to January 1 of each year.

Sec. 7-42

Except as otherwise provided in Section 7-43, any property classified by the Vacant Property Review Commission as an abandoned urban property as of January 1 shall be taxed as an abandoned urban property for such tax year at the rate provided in Section 7-40. If a property classified as abandoned urban property is repaired, rehabilitated, or otherwise returns to productive use, the owner shall notify the Vacant Property Review Commission which shall, if it finds the property is no longer abandoned urban property, notify the division of revenue and Property Valuation Administrator to strike the property from the list of abandoned urban properties as of the succeeding January 1.

Sec. 7-43

- (a) No later than February 15 of each year, the urban county government shall mail, by first class mail, to the owner or other party in interest as listed in the records of the Property Valuation Administrator of each abandoned urban property, notice that the property has been classified as abandoned urban property pursuant to this Article.
- (b) The owner or other party in interest of any abandoned urban property who believes that the property has been incorrectly classified may appeal such classification to the Vacant Property Review Commission. Appeal to the Vacant Property 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 as of January 1 of that tax year. Such appeal shall be in writing, and must be received by the Vacant Property Review Commission within thirty (30) days of the date the notice was mailed.

- (c) The Vacant Property Review Commission shall afford the owner the opportunity for a hearing upon the timely filing of an appeal. All such hearings shall be scheduled to conclude by no later than May 31st of each year.
- (d) If the Vacant Property Review Commission finds that the property was incorrectly classified as an abandoned urban property, it shall cause the property to be removed from the list of properties so classified and will provide the division of revenue and the Property Valuation Administrator with such changes so that they can be stricken for that tax year. In the event that an incorrectly classified property is not removed from the list of properties for that year, the owner may apply for and obtain a refund for any overpayment of the abandoned urban property tax for that tax year.
- (e) The Vacant Property Review Commission shall develop policies and procedures for conducting such appeals consistent with Section 12-91 of the Code of Ordinances, that at a minimum will provide the owner with at least ten (10) days written notice before the scheduling of the appeal. The decision of the Vacant Property Review Commission on an appeal shall be a final action appealable to the Fayette County Circuit Court.

Section 2 - That Section 12-82 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

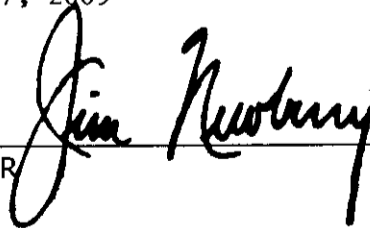
There is hereby created a vacant property review commission, whose purpose shall be to certify, to the urban county council, properties within the urban county that are blighted or deteriorated in the manner and form set forth in this article. The commission shall also fulfill the duties provided in chapter 7, article IV of the code pertaining to abandoned urban properties.

Section 3 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 7, 2009

MAYOR



ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 13, 2009-1t

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