

**TITLE VII: TRAFFIC CODE**

## Chapter

- 70. TRAFFIC RULES**
- 71. STOPPING, STANDING AND PARKING**
- 72. TRAFFIC SCHEDULES**
- 73. PARKING VIOLATION HEARING BOARD**

**CHAPTER 70: TRAFFIC RULES**

## Section

- 70.01 Use of steel tracked vehicles upon county roads prohibited; enforcement
- 70.02 Certain trucks prohibited from using certain streets
- 70.03 Use of county roads closed in emergency situations or designated for use by emergency vehicles only
- 70.99 Penalty

***Cross-reference:***

*Operation and parking of motor vehicles, see § 96.06*

*Speed limits, see Ch. 72, Sched. 1*

**§ 70.01 USE OF STEEL TRACKED VEHICLES UPON COUNTY ROADS PROHIBITED; ENFORCEMENT.**

It shall be unlawful for any person, persons, corporation or partnership to operate upon any county roadway any tractor or other vehicle with metal tracks of any type in contact with the roadway, unless such vehicle is fitted with rubber tracks or other such devices that prevent any damage to the roadway. However, during an emergency which has been declared by the Boone County Judge/Executive, the Boone County Administrator, the Chief of the Boone County Police Department, the Boone County Engineer, or the Director of Boone County Emergency Management, metal tracked vehicles may be permitted upon county roadways for the purpose of alleviating such emergency situation without constituting a violation of this section.

(Ord. 2000-04, passed 4-17-00) Penalty, see § 70.99

**§ 70.02 CERTAIN TRUCKS PROHIBITED FROM USING CERTAIN STREETS.**

It shall be prohibited for any tandem axle truck, any tri-axle truck, or any semi tractor truck with attached trailer to use the county roadways and streets designated by the Fiscal Court herein, or as hereafter designated by said court, to be used as, or for the purpose of, through traffic or as a through street or road with the exception of the said described trucks may use the designated streets and roads, if said streets and roads are necessary for a delivery or pick up of goods, materials, or merchandise to a resident, owner or property which requires the use of said designated street or road to make or complete such a delivery or pick up. Delivery and/or pick up as described shall be the only lawful use of the designated streets and roads by the above described trucks.

(Ord. 10-97-04, passed 11-18-97) Penalty, see § 70.99

**§ 70.03 USE OF COUNTY ROADS CLOSED IN EMERGENCY SITUATIONS OR DESIGNATED FOR USE BY EMERGENCY VEHICLES ONLY.**

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**EMERGENCY.** A situation demanding immediate action to protect human life or to obtain medical treatment for a person who is injured or ill.

**EMERGENCY VEHICLE.** Any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the state police, a public police department, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a volunteer fireman while responding to an emergency.

**RAILROAD CROSSING.** A place where a public road or right-of-way intersects with railroad lines or tracks and one crosses over the other. This term shall include the entire width of the right-of-way of the public road and the entire width of the railroad right-of-way at the place of crossing.

(B) (1) The Boone County Fiscal Court shall have the authority to close, in an emergency situation, for the public safety, any county road or right-of-way, bridge, or railroad crossing, by resolution of the Fiscal Court. The closing shall continue so long as the emergency persists and public safety demands.

(2) This subchapter recognizes and encompasses county roads or rights-of-ways, bridges, and railroad crossings previously closed by the Fiscal Court by resolution in such an emergency situation for the public safety.

(C) The Fiscal Court shall have the authority to designate any county road, bridge, or railroad crossing for use by emergency vehicles only or for use by other vehicles in case of emergency only. The designation shall be made by resolution of the Fiscal Court except as hereinafter provided. Areas so designated shall be marked with a sign stating "for emergency vehicles only," or similar language.

(D) This section shall serve in lieu of the resolution referred to in division (C) hereof and hereby designates for use by emergency vehicles only or for use by other vehicles in cases of emergency only the railroad crossing which is the subject of an agreement between the Fiscal Court and the Cincinnati, New Orleans and Texas Pacific Railroad Company dated October 14, 1980, which crossing is located in the vicinity of the intersection of U.S. Highway 25 and Kentucky Highway 16 north of Walton, Kentucky at approximately mile post 19.56 of the tracks of the Cincinnati, New Orleans and Texas Pacific Railway Company.

(E) No person shall drive, or otherwise, propel any vehicle motorized or otherwise onto or across any county road or right-of-way, bridge, or railroad crossing which has been closed under authority of this subchapter or which has been designated for use by emergency vehicles only or by other vehicles in cases of emergency only under authority of this subchapter, unless the vehicle qualifies under the provisions of this subchapter to use the area.

(Ord. 620.6, passed 10-7-86) Penalty, see § 70.99

## **§ 70.99 PENALTY.**

(A) Any person, persons, corporation or partnership who violates the provisions of § 70.01 of this chapter shall be fined not less than \$100 nor more than \$500.

(2000-04, passed 4-17-00)

(B) Any person, corporation, or other legal entity who violates any provisions of § 70.02 of this chapter or Ch. 72, Schedule II of this traffic code shall be fined not less than \$50 nor more than \$500 per violation.

(Ord. 560.1, passed 4-19-94)

(C) Any person found to be in violation of the terms of § 70.03 of this chapter shall be fined not less than \$100, nor more than \$500 and/or imprisoned in the County Jail for a term not to exceed 30 days and/or both.

(Ord. 620.6, passed 10-7-86)

## Section

- 71.01 Definitions
- 71.02 Parking near intersections
- 71.03 Parking near driveways, mailboxes or on a public sidewalk
- 71.04 Parking near fire hydrants
- 71.05 Parking in cul-de-sacs
- 71.06 Parking in same direction as traffic flow
- 71.07 Parking on roads, streets or right-of-way
- 71.08 Disabled vehicles
- 71.09 Restricted parking in spaces designated for persons with disabilities
- 71.10 No parking upon designated county streets, roads or spaces
- 71.11 Parking within designated spaces
- 71.12 Sheriff parking
- 71.13 Vehicle restrictions
- 71.14 Citation
- 71.15 Towing/storage and release of vehicle
- 71.16 Payment of civil penalty or request for hearing
- 71.17 Parking Violation Hearing Board
- 71.18 Regulations
- 71.19 Disposition of vehicle not claimed
  
- 71.99 Penalty

### **§ 71.01 DEFINITIONS.**

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

***LAW ENFORCEMENT OFFICER/CODE ENFORCEMENT OFFICER.*** A Boone County Sheriff's Deputy with the authority to issue a citation which may be referred to in this chapter as ***OFFICER***.

***PERSON.*** Any individual, partnership, corporation, association, or other organization of any kind, or their legal representative or agent.

***STORAGE FACILITY.*** A premise to hold a vehicle.

***TOWING SERVICE.*** A business which provides a service to move by pulling or hauling a vehicle from one location to another

***VEHICLE.*** All agencies for the transportation of persons or property over or upon the public roads and streets, whether operable or inoperable.

(Ord. 12-03, passed 2-21-12)

### **§ 71.02 PARKING NEAR INTERSECTIONS.**

No person shall park a vehicle or permit same to be parked or left standing so that the nearest part of the vehicle is less than 20 feet from the point of juncture of any intersecting street or road.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.03 PARKING NEAR DRIVEWAYS, MAILBOXES OR ON A PUBLIC SIDEWALK.**

No person shall park a vehicle or permit same to be parked or left standing so that the nearest part of the vehicle is less than five feet from either side of a mailbox or driveway that intersects any street or road. Further no person shall park a vehicle or permit same to be parked or left standing on or over a public sidewalk.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.04 PARKING NEAR FIRE HYDRANTS.**

No person shall park a vehicle or permit same to be parked or left standing so that the nearest part of the vehicle is less than 15 feet from any fire hydrant.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.05 PARKING IN CUL-DE-SACS.**

No person shall park a vehicle or permit same to be parked or left standing in any cul-de-sac.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.06 PARKING IN SAME DIRECTION AS TRAFFIC FLOW.**

All persons who park or permit to be parked or left standing any vehicle shall position the vehicle so that the front of the vehicle is facing in the same direction as the flow of traffic on the side of the street or road upon which the vehicle is parked or left standing.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.07 PARKING ON ROADS, STREETS OR RIGHT-OF-WAY.**

No person shall park or permit to be parked or left standing a vehicle on any county road, street, or right-of-way. Provided however, that this section shall not be construed to prevent parking in front of a private residence in a suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic, in no event shall a vehicle be left parked or standing for more than five days.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.08 DISABLED VEHICLES.**

A vehicle that is inoperable or disabled and has been parked or left standing on the shoulder of any county street, road or right-of-way shall not remain on the shoulder longer than 24 hours. However, should such a vehicle impede traffic or constitute a traffic hazard, it may be towed pursuant to this chapter.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.09 RESTRICTED PARKING IN SPACES DESIGNATED FOR PERSONS WITH DISABILITIES.**

It shall be prohibited for any person to park or permit to be parked or left standing in a parking area designated for use of persons with disabilities, any vehicle which does not display a valid accessible parking placard or auto registration plate issued by the Commonwealth of Kentucky pursuant to KRS 189.456 - 189.459 or issued by a sister state.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.10 NO PARKING UPON DESIGNATED COUNTY STREETS, ROADS OR SPACES.**

The county may designate certain county streets or roads or portions thereof as no parking or restricted parking areas. The county may designate certain areas within the county owned or maintained parking lots or along county streets or roadway as no parking or restricted parking areas. These designated areas shall be marked by sign, roadway or curb marking or other appropriate designation as no parking or restricted parking areas. No person shall park or permit to be parked or left standing any vehicle in a designated no parking area or in a restricted parking area.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.11 PARKING WITHIN DESIGNATED SPACES.**

No person shall park or permit to be parked or left standing any vehicle upon a county owned or maintained parking lot except within designated spaces painted upon the lot.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.12 SHERIFF PARKING.**

No person shall park or permit to be parked or left standing any vehicle upon a county parking lot in spaces designated by signs or otherwise as parking for sheriff's vehicles unless that vehicle is a marked sheriff's vehicle, or is registered to the sheriff's department or any employee thereof who is on duty.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.13 VEHICLE RESTRICTIONS.**

(A) No person shall park or permit to be parked or left standing on any county owned or maintained parking lots:

(1) Trailers, wagons, boats, campers or any other non-motorized vehicle;

(2) Any tractor-trailer, truck-camper, motor-home or recreational vehicle after dark and any other motorized vehicle, exclusive of county vehicles for a period longer than 24 hours.

(B) No person shall park or permit to be parked or left standing on any county road or street:

(1) Any vehicle which at its widest point is wider than eight feet; or

(2) Any pick-up truck of any size which has on it a camper top;

(3) Any motor-home, recreational vehicle, travel trailer or house trailer.

(C) A person may park or permit to be parked or left standing on any county road or street not otherwise prohibited for a period of time not to exceed 24 hours within a seven-day period, a trailer which is less than eight feet at its widest point, including but not limited to boat trailers, horse trailers and cargo trailers, regardless of whether or not the trailer is attached to a vehicle, so long as the trailer does not impede traffic or constitute a traffic hazard.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.14 CITATION.**

An officer shall have the authority to issue parking citations for any violations of this chapter. Further an officer shall have the authority to cause a vehicle to be towed pursuant to this chapter.

(A) When an officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of this chapter, the officer is authorized to issue a citation by:

(1) Personal service to the violator; or

(2) Posting a copy of the citation in a conspicuous place on the vehicle and causing a copy of the citation to be mailed by regular, first class mail of the United States Postal Service to the owner of record of the vehicle if personal service of the citation is not effectuated when the citation is issued.

(B) An officer may, in lieu of issuing a citation, give a notice of violation, which shall serve to notify the violator to remedy the violation within the time specified. If the offender fails or refuses to remedy the violation within the time specified, the officer is authorized to issue a citation.

(Ord. 12-03, passed 2-21-12)

### **§ 71.15 TOWING/ STORAGE AND RELEASE OF VEHICLE.**

(A) An officer is authorized to have a towing service remove any vehicle to a storage facility when:

(1) There is reason to believe that the location where a vehicle is parked or left standing, constitutes a public nuisance or a threat to the public health, safety or welfare; or

(2) A third ticket involving the same vehicle has been issued within a consecutive 365-day period; or

(3) An officer finds a vehicle parked or left standing upon a street or public way within the county and determines that there is an outstanding unpaid parking citation for that vehicle.

(B) The vehicle shall be released from the storage facility to the owner or other person proving sufficient proof of right to take possession of the vehicle, upon approval of the Sheriff's Department and payment of all towing and/or storage charges.

(Ord. 12-03, passed 2-21-12) Penalty, see § 71.99

### **§ 71.16 PAYMENT OF CIVIL PENALTY OR REQUEST FOR HEARING.**

(A) Any person who receives a citation for a parking violation shall respond to such citation within 14 calendar days of its issuance, by making full payment of civil penalties, towing and/or and storage charges incurred or shall request a hearing by notifying in writing the Parking Violation Hearing Board through the County Judge/Executive's Office at 2950 Washington Street, Burlington, KY 41005. The hearing shall be held pursuant to the this Code of Ordinances. After nonpayment, and without properly notifying the Board of intent to contest within 14 days of the issuance of the citation, a determination that the violation has been committed is final.

(B) Civil penalties shall be paid to the Boone Fiscal Court through the Boone County Finance Department at 2950 Washington Square, Burlington, Kentucky. All civil penalties so collected shall be deposited in the general fund of Boone County to be used for general expenses of the county.

(C) Towing and/or storage charges shall be paid directly to the provider of the service.

(Ord. 12-03, passed 2-21-12)

### **§ 71.17 PARKING VIOLATION HEARING BOARD.**

There has been established a Boone County Parking Violation Hearing Board as codified in Chapter 73 of this Code of Ordinances.

(Ord. 12-03, passed 2-21-12)

### **§ 71.18 REGULATIONS.**

Regulations may be promulgated to effectuate the provisions and enforcement of this chapter.

(Ord. 12-03, passed 2-21-12)

**§ 71.19 DISPOSITION OF VEHICLE NOT CLAIMED.**

(A) If within 14 days of storage of a motor vehicle which was towed pursuant to this chapter and the civil penalty and towing and/or storage charges have not been paid or hearing has not been requested, notice shall be mailed by certified mail to the registered owner of the vehicle, if known, and lien holders of record, if any. Said notice shall state that the vehicle shall be deemed abandoned unless the civil penalties, towing and/or storage charges, if any, thereon are not paid within 90 days of receipt of the notice.

(B) After 90 days from the date of notice required by division (A) above, an impounded vehicle shall be deemed abandoned and the vehicle shall escheat to and become the property of the county.

(C) If the vehicle is judged suitable for use, the county may obtain a certificate of registration and ownership from the County Clerk pursuant to KRS 186.020 and either use the vehicle for governmental purposes or sell the vehicle at public auction to the highest bidder, if the vehicle is not suitable for use, it may be sold for its scrap or junk value.

(D) The county shall possess a lien on a motor vehicle impounded pursuant to the provisions hereof for all civil penalties, towing and/or storage charges imposed thereon. Such lien shall be superior to and have priority over all other liens thereon.

(Ord. 12-03, passed 2-21-12)

**§ 71.99 PENALTY.**

Any person who violates any section of this chapter shall be issued a citation with a \$30 civil penalty for the first or second violation within a consecutive 365-day period, the third or more violations within a consecutive 365-day period shall have a \$60 civil penalty. However if the citation is unsuccessfully contested, the violator may be assessed a civil penalty up to and including \$500. In addition to a civil penalty, the violator shall pay any and all towing and/or storage charges. Each day that a violation continues shall constitute a separate offense for which a citation may be issued and a civil penalty imposed.

(Ord. 12-03, passed 2-21-12)

**CHAPTER 72: TRAFFIC SCHEDULES**

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Schedule

- I. Speed limits
- II. Truck routes
- III. One-way streets

**SCHEDULE I. SPEED LIMITS.**

(A) It shall be unlawful for any person to drive a motor vehicle upon a county road in excess of the speed limit established for said county road pursuant to the following schedule:

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
1 <sup>st</sup> Street (First St.) Petersburg	20
2 <sup>nd</sup> Street (Second St.) Petersburg	20

2 <sup>nd</sup> Street (Second St.) Belleview-McVille	20
3 <sup>rd</sup> Street (Third St.) Petersburg	20
3 <sup>rd</sup> Street (Third St.) Belleview-McVille	20
5 <sup>th</sup> Street (Fifth Street) Bellview-McVille	20
6 <sup>th</sup> Street (Sixth Street) Bellview-McVille	20
7 <sup>th</sup> Street (Seventh Street) Bellview-McVille	20
<b>A</b>	
Ada Lane	25
Adena Trail	15
Aeronca Place	20
Afton Drive	25
Airport Exchange Blvd.	25
Airway Drive	25
Akin Lane	25
Alexander Rd.	25
Allen's Fork Dr.	20
Alloway Alley	20
Alloway Street	20
Aly Sheba Drive	25
Amarillo Drive	20
Amarillo Place	20
American Ave.	25
Anderson Blvd (partial)	25
Anderson Ferry Road	20
Andrews Road	20
Anita Court	20
Appaloosa Drive	25
Apple Blossom Drive	20
Appletree Lane	25
Apple Valley Court	20
Arbor Run Drive	25
Arborwood Drive	20
Ariens Drive (partial)	25



Aristocrat Drive	25
Arlington Drive	25
Arrowood Place	25
Asbury Way	25
Ash Creek Drive	25

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Ashby Fork Road	25
Ashcraft Lane	15
Asher Ct.	20
Ashford Drive	25
Atlantic Drive	35
Aurora Ferry Road	20
Aylor Lane	25

<b><i>B</i></b>	
Babbling Brook Way	20
Baker Road	20
Bankers Street (to city line)	25
Barbara Drive	25
Barney's Road	15
Basswood Court	20
Bayswater Drive (partial)	20
Beech Grove Road	25
Beech Lane	20
Beemon Lane	35
Beil Road (Union)	20
Bender Road	35
Benson Pl.	25
Bentley Court	20
Bent Tree Circle	20
Berwood Lane (partial)	25
Best Pal Drive	20
Bethlehem Lane	20
Big Bone Church Rd.	35
Big Horn Court	20
Big Jimmy Hill Road	15
Big Oak Road	20

Biltmore Boulevard	25
Biltmore Place	20
Birch Hill Court	20
Birchwood Ct.	25
Bishop Bend Road (to school bus turnaround)	25
Bittersweet Drive	20
Blackstone Dr.	25
Black Tail Way	20
Blossom Wood Court	25
Bluebird Lane	25
Bluefield Court	20

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Boone Aire Rd.	25
Booneland Tr.	25
Botts Lane	25
Braddington Ct. (partial)	20
Bradford Ave.	25
Brandon Dr.	25
Brandywine Drive	20
Breezy Lane	25
Briargate Drive	25
Bridal Path Lane	20
Bridgette Lane	20
Brierwood Court	25
Britt Dr.	25
Brittany Trail	25
Broadway Street	20
Brookview Lane	20
Brown Road	35
Buckhorn Court	20
Buckshire Glen (partial)	20
Buffalo Trace	20
Bullittsburg Church Road	25
Bullittsville Road (18/Ethan)	35
Bullittsville Road (Ethan/20)	45

Bullock Lane	25
Burdall Drive	20
<b>C</b>	
Caddie Circle	20
Calava Court	20
Cambridge Drive	20
Camp Ernst Lane	25
Camp Ernst Road	35
Cannon Valley Dr. (partial)	20
Canoe Drive	25
Cappell Court	20
Cardigan Drive (partial)	25
Cardinal Way (partial)	20
Caribou Drive	20
Carlton Drive	25
Carpenter's Run Subdivision	25
Carr Road	35

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Carre Pl.	20
Carry Back Drive	20
Castle Court	20
Castlewood Lane	20
Catalina Drive	20
Catlett Drive	25
Cayton Road (Hopeful to Beemon)	35
Cayton Road (Powder Creek Sub.)	25
Cecil Fields Road	25
Cedar Hill Lane	25
Cedar Tr. Ln.	25
Cedarwood Drive	25
Center Street	15
Cessna Place	20
Chancellor Court	20
Chateaugay Court	20
Cherry Hill Subdivision	25
Cherry Lane (Hebron)	20
Cherry Lane (Highland Acres)	20

Cherry Tree Drive	25
Cheshire Ridge Drive	25
Chinquapin Hill Road	25
Chitwood Circle	20
Circleport Development (E)	35
Clarkston Lane (partial)	20
Clearbrook Drive	25
Cleek Lane	25
Clermont Court	20
Cloverhill Drive	20
Clovernook Drive	20
Colony Road	25
Commerce Park (W) Subdivision	25
Commercial Drive	25
Connector Drive	20
Connector Road	25
Conner Road	25/20 school zone
Conrad Lane	35
Conway Hills Drive	25
Coppage Circle	25
Coppercreek Court	20
Coral Drive	20
Cornell Drive	20
Cottontail Trail	25

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Country Hills Court	20
Country Hills Lane	25
Cox Avenue	25
Crescent Drive	25
Crestwood Court	20
Crouch Road (includes old connector to U.S. 42)	20
Cumberland Circle	25

<b><i>D</i></b>	
Dale Williamson Road	25
Damascus Road	20

Dartmouth Dr. (partial)	25
Darvyville Drive	25
Debbie Drive	25
Deck Lane	20
Decker Lane	25
Deepwood Court (partial)	20
Deerfield Estates	20
Deerfield Lane	20
Deer Run Drive	25
Delta Place	20
Delta Road	20
Devonshire Circle	20
Dickerson Road	20
Distribution Drive	25
Dixon Drive	25
Donald Drive	20
Donora Drive	25
Double Eagle Drive	35
Douglas Drive	20
Drake Court	20
Driftwood Drive (partial)	20
Dry Creek Road	25
Dublin Dr.	25
Dublin Place	20
Duffel Lane	15
Duncan Dr.	25
Dunwoodie Court	20
Duro Way	25

***E***

Eads Road	35
East Circle Drive	20
East Frogtown Road	30

***ROAD NAME***

***SPEED***

East Gallatin Street	20
Easton Lane	25
Edgehill Road	25

Edinburgh Lane	20
Elijah Creek Road	35
Elizabeth Drive (partial)	25
Elkwood Drive	20
Ellen Avenue	25
Ellis Road	15
Elwood Avenue	20
Elyse Way	20
Emerald Drive	25
Erlanger Road	25
Ernst Lane	15
Estella Court	20
Ethans Glen Subdivision	20
Evergreen Drive	
<b><i>F</i></b>	
Fairoaks Drive	20
Fairside Court	20
Faith Drive	15
Falcon Crest Circle	20
Farmcrest Drive (partial)	20
Farmview Drive (to city line)	20
Fawn Drive	25
Featherstone Drive	20
Featherstone Subdivision	20
Federalist Trail	20
Feeley Road	25
Ferdinand Drive	20
Fernwood Place	20
Ferrell Road	20
Fieldview Circle	20
Fir Tree Lane	25
First Street (Florence)	15
Flagstone Court	20
Flintlock Drive	20
Florence Pike	20
Forrest Greens Subdivision	25 - thru streets 20 - side streets
Forrest Lawn Drive	20
Forrestview Drive	20

Fowler Creek Rd. 25

***ROAD NAME*** ***SPEED***

Fox Run Lane 20

Fox Run Subdivision 25

Freebird Court 20

Frogtown Road (E) 35

Front Street 25

Front Street (Bellview-McVille) 15 **G**

Gaines Way 25

Gap Way 30

Garber Lane 25

Garden Road 25

Garrard Street 35

Garrison Creek (7414' bridge) 15

George Drive (partial) 20

Georgetown Drive (partial) 20

Glade Lane 20

Glen Arbor Drive 20

Glenburn Drive 20

Glenfield Court 20

Glens Drive 25

Glens of Oakbrook 20

Golden Grove Lane 20

Golden Pond Drive (partial) 25

Grandview Drive (partial) 20

Grant Street 20

Green Drive 20

Greenbriar Place 20

Greenview Subdivision 25

Greenview Road 25

Grovepoint Drive 25

Gum Branch Road (north) 15

Gum Branch Road (south) 20

Gunpowder Road 25

Grace Drive 25

Graves Road 35

<b><i>H</i></b>	
Haley Lane (partial)	20
Hampton Ridge Drive	20
Hand Road	20
Harimony Hill Drive	25
Harrison Way	25
Hart Drive	25
Heathersfield Drive	20
Heatherwood Drive	20
Hempstead Drive (partial)	20
Hetzel Drive	20
Hickory Hill Court	20

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Hickory Hill Subdivision	20
Hicks Pike	35
Hidden Springs Court	20
Highland Acres Subdivision	20
Highpoint Drive	20
Hill Road	20
Hillock Ct.	20
Hollibrook Drive	20
Hossman Road	55
Howe Road	25
Hudson Lane	25
Huey Lane	20
Huey Place	20
Hunter Road	20
Hunters Trace	25
Hutton Drive	25

<b><i>I</i></b>	
Idlebrook Lane	25
Indian Hill Drive	25
Indian Ridge Way	20
Inez Court	20
International Way (partial)	25
Interstate Drive	25



Inverness Drive (partial)	25
Ironwood Way	20

***J***

James Lane	25
Jamestown Court	20
Jamike Lane	25
Jasons Bluff	20
Jeffrey Lane	20
Jennifer Court	20
Johnstone Court	20
Jolee Dr.	25

***K***

KDK Lane	25
Kelly Road	20
Kelley Louise Drive	25
Kenner Dr.	25
Kent Circle (partial)	20
Kenyon Court	20

***K***

Kilgoure Pl.	20
Killarney Drive	25
Kilpatrick Drive	20
Kimberly Drive (Suburban Est)	25
Kimberly Drive (Ky. Aire)	25
Kings Drive (partial)	20

***ROAD NAME***

***SPEED***

Kingsgate Drive	25
Kings Gate Subdivision	20 (side streets)
Kingsley Drive	25
Kingston Court	20
Kirby Drive	25
Kirby Lane (Union)	20
Kirkpatrick Blvd.	15
Kite Lane	20
Knob Court	20
Knollmont Drive (partial)	20

Kroth Lane	25
Kyle Dr.	25
Ky Aire Estates Subdivision	25
<b><i>L</i></b>	
Lacresta Dr.	25
Lakepointe Court	20
Lakeway Court	20
Lakeview Dr.	25
Lanes End	20
Lassing Way	25
Laurel Dr.	25
Laurel Place	20
Lawrenceburg Ferry Road	25
Lewis Lane	20
Lilac Drive	20
Limaburg Creek Road (north)	25
Limaburg Creek Road (south)	15
Limaburg Road (Rt. 20 to Rt. 237)	25
Limestone Ridge Way	20
Linden Court	25
Linden Drive (Hebron)	25
Litton Lane	30
Lizmark Road	20
Locust Grove	25
Logans Run	25
Longbranch Road	35
Lost Road	20
Lower River Road	20
Lucas Park Dr.	15
Lurawoods Court	20
Lynda Court	25
<b><i>M</i></b>	
Macintosh Lane	20
Maher Road	35
Main Street (Burlington)	20
Main Street (Bellview-McVille)	35
Main Street (Petersburg)	20
Maple Ave.	25

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
Maple Tree Lane	25
Maplewood Drive	15
Market Street	20
Mars Hill Subdivision	20
Martin Road	20
Marydale Road (left side)	20
Mary's Court	25
Mary Lou Drive	20
Matthew Circle (partial)	20
McCoys Fork Road	35
McGlasson Blvd.	20
Meadow Creek Drive (to city line)	25
Meadow View Drive	20
Medical Arts Drive	25
Meiman Drive	20
Melinda Lane	25
Mercantile Drive	20
Merchants Street (to city line)	35
Meridian Court	25
Merrie Dr.	25
Merrell Rd.	35
Messmer Rd.	25
Metts Lane	20
Michael Drive	25
Middle Creek Road	30
Mieman Drive	25
Mikkelsen Dr.	25
Millakin Estates Subdivision	25
Millakin Place	25
Miller Court	20
Miller-Owens Road	25
Mill Street	20
Mineola Pike	35
Misty Lake Drive	20
Monarch Drive	20
Moore Road (partial)	20

Morning Dove Court	20
Morningside Drive	25
Mosswood Court	20
Mountain Laurel Way (partial)	25
Mountainview Court (partial)	20
Mudlick Road	25
Munk Road	20
Mustang Drive	25
<i>N</i>	
New Haven School Rd.	25
Nicholas Street	20
Nicholson Avenue	20

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Nine Iron Court	20
Nob Hill Drive	20
Northern Dancer Court	20
North Drive	25 <b><i>O</i></b>
O'Hara Lane	25
Oakbrook Road	35
Oakbrook Subdivision	25 (except Oakbrook Road & The Glens)
Oakcreek Drive	25
Oak Ridge Dr.	25
Old Beaver Road	35
Old Horsley Ferry Road	20
Old Lexington Pike	35
Old Richwood/Beaver Lick Road	35
Old Stephenson Mill Road (west)	25
Old Tanner Road	20
Old Toll Road	25
Old Walton-Nicholson Road	20
Olympic Blvd.	35
Orchard Drive	20
Orchid Drive (Hebron)	20
Orchid Drive (Greenview)	20
Orient St.	25

Oriole Court.	20
Overlook Drive	20
Oxford Terrace	20
<b><i>P</i></b>	
Paddock Dr.	25
Palace Drive	20
Palestine Drive	25
Par Four Court	20
Park Street	20
Parkwood Drive	25
Parlor Grove Estates	25
Peach Tree Lane	25
Pebble Creek Way (partial)	25
Peel Road	25
Peninsula Court	20
Pennington Road	30
People's Lane (partial)	20
Peppermill Court (partial)	20
Perlate (Alley #1)	20
Persimmon Court	20
Petersburg, City of	25
Piedmont Cir.	25
Piedmont Court	20
Pike Street	20
Pineknoll Court	20

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
Pinetree Dr.	25
Pinetree Lane	25
Pinnacle Court	20
Pioneer Blvd.	20
Piper Drive	25
Pleasant Hill Drive	20
Pleasant Valley Meadows Sub.	20 (except Woodcreek & Morningside)
Plumtree Lane	25
Poole Road	35

Pt. Pleasant	35
Populr Ridge Court	20
Porter Road	35
Possum Path Road	25
Powder Creek Subdivision	25
Powderkeg Drive	20
Princetown Drive	20
Priscilla Lane	25
Production Drive (partial)	25
Promontory Drive	20
<b><i>Q</i></b>	
Queensway Drive	25
<b><i>R</i></b>	
Rabbit Hash Hill Road	25
Rachel Ann Drive	20
Ranson Road	25
Redbud Court	20
Redstone Dry	25
Regal Ridge Drive (partial)	25
Resource Drive (partial)	25
Rice Pike	35
Richard Court	20
Richardson Road	35
Richwood Church Road	20
Richwood Country Estates	25
Ridewood Court	20
Ridge Ave.	20
Ridgedale Drive	25
Ridgefield Drive	25
Ridge Road	20
Ridge Road (Union)	20
Ridgeview Road	25
Ridgewood Court	20
Risner Road	25
River Road	30
Riverview Dr.	25
Robin Ct.	25
Robins Run	20

Rockdale Court	20
Rocky Springs Road	25
Rogers Lane	35

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Rollingswood Court	20
Rosensteil Road	20
Rose Petal Drive	25
Rosetta Drive	20
Royal Court (partial)	20
Russell Dr.	25
Rustic Lane	20
Russwill Drive	25
Ryle Road	25 <b><i>S</i></b>
Saddle Ridge	25
Salem Creek Road	35
Sanders Road	15
Sand Run Road	30
Sarah Lane	20
Schmidt Lane	25
Scott Street	25
Second Creek Road	25
Second Street	25
Sedco Drive	25
Sentry Drive (partial)	25
Setters Road	35
Sewell Road	25
Shadetree Court	20
Shady Hollow Lane	20
Shagy Bark Court	20
Sheridan Drive (partial)	20
Shamrock Subd.	20
Shoemaker Lane	35
Shoreland Drive (partial)	35
Silverbook Drive	20
Silver Creek Court	20
Sixth Street	25

Skyline Dr/Ln	25
Skyview Drive (to city line)	20
Skyway Drive	20
Snow Road	25
Snyder Lane	25
Songbird Lane	20
Solomon Road	15
South Drive	20
South Fork Road (to county line)	35
South Fork Church Road	35
Southgate Place	20
South Limaburg Road	25
Southpark Drive	25
Sperti Lane	35
Springwood Court	20
Spruce Drive	25

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Sprucetree Lane	25
Sprucewood Lane	25
Squire Drive	20
Stahl Road	25
Stallion Way	25
Stanford Court	20
Stephens Road	35
Stephenson Mill Road	35
Sterling Springs Way (partial)	20
Stevens Road	25
Stirrup Lane	25
Stockton Way	20
Stonehinge Circle	20
Stony Brooke Drive	20
Strawberry Hills Subdivision	20
Strawberry Lane	20
Strike The Gold Dr. (partial)	25
Sturgeon Road	25
Sullivan Road	20
Summerset Circle	20



Sunday Silence Court	20
Sunnybrook Drive	25
Sunset Drive	20
Sycamore Drive (Union)	25
Sycamore Lane	25
Sycamore Street	25

***T***

Tadpole Lane	20
Tanglewood Court	20
Tanner Street	20
Taylor Drive (partial)	25
Taylor'sport Drive (w/alley)	25
Taylor'sport, City of	25
Teaberry Court	20
Teal Road	25
Temperate Street	20
Tessie Circle	20
Thickethill Ct.	20
Thistlewood Lane	20
Thornwood Lane (partial)	20
Thunder Ridge Drive (partial)	25
Tiburon Drive	25
Timber Lane	20
Timber Creek Road	25
Timber Ridge Way	20
Todd Drive	20
Tomahawk Ridge way	20
Tonya Drive	25

***ROAD NAME***

***SPEED***

Torrid Street	20
Tosha Drive	20
Totten Lane	25
Trail Ridge Way	20
Trailwood Court (partial)	20
Tranquility Drive	25
Travis Street	25

Tree Top Lane (partial)	25
Tricia Court	15
Triple Crown Subdivision	20 (except Triple Crown Boulevard)
Trophy Court	20
Tudor Lane	25
Tulip Tree Lane	25
Turner Road	20
<i>U</i>	
Union Square	15
Upland Court	20
Utz Lane	20
<i>V</i>	
Valley View Drive	20
Valleywood Court	20
Vantage Court	20
Venetian Way	20
Vesper Lane	25
Vest Lane	20
Veterans Way	15
Vice Lane	25
Victory School House Road	20
Victory School Road	20
Vine Street	15
Virginia Avenue	20
Vista Court	20
<i>W</i>	
Waller Road	35
Watch Hill Court	20
Waterloo Road	35
Waterlot Court	20
Waterside Court	20
Watts Road	20
Weber Lane	25
Weeping Willow Court	20
Westborne Drive (partial)	20
West Gallatin Street	20
Westland Drive	20

W. Horizon Drive	20
W. Virginia Ave.	25
Wethersfield Place	20
Whispering Trails	25
Whitetail Court	20
Whitton Road	25
Wildcat Boulevard	20
Wild Cherry Drive	25
Williams Road	35
Willowbend Subdivision	25 (thru streets)
20 (side streets)	

<b><i>ROAD NAME</i></b>	<b><i>SPEED</i></b>
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Willow Brook Court	20
Willow Hill Court	20
Willow Lane	20
Willow Place	20
Wimbledon Lane	20
Windsor Way	25
Wingate Drive	20
Winningcolors Drive	20
Wolf Creek Way (partial)	20
Woodcreek Drive	25
Woodspoint Drive (partial)	25
Woodside Drive	20
Woodwind Lane	20
Woolper Road	30
Wynds Drive	25
<b><i>Y</i></b>	
Yearling Court	20
Yorkshire Drive	25
Youell Road	20
<b><i>Z</i></b>	
Zig Zag Road	30

(B) (1) The Director of the Department of Public Works or his designee is hereby authorized to recommend speed limits upon county roads not included in division (A) herein. Said recommended speed limits from the Director of the Department of Public Works shall be submitted to the Fiscal Court for approval.

(2) The Director of the Department of Public Works or his designee is hereby directed to erect speed limit signs in compliance with state statutes and regulations upon county roads that comply with division (A) herein.

(C) Any person who violates the provisions of this schedule shall be subject to the penalties prescribed under KRS 189.394.

(Ord. 10-97-03, passed 11-18-97)

## **SCHEDULE II. TRUCK ROUTES.**

The following county streets and roads are designated by the Fiscal Court as streets and roads which are subject to the prohibition described in § 70.02:

Beemon Road

Big Bone Church Road

Big Jimmy Hill

Boone Aire Drive

Brittany Trail

Buckshire Glen

Bullittsville Road

Bullittsville Church Road (KY Rt. 20 to KY Rt. 8)

Cardigan Drive

Cayton Road

Cedarwood Drive

Cheshire Ridge Drive

Conner Road

Conrad Lane

Coppage Circle

Coral Drive

Dale Williamson Road

Dickerson Road (US 42 to Beaver Road)

Eades Road

Elijah Creek Road

Ellis Road

Evergreen Drive

Fox Run Drive

Glen Arbor Drive

Graves Road

Hempstead Drive

Hicks Pike

Jones Circle  
 Lower River Road  
 Merrie Drive  
 Mineola Pike (County maintained portion)  
 Oakbrook Drive  
 Old Lexington Pike  
 Old Toll Road  
 Point Pleasant Road  
 Rice Pike  
 Richwood Church Road  
 Ridge Avenue (Hebron)  
 Ridgeview Road (Weaver to Gunpowder Road)  
 Salem Creek Road  
 Station Lane  
 Stephenson Mill Road  
 Strawberry Lane  
 Sunny Brook Drive  
 Tiburon Drive  
 Triple Crown Blvd.  
 Waller Road  
 Woolper Road

(Ord. 10-97-04, passed 11-18-97) Penalty, see § 70.99

**SCHEDULE III. ONE-WAY STREETS.**

<i>Street</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Union Square	Burlington	Counter-clockwise	04-08	7-27-04

**CHAPTER 73: PARKING VIOLATION HEARING BOARD**

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Section

- 73.01 Definitions
- 73.02 Creation and membership
- 73.03 Jurisdiction

- 73.04 Appointment of members; term of office; removal from office; oath and qualifications
- 73.05 Organization of Board; meetings and quorum
- 73.06 Conflicts of interest
- 73.07 Powers of Board
- 73.08 Enforcement proceedings
- 73.09 Hearing; notice and final order
- 73.10 Legal counsel
- 73.11 Appeals and final judgment
- 73.12 Ordinance civil penalty schedule
- 73.13 Liens; civil penalty and costs
- 73.14 Regulations
- 73.15 State statutes adopted by reference

### **§ 73.01 DEFINITIONS.**

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

**BOARD.** A Parking Violation Hearing Board, which is an administrative body of the Boone County Fiscal Court created and acting under the authority of KRS 65.8801 - 65.8839 entitled Code Enforcement Boards.

**LAW ENFORCEMENT OFFICER/CODE ENFORCEMENT OFFICER.** A Boone County Sheriff's Deputy with the authority to issue a citation which may be referred to in this chapter as **OFFICER**.

**ORDINANCE.** An official action of the Boone County Fiscal Court which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of this Code of Ordinances adopted by the Boone County Fiscal Court which embodies all or part of an ordinance.

**VEHICLE.** All agencies for the transportation of persons or property over or upon the public roads and streets, whether operable or inoperable.

(Ord. 12-04, passed 2-21-12)

### **§ 73.02 CREATION AND MEMBERSHIP.**

There is hereby created pursuant to KRS 65.8801 - 65.8839 within the county, a Parking Violation Hearing Board (the "Board") which shall be composed of five members.

(Ord. 12-04, passed 2-21-12)

### **§ 73.03 JURISDICTION.**

(A) The Board shall have jurisdiction to enforce and shall enforce those county ordinances regarding parking violations which specifically provide for civil enforcement.

(B) The Board shall not have the authority to enforce any ordinance the violation of which constitutes a criminal offense under the provisions of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

(Ord. 12-04, passed 2-21-12)

### **§ 73.04 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH AND QUALIFICATIONS.**

(A) Members of the Board shall be appointed by the Judge/Executive of the county, subject to the approval of Fiscal Court.

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

(1) One member appointed to a term of one year.

(2) Two members appointed to a term of two years each.

(3) Two members appointed to a term of three years each.

(4) All subsequent appointments shall be for a term of three years. A member may be reappointed, subject to the approval of the Boone County Fiscal Court.

(C) Any vacancy on the Board shall be filled by the Judge/Executive, subject to approval of Fiscal Court within 60 days of the vacancy. If the vacancy is not filled within that time period, the remaining members shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(D) A Board member may be removed from office by the Judge/Executive for misconduct, inefficiency or willful neglect of duty. The Judge/Executive shall submit a written statement to the member and the Fiscal Court setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(E) All members of the Board must, before entering upon the duties of their office, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(F) Members of the Board shall be reimbursed for actual expenses incurred while performing their duties as Board members.

(G) No member of the Board may hold any elected or appointed office, paid or unpaid, or any position of employment with the Boone County Fiscal Court.

(H) Each member of the Board shall have resided within the boundaries of Boone County for a period of at least one year prior to the date of the member's appointment and shall reside there throughout the term of office.

(Ord. 12-04, passed 2-21-12)

### **§ 73.05 ORGANIZATION OF BOARD; MEETINGS AND QUORUM.**

(A) The Board shall annually elect a Chairman from among its members. The Chairman shall be the presiding officer and a full voting member of the Board. In the absence of the chair, the remaining members of the board shall select one of their number to preside in place of the chair and exercise the power of the chair.

(B) Regular meetings of the Board shall be held as directed by the Chairman and shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

(C) Meetings other than those regularly scheduled shall be special meetings and shall be held in accordance with the requirements of the Kentucky Open Meetings Act.

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

(E) Minutes shall be kept for all proceedings of the Board and the vote of each member on any issue decided by the Board shall be recorded in the minutes. All meetings and hearings of the Board shall be open to the public.

(F) The Boone County Fiscal Court shall provide clerical and administrative personnel as reasonably required by its Board for the proper conduct of its duties.

(Ord. 12-04, passed 2-21-12)

### **§ 73.06 CONFLICTS OF INTEREST.**

Any member of the Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself or herself from voting on the matter and shall not be counted for purposes of establishing a quorum. Additionally all Board members shall be subject to the Code of Ethics as codified in Chapter 35 of this Code of Ordinances.

(Ord. 12-04, passed 2-21-12)

### **§ 73.07 POWERS OF THE BOARD.**

The Board shall have the following powers and duties:

- (A) To adopt rules and regulations to govern its operations and the conduct of its hearings which are consistent with the requirements of KRS 65.8801 - 65.8839 and ordinances of the Boone County Fiscal Court.
- (B) To conduct hearings to determine whether there has been a violation of an ordinance that the Board has jurisdiction to enforce. The Board members, shall receive training related to the conduct of administrative hearings in accordance with procedures set out in KRS 13B.080.
- (C) To subpoena witnesses and evidence to its hearings. Subpoenas issued by the Board may be served by any law enforcement officer/code enforcement officer.
- (D) To take testimony under oath. Any Board member shall have the authority to administer oaths to witnesses prior to their testimony before the Board on any matter.
- (E) To make findings of fact and issue orders that are necessary to remedy any violation of a Boone County ordinance or code provision which the Board has jurisdiction to enforce.
- (F) To impose civil penalties, as authorized by ordinance on any person found to have violated any ordinance that the Board has jurisdiction to enforce.

(Ord. 12-04, passed 2-21-12)

### **§ 73.08 ENFORCEMENT PROCEEDINGS.**

The following requirements shall govern all enforcement proceedings before the Board:

- (A) Enforcement proceedings before the Board shall only be initiated by the issuance of a citation pursuant to Chapter 71 of this Code of Ordinances.
- (B) The citation issued by the officer shall be in the form prescribed by the Boone County Fiscal Court and shall contain the following information:
  - (1) The date and time of the issuance;
  - (2) The name and address of the person to whom the citation is issued and the state, license number, license year, make, type, and color of vehicle upon which the citation will be placed, if not handed to an individual;
  - (3) The date and time the offense was committed or discovered;
  - (4) Brief facts constituting the offense and section of the code or the number of the ordinance violated;
  - (5) The name of the officer and badge number;
  - (6) The civil penalty that may be imposed for the violation if the person does not contest the citation;
  - (7) The maximum civil penalty that may be imposed if the person elects to contest the citation;
  - (8) The procedure for the person to follow in order to pay the civil penalty or to contest the citation; and
  - (9) A statement that if the person fails to pay the civil penalty set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the Board to contest the citation and that the determination that the violation was committed shall be final.



(C) After issuing a citation, the officer shall notify the Board by delivering a copy of the citation to the Fiscal Court Finance Department.

(D) The person to whom a citation is issued shall respond to the citation within 14 days of the date of issuance by either paying the civil penalty and remedying the violation or requesting, in writing, a hearing before the Board to contest the citation. The request for a hearing shall be delivered to the Judge/Executive's Office at 2950 Washington Street, Burlington, KY 41005. The request shall include the name and address of the person requesting the hearing. If the person fails to respond to the citation within 14 calendar days by paying the civil penalty or properly requesting a hearing, the person shall be deemed to have waived the right to a hearing and any determination that a violation was committed shall be considered final.

(E) If the alleged violator does not pay the civil penalty or contest the citation within the time prescribed, the Board shall enter a final order determining that the violation was committed and shall impose the appropriate civil penalty set forth for such violation. A copy of any final order shall be served on the person found in violation of a county ordinance or code.

(Ord. 12-04, passed 2-21-12)

### **§ 73.09 HEARING; NOTICE AND FINAL ORDER.**

(A) A properly requested hearing shall be conducted at the regular meeting of the Parking Violation Hearing Board. The county shall retain possession of the vehicle pending the hearing, unless the vehicle has been released pursuant to Chapter 71 of this Code of Ordinances.

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

(C) Any person requesting a hearing before the Board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be final. In this event, the Board shall enter a final order determining that the violation was committed, impose the civil penalty set forth in the citation and impose a penalty equal to any unpaid towing and/or storage charges,

(D) The hearing shall be conducted by a quorum of the Board and all testimony shall be taken under oath and shall be recorded. The Board may take testimony and review evidence. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(E) The Board shall determine, based on the evidence presented whether a violation was committed and make written findings of facts and conclusions of law. When the Board determines that no violation was committed, an order dismissing the citation shall be entered. When the Board determines that a violation was committed, an order shall be issued upholding the citation and may assess a civil penalty including towing and storage costs in an amount up to the maximum authorized by ordinance.

(F) Every final order of the Board shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order of the Board is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with an individual residing therein who is 18 years if age or older.

(G) An appeal from the Parking Violation Hearing Board's determination may be made in accordance with this chapter to the Boone District Court.

(Ord. 12-04, passed 2-21-12)

### **§ 73.10 LEGAL COUNSEL.**

Each case that is the subject of a hearing may be presented by an attorney selected by the Boone County Fiscal Court or by a member of the administrative staff of the Boone County Fiscal Court. An attorney may either be counsel to the Board or may represent the Boone County Fiscal Court by presenting cases at the hearing, but in no case shall an attorney serve in both capacities.

(Ord. 12-04, passed 2-21-12)

**§ 73.11 APPEALS AND FINAL JUDGEMENT.**

(A) An appeal from any final order issued by the Board may be made to the Boone County District Court within 30 days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure.

(B) A judgment of the Boone County District Court may be appealed to the Boone County Circuit Court in accordance with the Rules of Civil Procedure.

(C) If no appeal from a final order of the Board is filed within the time period set forth in division (A) above, the Board's order shall be deemed final for all purposes.

(Ord. 12-04, passed 2-21-12)

**§ 73.12 ORDINANCE CIVIL PENALTY SCHEDULE.**

Violations of ordinances that are enforced by the Board shall be subject to the following schedule of civil penalties:

(A) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the civil penalties shall be assessed to the violator as follows:

<i>Violation</i>	<i>Civil Penalty</i>
Chapter 71: Stopping, Standing or Parking	1st and 2nd violation within a 365-day period: \$30 Additional violations within 365-day period: \$60

(B) If a citation is contested and a hearing before the Board is required, the following civil penalties may be assessed to the violator at the discretion of the Board; however, the Board may waive all or any portion of a civil penalty if it determines such waiver will promote compliance with the ordinance in issue.

<i>Violation</i>	<i>1st Offense Civil Penalty</i>	<i>2nd Offense Within 365-day Period Civil Penalty</i>	<i>All Others</i>
Chapter 71: Stopping, Standing and Parking	\$30 - \$100	\$30 - \$200	\$60 - \$500

(Ord. 12-04, passed 2-21-12)

**§ 73.13 LIENS; CIVIL PENALTY AND COSTS.**

In addition to the penalties prescribed above in this chapter, the person found to have committed the violation shall be personally responsible for the amount of all towing and/or storage charges incurred as set forth in Chapter 71 of this Code of Ordinances.

(Ord. 12-04, passed 2-21-12)

## **§ 73.14 REGULATIONS.**

Regulations may be promulgated to effectuate the provisions and enforcement of this chapter.

(Ord. 12-04, passed 2-21-12)

## **§ 73.15 STATE STATUTES ADOPTED BY REFERENCE.**

All of the terms, conditions and procedures of KRS 65.8801 - 65.8839 relating to the organization and powers of the Board not inconsistent with this chapter, enforcement, procedure, appeals and other matters are hereby adopted by the county and incorporated herein by reference as if fully rewritten.

(Ord. 12-04, passed 2-21-12)

# **TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. RESERVED**
- 91. ANIMALS AND FOWL**
- 92. DISCARDED ITEMS**
- 93. NUISANCES**
- 94. FIRE PREVENTION AND PROTECTION**
- 95. HAZARDOUS MATERIALS**
- 96. PARKS AND RECREATION**
- 97. STREETS AND SIDEWALKS**

## **CHAPTER 90: RESERVED**

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## **CHAPTER 91: ANIMALS AND FOWL**

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Section

### *General Provisions*

- 91.01 Definitions
- 91.02 Equine feces on roadways

### *Animal Control*

- 91.15 Powers of County Animal Control
- 91.16 Adoption and mandatory spay/neuter
- 91.17 Licensing and registration of dogs
- 91.18 Rabies vaccination

- 91.19 Humane treatment of animals
- 91.20 Animals to be under control
- 91.21 Wild and exotic animals
- 91.22 Humane societies; standards and licensing

### ***Commercial Animal Establishments***

- 91.35 Definition
- 91.36 Licensing provisions
- 91.37 Minimum standards
- 91.38 Inspections
- 91.39 License revocation
- 91.99 Penalty

#### ***Cross-reference:***

*Animals in parks, see § 96.05*

## **GENERAL PROVISIONS**

### **§ 91.01 DEFINITIONS.**

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

***ABANDON.*** Any animal left more than 24 hours without a person checking on the condition of the animal(s) and providing food and water. Any animal left on private property without the owner's consent or deserted or dumped on public property or roadways.

***ANIMAL.*** Any live vertebrate creature.

***ANIMAL CONTROL.*** The department of the county which is designated by the Fiscal Court to enforce the provisions of this chapter and to operate the Animal Shelter.

***ANIMAL CONTROL OFFICER.*** Any person designated by the Director of Animal Control who is qualified to perform duties under the laws and ordinances of the Commonwealth of Kentucky and the county. An Animal Control Officer shall be a law enforcement officer for the purposes of animal control only.

***ANIMAL SHELTER.*** Any premises operated or approved for operation by the Fiscal Court for the purpose of impounding and caring for animals held under the authority of this chapter.

***COMMERCIAL ANIMAL ESTABLISHMENT.*** Any pet shop, boarding or breeding kennel, grooming facility, auction, petting zoo, zoological park, circus, performing animal exhibit, or any person engaged in the business of breeding, buying, or selling at retail or wholesale, any species of animal for profit.

***DIRECTOR OF ANIMAL CONTROL.*** The person appointed by the Judge/Executive and approved by the Fiscal Court to the Chief Animal Control Officer.

***DAY.*** For the purposes of this chapter, a 24 hour period shall constitute a day.

***DOMESTIC ANIMAL.*** Animals as are habituated to live in or about the habitations of human beings, and which are kept, cared for, sheltered, fed, or harbored for use as a pet or as a source of food, raw materials or income.

***EXOTIC ANIMAL.*** Any animal not indigenous to the United States and not ordinarily tame and which is by nature an animal that lives apart from human beings.

**HUMANE SOCIETY.** Any person or organization operating from a fixed site and taking in or accepting stray or unwanted animals.

**IMPOUNDED.** Having been received into the custody of Animal Control or any authorized representative thereof.

**LIVESTOCK.** Cattle, sheep, swine, goats, emus, ostriches, horses or any other animals of the bovine, ovine, porcine, caprine, ratite or equine species.

**OWNER.** Any person owning, keeping, harboring or sheltering one or more animals.

**PERSON.** All natural persons, corporations, partnerships, firms, associations, governmental bodies, agencies, and other entities.

**PET.** Domesticated animal kept for pleasure rather than utility.

**PROPER QUARANTINE.** Confinement to a secure enclosure which shall not permit the animal to come in contact with another animal or person, except the owner or caregiver, for a period of ten days.

**PUBLIC NUISANCE.** Any animal(s) which:

- (1) Molests passers-by or passing vehicles;
- (2) Attacks people or other animals;
- (3) Damages public or private property;
- (4) Is repeatedly at large;
- (5) Makes noise in an excessive, continuous or untimely manner;
- (6) Creates unsanitary conditions; or
- (7) Disturbs the peace, comfort or health of persons in any other manner.

**QUALIFIED PERSON.** Any person granted a permit by the Kentucky Department of Human Resources to vaccinate his or her own animal against rabies.

**REASONABLE GROOMING.** To maintain an animal's coat to prevent conditions which inhibit normal walking or eliminating body waste, or which are medically harmful to the animal.

**RESTRAINT.** Enclosed in an area by a form of fencing designed to control the movement of the animal or secured by a leash or chain. An animal shall be deemed to be restrained if it remains on the premises of its owner or if it is accompanied by a responsible person and is under that person's control.

**RUNNING AT LARGE.** Any animal that is off the property of the owner, custodian, possessor or harbinger and is not restrained. Except that a hound or other hunting dog which has been released from restraint for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if the hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler it shall not be deemed to be a violation.

**STRAY.** Any animal running at large.

**VETERINARIAN.** One licensed and qualified to treat diseases and injuries of animals.

**VETERINARY HOSPITAL.** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

**VICIOUS ANIMAL.**

(1) Any animal which constitutes a physical threat to human beings or domestic animals due to a known propensity to endanger life by an unprovoked assault or bite which resulted in serious bodily harm; or

(2) Any animal which, when unprovoked, approaches in a terrorizing manner, any person in an attitude of attack upon streets, sidewalks or any public grounds or places; or

(3) Any animal with a known propensity, tendency or disposition to unprovoked attacks which cause injury or endanger the safety of human beings or domestic animals; or

(4) Any animal which bites multiple times or to the extent of causing severe injury and assaults or otherwise attacks human beings or domestic animals; or

(5) Any animal owned or harbored primarily or in part for the purpose of fighting with animals.

(6) It shall be prima facie evidence that an animal is vicious if the animal bites a human being or domestic animal more than once in the same attack.

(7) Exceptions. An animal shall not be deemed vicious solely because:

(a) It bites, attacks or menaces:

1. Any person assaulting its owner;
2. Any person or animal who has tormented or abused it; or

(b) It is otherwise acting in defense of any attack from a person or other animal upon its owner or another person; or

(c) It is protecting or defending its young or the young of any other animal.

**WILD ANIMAL.** Any animal not domesticated, not ordinarily tame or which is by nature an animal that lives apart from human beings.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96; Am. Ord. 03-13, passed 5-20-03)

## § 91.02 EQUINE FECES ON ROADWAYS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COUNTY ROADS.** Any road which has been accepted by the Fiscal Court into the county road maintenance system, located in the unincorporated area of the county.

**EQUINE.** An animal of the horse family.

**FECES.** Bodily waste discharged through the anus.

(B) (1) It shall be unlawful for any person who drives, leads, rides or otherwise has an equine animal in or on a roadway in unincorporated Boone County, Kentucky, which deposits or excretes feces upon said roadway, to allow said equine feces deposit to remain on the roadway longer than 15 minutes before it is removed.

(2) The equine feces removed from the roadway shall not be placed on the private property of another other than that owner or the person driving, leading, riding or otherwise having said equine on the roadway.

(Ord. 620.9, passed 9-24-91) Penalty, see § 91.99

### ***Cross-reference:***

*Streets and sidewalks, see §§ 97.01 et seq.*

## **ANIMAL CONTROL**

### § 91.15 POWERS OF COUNTY ANIMAL CONTROL.

(A) The Director and all officers of Animal Control shall have the powers of a peace officer for the purposes of enforcing animal control laws or ordinances in the county, if they otherwise qualify as a peace officer under the laws of the Commonwealth of Kentucky.

(B) All officers of Animal Control shall comply with KRS 61.300.

(C) Whenever it is necessary for Animal Control to make an inspection in order to perform any duty or enforce any provision of

this chapter or any other applicable state statute, they are hereby empowered to enter property at a reasonable time and inspect the premises. Animal Control shall have the power only if the consent of the owner or occupant of the property is freely given, a search warrant is obtained or such exigent circumstances exist that a warrantless, non-consensual search is required.

(D) All animals of any age running at large, as defined in this chapter, and found in the county, may be picked up by Animal Control and impounded in the animal shelter. All animals of any age which have bitten or scratched a human being and which cannot be properly quarantined or found not properly quarantined may be picked up by Animal Control and impounded in the animal shelter for any applicable quarantine period. A Law Enforcement Officer or Animal Control Officer may order any animal which has bitten or scratched a human being to be quarantined at the animal shelter if the officer has reason to believe such animal is vicious or may pose a threat to the safety of the community. In the event an animal is impounded for a quarantine period, the owner shall be responsible for a reasonable fee for board, administration and medical attention during the impoundment.

(E) Any animal required to be licensed but found unlicensed or any animal, except cats, whose owner is unknown, shall be impounded for a minimum period of five days unless it is earlier claimed by its owner. If the animal is not claimed by its owner within five days of impoundment, the animal may then be offered for adoption or may be euthanized at the discretion of the Director of Animal Control. Any person claiming or reclaiming an animal pursuant to this section shall pay a reasonable fee for board, administration, and medical attention for the animal during impoundment and obtain proper licensing for such animal, if applicable, from Animal Control. Animal Control shall make reasonable efforts to locate and inform the owner of any animal that said animal has been impounded.

(F) Any cat impounded in the animal shelter shall be held for a minimum of three days unless it is earlier claimed by its owner. If the animal is not claimed by its owner within three days of impoundment, the animal may then be offered for adoption or may be euthanized at the discretion of the Director of Animal Control. Any person claiming or reclaiming an animal pursuant to this section shall pay a reasonable fee for board, administration and medical attention for such animal during impoundment.

(G) When any licensed animal or animal whose owner is known is impounded in the animal shelter, Animal Control shall notify the owner by certified mail, return receipt requested, within three business days of impoundment. If the certified mail is returned undeliverable, the animal shall be held a minimum of 14 days from the date of impoundment, before the animal may be adopted or euthanized at the discretion of the Director of Animal Control.

(H) The registered owner shall reclaim the animal within ten days of the receipt of notice of impoundment. Any licensed animal or animal whose owner is known which is not reclaimed by its owner within ten days of receipt of the notice of impoundment may then be offered for adoption or may be euthanized at the discretion of the Director of Animal Control. Any person claiming or reclaiming an animal pursuant to this section shall pay a reasonable fee for board, administration and medical attention during the impoundment.

(I) An Animal Control Officer may choose to issue a misdemeanor notice in lieu of a uniform citation. The misdemeanor notice will stipulate the violation(s) observed, associated fee and compliance date. The misdemeanor notice shall allow up to but not exceed seven days to correct the violation. Should the violation not be corrected within the allotted time, then the notice shall serve as a uniform citation and the violating party shall report to Boone County District Court at the designated court date and time. If the violation is serious in nature the Animal Control Officer may issue a uniform citation. All associated fees shall be paid to the Boone County Animal Shelter. Fifty percent of the violation fees shall be used to fund the Spay/Neuter Assistance Program.

(J) Any animal observed by a Law Enforcement Office or Animal Control Officer to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.

(K) In the event that any Law Enforcement Officer or Animal Control Officer witnesses a vicious animal, as defined, the animal may be impounded and the owner cited for violation of § 91.20(B) or § 91.21. If the owner is cited and the animal impounded, the animal shall remain in the custody of the animal shelter pending a decision by District Court, unless ownership is voluntarily relinquished to Animal Control.

(L) It shall be unlawful for any person or owner to interfere with, hinder, harass, or abuse an officer or individual authorized to enforce the provisions of this chapter.

(M) Any and all fees shall be set annually by the Director of Animal Control, including but not limited to animal related license, adoption, boarding, administration and violation fees.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

***Statutory reference:***

*Impounding, destruction of dogs; exemption of hunting dogs, see KRS 258.215*

## **§ 91.16 ADOPTION AND MANDATORY SPAY/NEUTER.**

(A) Prior to the adoption of any animal from the animal shelter an application must be completed by the person wishing to adopt the animal(s). The application is designed to determine the prospective owner's ability to care for the animal.

(B) Animal Control and the animal shelter are not obligated to sell or transfer possession of any animal in their custody.

(C) All dogs and cats adopted from the animal shelter or a licensed humane society must be surgically altered to prevent breeding. The surgical alteration must occur within 30 days after obtaining the dog or cat. If the animal is a puppy or kitten it must be surgically altered within 30 days after reaching five months of age. For the purpose of this section "obtained" does not include any animal reclaimed by its owner.

(Ord. 840.5, passed 2-28-95; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

## **§ 91.17 LICENSING AND REGISTRATION OF DOGS.**

(A) The owners of all dogs or those who harbor or maintain dogs in the county shall license and register their dog(s) with Animal Control, in accordance with this chapter and the Kentucky Revised Statutes. Licenses shall be issued by Animal Control at the animal shelter during regular operating hours. Upon payment, the owner shall be issued a certificate of registration and the license tag(s). Dog license tags must be attached to a collar and worn by the dog at all times.

(B) Any humane society which operates a fixed site in the county and takes in stray or unwanted animals shall apply for a license with Animal Control. The site shall be inspected prior to annual license renewal.

(Ord. 840.5, passed 2-28-95; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

### ***Statutory reference:***

*Dog licensure, see KRS 258.135, 258.145, 258.155*

*Dogs temporarily in state need not be licensed, see KRS 258.205*

## **§ 91.18 RABIES VACCINATION.**

(A) All dogs, cats and ferrets, four months of age and older, shall be vaccinated for rabies and re-vaccinated for rabies at the expiration of the immunization period as certified by a veterinarian.

(B) Any dog, cat or ferret reclaimed or adopted from the animal shelter must have a valid rabies vaccination. The purchase or issuance of a rabies voucher through the animal shelter shall constitute temporary compliance with this section until the expiration date of said voucher.

(Ord. 840.5, passed 2-28-95; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

### ***Statutory reference:***

*Rabies control, see KRS 258.005 - 258.090*

## **§ 91.19 HUMANE TREATMENT OF ANIMALS.**

(A) It shall be unlawful to abandon any animal.

(B) It shall be unlawful for any person to inhumanely treat any animal, including, but not limited to, the deprivation of necessities, beating, mutilating, torturing, killing, overloading, overworking, or otherwise abuse any animal. Nothing herein shall prevent Animal Control from humanely euthanizing any animal.

(C) It shall be unlawful for any person to exhibit, display or keep any animal without providing food, water, adequate shelter from the elements, adequate space, reasonable grooming, ventilation, shade from the sun, proper sanitation, care and medical attention.

(D) Any animal which is chained, tied or otherwise restrained shall be provided no less than ten feet of chain, rope, and the like



with a swivel attached to prevent entanglement. Any animal restrained in such a manner that the animal's chain, rope or the like allows the animal to leave its owner's or keeper's property shall be deemed running at large.

(E) It shall be unlawful for any person to keep an animal within the passenger compartment of an automobile without adequate ventilation in the summer or adequate warmth in the winter. No person shall enclose any animal in the trunk of an automobile. An Animal Control Officer or Law Enforcement Officer shall rescue any animal confined in such a manner.

(F) It shall be unlawful for any person to stage, cause, instigate, permit, observe, or attend any dog-fight, cock-fight, bull-fight, or other combat between animals or between animals and humans.

(G) It shall be unlawful for any person to set free any hare, rabbit or other animal for the purpose of violating any provision of this chapter.

(H) No performing animal exhibition, circus or horse show shall be permitted, in which the animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering. All equipment used on animals in such shows shall fit properly and be in good working order.

(I) No person(s) shall expose any poisonous substance, whether mixed with food or not, so that the same shall be likely to be eaten by an animal, provided that it shall not be unlawful for a person to expose on his own property, common rat poison, mixed only with vegetable substances.

(J) Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall immediately report the incident to Animal Control or any Law Enforcement Officer.

(K) No person(s) shall give away any live animal as a prize or for inducement to enter any contest, game or other competition or as an inducement to enter into any business agreement, whereby the offer was for the purpose of attracting the trade, except that it shall not be unlawful to give away small fish, not to exceed four inches, as a prize.

(L) It shall be unlawful for any person(s) to color, stain, dye or otherwise change the natural color of any live animal or to offer such colored animals for sale in the county, except that the mane and tail of an equine may be changed pursuant to accepted practices in showing the equine.

(M) It shall be unlawful to sell baby chicks, ducks or rabbits under the age of two months in quantities less than six.

(N) It shall be unlawful for any person to crop a dog's ears or tail, except a licensed veterinarian.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

***Statutory reference:***

*Cruelty and mistreatment of animals, see KRS 525.125, 525.130, and 525.135*

**§ 91.20 ANIMALS TO BE UNDER CONTROL.**

(A) It shall be unlawful for any person to permit any animal owned or harbored by him, to run at large. When livestock are running at large, Animal Control or the Law Enforcement Officer shall make reasonable efforts to notify the owner as soon as possible. If reasonably possible and feasible, the owner of the livestock shall be notified prior to the actual capture and impoundment of the livestock.

(B) It shall be unlawful to own or possess a vicious animal.

(C) It shall be unlawful to own or possess an animal that conducts itself in such a manner as to constitute a public nuisance.

(D) It shall be unlawful to allow a female dog to be exposed during estrus (in season, in heat) so as to attract male dogs. Every female that is in season (in heat, estrus) shall be confined in a building or secure enclosure in such a manner that such female dog cannot come in contact with a male dog except for planned breeding.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

***Statutory reference:***

*Confinement and control of dogs at night, see KRS 258.265*

## **§ 91.21 WILD AND EXOTIC ANIMALS.**

(A) It shall be unlawful to sell, own, harbor or keep as a pet any wild or exotic animal, not indigenous to the United States, except state and federal conservation officers, licensed nuisance wildlife officers, and licensed rehabilitators.

(B) It shall be unlawful to sell, own, harbor or keep as a pet any wild animal native to the United States, except state and federal conservation officers, licensed nuisance wildlife officers, and licensed rehabilitators.

(C) It shall be unlawful to sell, own, harbor or keep any venomous reptile.

(Ord. 840.5, passed 2-28-95; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

## **§ 91.22 HUMANE SOCIETIES; STANDARDS AND LICENSING.**

(A) All humane societies in the county shall be governed by the same standards as commercial animal establishments as set forth in §§ 91.35 et seq. of this chapter, and shall be subject to any ordinance pertaining to commercial animal establishments.

(B) Humane societies shall maintain records on each animal accepted or housed, noting the following:

- (1) Name and address of previous owner or person turning in the animal.
- (2) Date received.
- (3) Condition of the animal and any medical treatment.
- (4) Date of adoption, redemption or euthanization.
- (5) Name and address of new owner.
- (6) Verification of neutering.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

## **COMMERCIAL ANIMAL ESTABLISHMENTS**

### **§ 91.35 DEFINITION.**

In addition to the definitions provided in § 91.01 of this chapter, the following definition shall apply to the provisions of this subchapter, unless the context clearly indicates or requires a different meaning.

**OWNER** or **OPERATOR.** Any person, group of persons, partnership, or any entity owning or operating a commercial animal establishment.

(Ord. 840.4, passed 6-16-92)

### **§ 91.36 LICENSING PROVISIONS.**

(A) All commercial animal establishments shall obtain and maintain a valid commercial animal establishment license in order to operate a commercial animal establishment within the county.

(B) The commercial animal establishment licenses shall be issued by the Director of Animal Control.

(C) The commercial animal establishment license shall be valid for a period of one year, effective July 1 through June 30 of each year.

(D) The commercial animal establishment license shall be renewed annually.

(Ord. 840.4, passed 6-16-92; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

**Statutory reference:**

*Kennel licensure, see KRS 158.165, 258.185*

**§ 91.37 MINIMUM STANDARDS.**

(A) All commercial animal establishments shall provide an adequate environment for each animal which is compatible with the general health and welfare of the animal.

(B) All commercial animal establishments shall provide adequate space for each animal. Each cage or enclosure shall be large enough for the animal to stand, sit, lie and turn around without touching the walls or ceiling of the cage or enclosure, or another animal.

(C) All commercial animal establishments shall provide adequate sanitation. Each cage or enclosure shall be maintained as follows:

(1) Cages or enclosures containing dogs or cats, of any age, shall be cleaned with hot water, disinfectant and detergent daily (including holidays), or more if conditions require additional cleaning or disinfecting to keep animals out of contact with feces or urine. Litter boxes shall be cleaned daily (including holidays) and the litter changed as needed.

(2) Cages or enclosures containing birds shall contain a perch and shall be cleaned with hot water and disinfectant at least twice weekly or more if conditions require additional cleaning.

(3) Cages or enclosures containing small animals shall be cleaned with hot water and disinfectant at least twice weekly or more if conditions require additional cleaning.

(D) All commercial animal establishments shall provide adequate nourishment and water for each animal as follows:

(1) Each animal shall be given fresh food and water daily, including holidays.

(2) Soft food shall be available to those animals unable to chew standard dry food.

(3) Potable water shall be available to each animal at all times.

(4) Food and water containers shall be washed and disinfected daily.

(E) All commercial animal establishments shall provide proper medical treatment from a veterinarian for sick or injured animals.

(F) All commercial animal establishments shall provide an adequate room (cage) temperature for the general health and welfare of the animal.

(G) All commercial animal establishments shall provide for general cleanliness of the establishment, and shall not permit an insect or rodent infestation.

(Ord. 840.4, passed 6-16-92; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

**§ 91.38 INSPECTIONS.**

The Director of Animal Control or any Animal Control Officer shall be permitted and empowered to make an inspection of any commercial animal establishment within the county, and shall further be permitted to take photographs of commercial animal establishment during the inspection. The inspection shall take place upon the verbal request of the Director of Animal Control or any Animal Control Officer, during regular business hours of the commercial animal establishment.

(Ord. 840.4, passed 6-16-92; Am. Ord. 03-13, passed 5-20-03) Penalty, see § 91.99

**§ 91.39 LICENSE REVOCATION.**

The Director of Animal Control may revoke any license issued under § 91.17(B) or § 91.36. Grounds for such revocation include,

but are not limited to, conviction pursuant to any violation of this chapter or conviction pursuant to any related state or federal law. Failure to adhere to the standards set forth in this chapter or failure to permit the Department of Animal Control to inspect any establishment, business, or person regulated by this chapter during regular business hours shall be grounds for revocation of any said license. License revocation notices shall be in writing, specify the number of days for animal removal, not to exceed 7 days, and shall state the grounds therefor. Any person who receives such license revocation notice issued pursuant to this section may appeal such notice to the Animal Shelter Advisory Board within 10 days following the receipt of such notice. Any such appeal shall be in writing, shall state the grounds therefor and shall be signed by the person bringing the appeal or his or her authorized representative. Failure to file a timely appeal to a license revocation notice shall result in license revocation. A hearing for an appeal shall be held within 30 days of receipt of the notice of appeal before the Animal Shelter Advisory Board, which shall be the sole arbiter of the appeal.

(Ord. 03-13, passed 5-20-03)

### **§ 91.99 PENALTY.**

(A) Any person violating any section(s) of this chapter shall be deemed guilty of a Class A misdemeanor as defined by Kentucky Revised Statutes in accordance with the specific penalties set below. Each day that a violation occurs shall constitute a separate violation, unless the context clearly indicates otherwise.

(B) The penalty for a violation of § 91.02 shall be fined not less than \$10 nor more than \$100 for each occurrence. Each occurrence shall be deemed to be a separate offense which may be charged and penalized hereunder.

(Ord. 620.9, passed 9-24-91)

(C) Any person failing to comply with the mandatory spay/neuter requirements of § 91.16 of this chapter shall:

(1) For the first offense either show the court proof from a licensed veterinarian that the surgical procedure has been performed or be ordered by the court to surrender the animal to Animal Control without a refund of adoption fees, and be fined a sum not less than \$10 nor more than \$100.

(2) For the second offense immediately surrender the animal to Animal Control without a refund of adoption fees, and be fined not less than \$50 nor more than \$100.

(D) Any person failing to comply with the licensing requirements of §§ 91.17, 91.22 and 91.36 or the vaccination requirements of § 91.18 of this chapter shall on a first offense be fined not less than \$10 nor more than \$100; on a second or subsequent offense shall be fined not less than \$50 nor more than \$100.

(E) Any person violating any provision of § 91.19 of this chapter relating to the humane treatment of animals shall be fined a sum not to exceed \$100, or be sentenced to not less than five and up to 60 days in the county jail, or both.

(F) Any person violating § 91.20(A), (C) and (D) of this chapter shall on the first offense be fined not less than \$25 nor more than \$100; on the second or subsequent offense shall be fined not less than \$50 nor more than \$100.

(G) Any livestock owner who violates § 91.20(A) of this chapter shall on the first offense be fined not less than \$50 nor more than \$100 and be required to reimburse the county for all reasonable expenses incurred in capturing, impounding, boarding, and providing necessary medical services to the livestock.

(H) Upon conviction under § 91.20(B) of this chapter relating to possession of a vicious animal, the penalty shall be a fine of not less than \$50 nor more than \$200, or not less than ten and up to 60 days in the county jail or both. In addition the court shall order one of the following:

(1) That the following regulations be followed as a condition of the owner retaining ownership of the animal:

(a) The vicious animal shall be neutered, microchip implanted for identification purposes and registered with Animal Control.

(b) The vicious animal shall be confined in an enclosure constructed of an uncovered fence or structure of at least seven feet in height with anti-climbers or a covered structure of sufficient height to allow the animal to stand erect without touching the top or cover. All such enclosures shall be designed to prevent the entry of small children and shall be suitable to confine the vicious animal. Such enclosures shall be securely closed and locked, and shall be designed to prevent the animal from digging out or otherwise escaping from the enclosure.

(c) The enclosure shall display a sign warning of the vicious animal and shall be visible from the public roadway or public

access if applicable.

(d) The vicious animal shall not be permitted outside of the dwelling of its owner or outside of the enclosure unless it is necessary to obtain veterinary care or under the direction of Animal Control. If the vicious animal must be allowed outside the permitted areas, it shall be under the direct control and supervision of its owner or keeper and shall be muzzled and restrained with a lead or leash not to exceed three feet in length, or placed in a secure animal carrier.

(e) The owner or keeper of a vicious animal shall immediately notify Animal Control if the animal is loose, unconfined, has attacked an animal or human being, or is deceased.

(2) In the alternative to division (H)(1) above, the court may order that the animal be immediately surrendered to Animal Control to be euthanized.

(I) Upon a conviction of a second or subsequent offense under § 91.20(B) of this chapter relating to possession of a vicious animal, the penalty shall be a fine of not less than \$50 nor more than \$200, or not less than ten and up to 60 days in the county jail, or both; and if the violation involves the same animal, the court shall order the animal immediately surrendered to Animal Control to be euthanized.

(J) Any person violating the provisions of § 91.21 of this chapter relating to wild and exotic animals shall on the first offense be fined not less than \$25 nor more than \$100 for each such animal; on the second or subsequent offense shall be fined not less than \$50 nor more than \$100. Upon conviction of a first offense for each such animal, the Department of Animal Control shall take possession of said animal.

(Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96)

(K) Any humane society which fails to comply with the requirements of § 91.22 shall for the first offense be fined not less than \$25 nor more than \$100; on the second or subsequent offense shall be fined not less than \$50 nor more than \$100. In addition to the fine, the fourth offense shall result in permanent license revocation.

(Ord. 840.4, passed 6-16-92; Am. Ord. 840.5, passed 2-28-95; Am. Ord. 07-96-02, passed 7-30-96)

(L) Any person violating § 91.15(L) of this chapter, relating to interference of duty, on the first offense shall be fined not less than \$50 nor more than \$100, or sentenced not less than five and up to 30 days in the county jail, or both; on a second or subsequent offense shall be fined not less than \$60 nor more than \$100, or sentenced not less than five and up to 60 days in the county jail, or both.

(M) Any commercial animal establishment violating § 91.37 or § 91.38 of this chapter shall on the first offense be fined not less than \$50 nor more than \$100.

(Am. Ord. 03-13, passed 5-20-03; Am. Ord. 08-10, passed 6-6-08)

## CHAPTER 92: DISCARDED ITEMS

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### Section

- 92.01 Definition
- 92.02 Discarded items on person's own property prohibited
- 92.03 Discarding items on property of another prohibited
- 92.04 Authority of county to remove discarded items; lien
- 92.99 Penalty

### ***Cross-reference:***

*Importing waste, see §§ 50.120 - 124*

*Nuisances, see Ch. 93*

### **§ 92.01 DEFINITION.**

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

**DISCARDED ITEMS.** This term includes, but is not limited to, items for or used in recycling, motor vehicles, auto body parts, tires, boats, home appliances and furniture in a dilapidated or apparently inoperable condition and left in open storage or discarded on private property for more than three consecutive days. This definition shall not apply to the following:

- (1) Any discarded item or part thereof which is enclosed within a building, such as a garage or other fully enclosed accessory building.
- (2) Any discarded item not visible from an adjacent or abutting property owner, street, road, or public park.
- (3) Any discarded item stored on private property in a lawful manner in connection with the licensed business of auto body, auto repair, dismantler, vehicle dealer, and junk or salvage yard, provided that outside storage of discarded items be within a privacy fence or dumpster area and not on the grass, or yard.
- (4) The preceding exceptions shall not authorize the maintenance of a public or private nuisance as defined by law.

(Ord. 1010.14, passed 8-29-95)

### **§ 92.02 DISCARDED ITEMS ON PERSON'S OWN PROPERTY PROHIBITED.**

(A) The Fiscal Court finds that the practice of some property owners within the unincorporated areas of the county of allowing discarded items to remain on their property, constitutes a detriment of the welfare and convenience of the residents of the county, and affects the economic development of the county. Therefore, it is the public policy of this county to prohibit the keeping of discarded items on private property within the unincorporated limits of the county, and such discarded items are hereby declared to be public nuisances.

(B) Any law enforcement officer, including the County Code Enforcement Officer or his or her designee, who knows, sees or otherwise has knowledge that a property owner has allowed a discarded item(s) to remain on his or her property in violation of this chapter, shall issue a citation to such person ordering him to appear before the District Court.

(Ord. 1010.14, passed 8-29-95) Penalty, see § 92.99

### **§ 92.03 DISCARDING ITEMS ON PROPERTY OF ANOTHER PROHIBITED.**

No person shall place, leave, deposit or otherwise undertake to dispose of any discarded item upon any private property or upon any public property or right-of-way within the county. Any person whose property lies within the unincorporated areas of the county may file a complaint.

(Ord. 1010.14, passed 8-29-95) Penalty, see § 92.99

### **§ 92.04 AUTHORITY OF COUNTY TO REMOVE DISCARDED ITEMS; LIEN.**

(A) If, after a finding by the District Court that any person is in violation of this chapter, the county, through its enforcement officers, shall issue to the person by certified mail an order to remove or properly store the discarded items. The order shall allow the property owner 10 days to remove or properly store the discarded items. The 10-day period shall commence with the mailing of the order. Removal or proper storage of the discarded items will be at the property owners expense.

(B) If, after the 10-day period has expired the discarded items have not been removed or properly stored, and the District Court order has not been appealed, then the county shall have the authority to enter upon the property and remove any and all discarded items. The cost to the county of removing the discarded items shall be at the property owner's expense. The county shall bill the property owner for the costs, and the property owner shall have 10 days to pay in full. The 10-day period shall commence with the date of the billing. If the bill is not paid within 10 days, the county may at its option place a lien on the real property with the County Clerk, for the actual cost of removal of the discarded items. The lien shall bear interest at the rate of 10% per annum, and shall be enforceable as a real property lien under Kentucky law, including foreclosure for collection on the lien.

(Ord. 1010.14, passed 8-29-95)

## § 92.99 PENALTY.

(A) Any person who violates the provisions of § 92.02 of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$100 nor more than \$500 or imprisoned for up to three days in the County Jail or both fine and imprisonment, and each day that a violation occurs shall constitute a separate offense. The fine or imprisonment or portion thereof may be probated or conditionally discharged should continued monitoring or review be deemed necessary.

(B) Any person who violates the provisions of § 92.03 of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$250 nor more than \$500 or imprisoned for up to three days in the County Jail or both fine and imprisonment, and each day that a violation occurs shall constitute a separate offense. The fine or imprisonment or portion thereof may be probated or conditionally discharged should continued monitoring or review be deemed necessary.

(Ord. 1010.14, passed 8-29-95)

## CHAPTER 93: NUISANCES

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Section

### *Weeds and Grass*

- 93.01 Unsightly vegetation prohibited
- 93.02 Inspections by Code Enforcement Officer
- 93.03 Notice of violation; abatement procedure; lien for costs

### *Suits Against Agricultural Operations; Procedure*

- 93.20 Definitions
- 93.21 Pre-existing agricultural operations
- 93.22 Water pollution
- 93.23 Precedence
- 93.24 Dispute resolution; Grievance Committee

### *Off-Road Use of All-Terrain Vehicle, Dirt Bike or Motorcycle*

- 93.30 Definitions
- 93.31 Prohibitions
- 93.32 Duty of complaining party
- 93.33 Violations
- 93.34 Enforcement
- 93.35 Nonviolations
- 93.99 Penalty

### *Statutory reference:*

*Private nuisance, see KRS 411.500 - 411.570*

## WEEDS AND GRASS

### **§ 93.01 UNSIGHTLY VEGETATION PROHIBITED.**

It shall be unlawful for any person, corporation, or other entity, owning any lot of land not used for agricultural purposes located in a populated area of the county to permit, by failure to mow, grass and/or weeds to become unsightly or a detriment to the health and welfare of the inhabitants of the county. It shall be a violation of this chapter for a property owner to allow the height of the vegetation to reach eight inches in height.

(Ord. 1010.12, passed 11-22-94) Penalty, see § 93.99

### **§ 93.02 INSPECTIONS BY CODE ENFORCEMENT OFFICER.**

The County Code Enforcement Officer shall be responsible for inspections relating to this chapter, and is hereby empowered to cite violations of this chapter.

(Ord. 1010.12, passed 11-22-94)

### **§ 93.03 NOTICE OF VIOLATION; ABATEMENT PROCEDURE; LIEN FOR COSTS.**

(A) After a violation of this chapter is found to exist, the Code Enforcement Officer shall issue, along with the citation, a written notice to the land owner advising of the violation and requiring that the unsightly vegetation be removed within five days of the date of the violation notice.

(B) The property owner may request an additional three days (for a total of eight days) to comply, by contacting the Code Enforcement Officer within the five-day period.

(C) If the five or extended eight-day period expires and the property owner has failed to comply with this chapter, then the county is hereby empowered to enter upon private property to cut and remove vegetation which is not in compliance with this chapter. The county shall cause a bill to be issued to the property owner for the county's expense of cutting and removing the vegetation. The property owner shall be informed that the bill must be paid in 10 days. If the bill is not paid within 10 days, the county may place a lien upon the land with the County Clerk, and may foreclose upon the property.

(Ord. 1010.12, passed 11-22-94)

#### ***Statutory reference:***

*Abatement of nuisances; procedure, see KRS 381.770*

## **SUITS AGAINST AGRICULTURAL OPERATIONS; PROCEDURE**

### **§ 93.20 DEFINITIONS.**

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

**AGRICULTURAL LAND.** All real property within the boundaries of the county, used for agricultural operations.

**AGRICULTURAL OPERATION.** Any facility for the production of crops, livestock, poultry, livestock products, and poultry products, including horticultural and growing of timber, and all activities necessarily related thereto or pertinent to the proper operation of the facility, but excluding any facility for the production and/or maintenance of canine or feline animals or any kennel operation.

**PERSON.** Individuals as well as corporations, partnerships, firms and trusts.

(Ord. 1010.16, passed 2-13-96)

### **§ 93.21 PRE-EXISTING AGRICULTURAL OPERATIONS.**



No agricultural operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality thereof after the same has been in operation or existence prior to the changed condition, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this section shall not apply whenever a nuisance results from the negligent operation of any such agricultural operation or its appurtenances.

(Ord. 1010.16, passed 2-13-96)

### **§ 93.22 WATER POLLUTION.**

The provisions of this subchapter shall not affect the right of any person, firm or corporation to recover damages for any injuries or damage sustained by them on account of pollution of the waters of any stream by any person, firm or corporation.

(Ord. 1010.16, passed 2-13-96)

### **§ 93.23 PRECEDENCE.**

This subchapter takes precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith, and to the extent they do conflict with this subchapter, they are hereby repealed with respect to the conflict and no more, provided however, that the provisions of this section shall not apply whenever a nuisance results from the negligent operation of any such agricultural operation or any of its appurtenances.

(Ord. 1010.16, passed 2-13-96)

### **§ 93.24 DISPUTE RESOLUTION; GRIEVANCE COMMITTEE.**

(A) If any person who resides adjacent or proximate to an agricultural operation believes that an agricultural operation has caused or is causing a nuisance from agricultural operations, including, but not limited to, noises, odors, fumes, dust, the operation of machinery of any kind during any 24 hour period, the storage and disposal of manure, or the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, or other similar activities so as to be maintaining or conducting the operation in a manner not substantially consistent with proper and accepted customs and standards, then the person may submit the matter to a grievance committee as set forth below in an attempt to resolve the matter prior to the filing of any formal legal action.

(B) Any dispute arising under division (A) above may be submitted to a grievance committee, whose decision shall be advisory only, within 30 days of the date of the occurrence of the particular activity first giving rise to the controversy, or of the date a party became aware of the occurrence.

(C) The grievance committee shall be composed of five members. Those members shall be:

- (1) One designee appointed by the County Judge/Executive;
- (2) The county Extension Agent for Agriculture;
- (3) The Director of the county Planning and Zoning Commission;
- (4) The President of the county Farm Bureau;
- (5) The President of the Northern Kentucky Home Builders Association.

(D) Each of the persons listed in division (C) may appoint someone to serve on the committee in their place.

(E) The parties shall cooperate in the exchange of pertinent information concerning the dispute.

(F) The grievance committee shall investigate the facts of the dispute and shall, within 30 days of the initial request, hold a meeting to consider the merits of the matter and within 20 days of the meeting, render a written decision to the parties. At the time of the meeting, each party shall have an opportunity to present material and relevant or pertinent facts.

(Ord. 1010.16, passed 2-13-96)

**§ 93.30 DEFINITIONS.**

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

***ALL-TERRAIN VEHICLES.*** Shall have the same meaning provided under KRS 189.010, which is any motor vehicle used for recreational off-road use.

***DIRT BIKE.*** Shall have the same meaning provided under KRS 189.010, which is any motorcycle registered and manufactured for recreational off-road use only.

***EXCESSIVE NOISE.*** Noise generated from the off-road use of all terrain vehicles, dirt bikes and/or motorcycles that is determined by local law enforcement to be a public nuisance on at least two or more separate occasions.

***HIGHLY POPULATED RESIDENTIAL PROPERTIES.*** Any properties devoted primarily to residential use consisting of at least ten adjoining parcels on which there exists at least one residence per acre.

***MOTORCYCLE.*** The word "motorcycle(s)" shall have the same meaning provided under KRS 189.285, which is any motor driven vehicles having a seat or saddle for the operator and designed to travel on not more than three wheels.

(Ord. 07-22, passed 9-18-07)

**§ 93.31 PROHIBITIONS.**

It shall be unlawful for any person, firm or corporation to engage in the off-road use of all terrain vehicles, dirt bikes and/or motorcycles on property abutting highly populated residential properties which creates a public nuisance due to excessive noise or the spread of dust.

(Ord. 07-22, passed 9-18-07) Penalty, see § 93.99

**§ 93.32 DUTY OF COMPLAINING PARTY.**

Any person who believes to be aggrieved by a public nuisance associated with the off-road use of all terrain vehicles, dirt bikes and/or motorcycles must first contact or attempt to contact the property owner on whose property the public nuisance is arising to attempt to resolve the matter.

(Ord. 07-22, passed 9-18-07)

**§ 93.33 VIOLATIONS.**

If the contact or attempted contact with offending property owner as prescribed under § 93.32 does not alleviate the public nuisance, the complaining party shall contact local law enforcement. Local law enforcement shall then determine whether a public nuisance exists based on its own observations.

(Ord. 07-22, passed 9-18-07)

**§ 93.34 ENFORCEMENT.**

If local law enforcement determines that a public nuisance exists due to excessive noise or dust, the offender shall be given a warning of violation. Any subsequent violation by the same offender shall warrant a citation for a misdemeanor violation. Each separate violation following the initial warning shall constitute a separate misdemeanor offense. See § 93.99 for penalties.

(Ord. 07-22, passed 9-18-07)

## **§ 93.35 NONVIOLATIONS.**

No provisions contained in this chapter shall regulate or prohibit the use of all terrain vehicles, dirt bikes and/or motorcycles on the highways or roads located in the county. Nor shall any provision contained in this chapter regulate the utilitarian use of all terrain vehicles, dirt bikes and/or motorcycles and no public nuisance shall be determined to arise from said utilitarian use.

(Ord. 07-22, passed 9-18-07)

## **§ 93.99 PENALTY.**

Any person, corporation, or other entity found to have violated the provisions of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$50 nor more than \$500. Each day that a violation exists shall constitute a separate offense.

(Ord. 1010.12, passed 11-22-94)

## **CHAPTER 94: FIRE PREVENTION AND PROTECTION**

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Section

### *General Provisions*

94.01 Open burning ban during periods of extreme fire hazard

### *Maintenance of Access to Fire Hydrants*

94.15 Obstructions unlawful

94.16 Written notification of obstruction

94.17 Complaint; Fire Department to remove obstruction

### *Open Burning*

94.30 Definition

94.31 Notice required

94.32 Form of notice

94.33 Enforcement

94.99 Penalty

## **GENERAL PROVISIONS**

### **§ 94.01 OPEN BURNING BAN DURING PERIODS OF EXTREME FIRE HAZARD.**

(A) The Judge-Executive, or his/her designee shall be authorized to enact by executive order a ban on all open burning in the unincorporated areas of the county, either when he/she determines that a major fire hazard exists or when notified by the Kentucky Division of Forestry, advising that such a hazard exists.

(B) No person shall be allowed to participate in open burning in the unincorporated areas of the county upon the signing of an executive order provided for in division (A).

(C) These open burning provisions shall be enforceable by all sworn peace officers of the county and all persons thus offending shall be referred to the County Attorney for prosecution pursuant to KRS 149.401.

(Ord. 310.04, passed 1-6-87) Penalty, see § 94.99

## MAINTENANCE OF ACCESS TO FIRE HYDRANTS

### § 94.15 OBSTRUCTIONS UNLAWFUL.

There shall be no obstruction, including, but not limited to landscaping, overgrowth, walls and fences placed or permitted within a 10 foot radius of any fire hydrant.

(Ord. 110.4, passed 4-29-95) Penalty, see § 94.99

#### *Cross-reference:*

*Water, see §§ 52.01 et seq.*

### § 94.16 WRITTEN NOTIFICATION OF OBSTRUCTION.

Any person who creates an obstruction of clear access to a fire hydrant shall be notified in writing by the Fire Chief of the locality in which such hydrant is located or his appointed designee. This notice shall advise of the violation and provide the person with 10 days to remove the obstruction.

(Ord. 110.4, passed 4-29-95)

### § 94.17 COMPLAINT; FIRE DEPARTMENT TO REMOVE OBSTRUCTION.

If after 10 days the obstruction is not removed from within 10 feet of the fire hydrant then the person is in violation of this subchapter, and the Fire Chief or his designee may file a complaint. If it is determined by the District Court that this subchapter has been violated, and there is no appeal, then the Fire Chief is authorized to order his Fire Department to remove the obstruction and ensure clear access to the fire hydrant.

(Ord. 110.4, passed 4-29-95)

## OPEN BURNING

### § 94.30 DEFINITION.

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

**OPEN BURNING.** Any fire which purpose is to burn vegetation or debris as a result of excavation, or debris as a result of a construction project. However, the term shall not include fires which may be set for the purpose of burning plant beds.

(Ord. 310.05, passed 1-9-96)

### § 94.31 NOTICE REQUIRED.

Any person, corporation or other entity desiring to engage in open burning on property shall give notice to the public by posting two signs of their intent to set a fire. Additionally, any person, corporation or other entity desiring to engage in open burning on property shall give notice to the local fire department by telephonic or verbal communication to the Fire Chief or his designee prior to engaging in the open burning.

(Ord. 310.05, passed 1-9-96) Penalty, see § 94.99

### § 94.32 FORM OF NOTICE.

(A) The notice shall be posted in two prominent and conspicuous locations on the property with the objective of placing the notices in such a manner and location as to alert surrounding residents.

(B) Posting shall be as follows:

(1) Signs constructed of durable material which state "Open Burning," and the time and date of said burning. All lettering and numbering on signs shall be at least three inches in height.

(2) The signs shall be posted for a time period beginning at least 24 hours prior to the open burning until the fire is extinguished.

(Ord. 310.05, passed 1-9-96) Penalty, see § 94.99

### **§ 94.33 ENFORCEMENT.**

This subchapter shall be enforceable by all sworn peace officers of the county.

(Ord. 310.05, passed 1-9-96)

### **§ 94.99 PENALTY.**

(A) Any person who violates § 94.01 of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$5 nor more than \$500 for each and every offense.

(Ord. 310.04, passed 1-6-87)

(B) Any person or entity who violates any provision of §§ 94.15 through 94.17 shall upon conviction be deemed guilty of a misdemeanor and fined not less than \$10 nor more than \$500 for each conviction. Each day that such violation exists shall constitute a separate offense. In addition a person convicted of violating §§ 94.15 through 94.17 shall be required to pay the costs incurred by the local Fire Department in removing the obstruction.

(Ord. 110.4, passed 4-29-95)

(C) Any person, corporation of other entity who violates §§ 94.30 through 94.33 shall be fined not less than \$25, nor more than \$500 for each and every offense.

(Ord. 310.05, passed 1-9-96)

## **CHAPTER 95: HAZARDOUS MATERIALS**

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Section

### ***General Provisions***

- 95.01 Purpose
- 95.02 Applicability
- 95.03 Definitions
- 95.04 Determination of reportable quantities
- 95.05 Permit required for release
- 95.06 Notice to Public Safety Communications Center
- 95.07 Administering agency
- 95.08 Response authority
- 95.09 Liability for costs

- 95.10 Authorized release
- 95.11 Contractual indemnification; subrogation
- 95.12 Inspections
- 95.13 Confidential information and trade secrets
- 95.14 Enforcement; notice of violation
- 95.15 Disclaimer of liability

#### ***Release Prevention and Control Plan***

- 95.25 Persons required to submit and maintain HMPC Plan; exemptions
- 95.26 Elements of HMPC Plans
- 95.27 Submittal of plan; deadline; extension of time
- 95.28 Review and approval of plan
- 95.29 Appeal of decision; public hearing
- 95.30 Modifications to plan
- 95.31 Training and educational programs
- 95.32 Fees for HMPC Plan review or approval

#### ***Kentucky Fire Prevention Code***

- 95.40 Adoption of the Kentucky Fire Prevention Code (Standards of Safety)
- 95.41 Designated enforcement agent/agencies
- 95.42 Permits and fees
- 95.43 Appeal process
- 95.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 95.01 PURPOSE.**

This chapter is adopted by the Fiscal Court for the purpose of protecting public health and safety in the county through prevention and control of hazardous materials incidents and releases, requiring the timely reporting of releases of hazardous materials to appropriate local public safety and emergency agencies and requiring payment by parties responsible for hazardous materials of all expenses incurred by public safety and emergency agencies in responding to such hazardous materials releases.

(Ord. 340.8, passed 8-29-95)

#### **§ 95.02 APPLICABILITY.**

Pursuant to authority of KRS 67.083(7), the provisions of this chapter shall apply to all persons who manufacture, use, store, or transport hazardous materials prescribed by this chapter and as defined herein within the entire area of the county, including all incorporated and unincorporated areas thereof.

(Ord. 340.8, passed 8-29-95)

## § 95.03 DEFINITIONS.

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

**AUTHORIZED RELEASE.** A release of hazardous materials in accordance with an appropriate permit granted by a state or federal agency having primary jurisdiction over such release.

**CONSUMER PRODUCT.** This term shall have the same meaning as stated in 15 USC 2052.

**COSTS.** All expenses incurred by local government and/or local emergency response organizations regardless of whether or not the agencies are publicly or privately owned in responding to any hazardous materials spill, leak or other release into the environment and for any remedial or removal actions taken to protect and safeguard the public health and safety, property or the environment. This term includes, but is not limited to, costs incurred for personnel, equipment and the use thereof, materials, supplies, services, lost wages of volunteer personnel, damage or loss of equipment, both organization and personal, and related expenses resulting directly from response to a release or threatened release of a hazardous material.

**EMPLOYEE.** Any person who works, with or without compensation, in a workplace.

**EMPLOYER.** Any person, firm, corporation, partnership, association, government agency, or other entity engaged in a business or providing services which has employees.

**ENVIRONMENT.** The navigable waters of the United States and any other surface water, ground water, drinking water supply, soil surface, subsurface strata, storm sewer or publicly owned sanitary sewer or treatment works (other than those handling only wastewater generated at a facility) within the county. The terms shall include air only for purposes of reporting releases pursuant to the further provisions of this chapter.

**FACILITY.** Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock, or aircraft; or any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed or otherwise come to be located. Consumer products in consumer use and vessels are not included.

**HAZARDOUS MATERIALS.** Any element, compound, substance or material or any combination thereof which are toxic, flammable, explosive, corrosive, radioactive, oxidizers, etiological agents, carcinogenic, or are highly reactive when mixed with other substances, including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 USCA 1801, et seq.) or is listed by Appendix A, 40 CFR 302, "List of Hazardous Materials and Reportable Quantities," as amended, published by the U.S. Environmental Protection Agency (EPA), a copy of which said list is attached as Appendix A hereto and herein incorporated by reference the same as if set out at length herein in words and figures, in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

**NORMAL APPLICATION OF PESTICIDES.** Application pursuant to the label directions for application of a pesticide product registered under § 30 or § 24 of the Federal Insecticides, Fungicide, and Rodenticide Act (FIRA) as amended (7 USC 135 et seq.), or pursuant to the terms and conditions of an experimental use permit issued under § 5 of FIRA, or pursuant to an exemption granted under § 18 of FIRA.

**OIL.** Oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

**RELEASE.** Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous materials or any constituent thereof may enter the environment. The term shall not apply to with respect to a claim which persons may assert against the employer of persons as provided by CERCLA regulations; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or a pipeline station pumping engine; and the normal application of fertilizers and pesticides.

**PERSON.** Any individual, business, firm, partnership, corporation, consortium, association, trust, joint stock company, cooperative, joint venture, city, county, city or county special district, the state or any department, agency or political subdivision thereof, the United States Government, or any other commercial or legal entity.

**REMEDIAL ACTION.** Any action consistent with permanent remedy taken instead of or in addition to any removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous

materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay (or other earth) cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, on site treatment or incineration provision of alternative water supplies, and any monitoring reasonably required to assure that actions protect public health and welfare and the environment.

**REMOVAL.** The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threatened release of hazardous materials, the disposal of removed material, or the taking of such actions as may be necessary to prevent, minimize, or mitigate damage to public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation, reception and care of threatened persons, diking of fuel storage tanks.

**REPORTABLE QUANTITY.** That quantity as set forth in § 95.04 of this chapter, or such quantity as deemed appropriate by the Kentucky Emergency Response Commission or the Northern Kentucky Emergency Planning Committee.

**RESPONSE.** Any remedial or removal actions, including, but not limited to, response by local public safety and emergency agencies and subsequent actions taken to insure the preservation and protection of the public health, safety, welfare and the environment.

**STORE.** To deposit or place a substance in the county for a period of 10 days or more provided such substance is not otherwise in transit.

**USE.** To store, maintain, treat, process, handle, generate, dispose of, or otherwise manage. **USE** shall not include any mode of transportation other than on-site transportation.

**VESSEL.** Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(Ord. 340.8, passed 8-29-95)

## **§ 95.04 DETERMINATION OF REPORTABLE QUANTITIES.**

(A) *Listed hazardous materials.* The quantity appearing in column "RQ" for each hazardous material listed by Appendix A, "List of Hazardous Materials and Reportable Quantities," 40 CFR 302, as amended, published by the U.S. Environmental Protection Agency (EPA) shall be the reportable quantity for that material, or as required by the State Emergency Response Commission or the Northern Kentucky Emergency Planning Committee.

(B) *Unlisted hazardous materials.* Unlisted hazardous wastes designated as hazardous materials have the reportable quantity of 10 pounds, except for those unlisted hazardous wastes exhibiting the characteristics of EP toxicity identified in 40 CFR 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in Appendix A to 40 CFR 302, as amended, for the contaminant on which the characteristics of EP toxicity is based. If an unlisted hazardous waste exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed by Appendix A to 40 CFR 302, as amended, for those contaminants. If an unlisted hazardous waste exhibits the characteristics of EP toxicity and one or more of the other characteristics, the reportable quantity shall be the lowest of the applicable reportable quantities.

(C) Oil.

(1) The reportable quantity for releases of oil to waters of the United States or adjoining shorelines is any quantity which violates applicable water quantity standards or causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

(2) The reportable quantity for releases of oil to the environment other than releases to waters of the United States and adjoining shorelines is 10 gallons.

(3) Notwithstanding any other provision of this section, a release of oil from a properly functioning vessel engine shall not be deemed to be in a reportable quantity; however, this provision shall not be applicable to oil accumulated in a vessel's bilges.

(D) *Higher reportable quantity.* Notwithstanding any other provision of this section, the administering agency, after review of the "Boone County Hazardous Materials Use and Spill Prevention Control Plan" (HMPC) required to be submitted pursuant to the further provisions of this chapter, may designate a reportable quantity for a hazardous material in excess of the quantity determined



under this section if the administering agency determines that the higher reportable quantity is consistent with the purposes and objectives of this chapter.

(E) *Releases to sanitary sewer system.* Notwithstanding any other provision of this section, any release of a hazardous material to a sanitary sewer system which is prohibited under applicable pretreatment or other regulations of any sanitation district operating within the county governing discharges to the sanitary sewer system shall be deemed to be discharged in reportable quantities.

(F) *Component hazardous materials release.* A release of a mixture or solution of which a hazardous material is a component shall be considered to be a release in a reportable quantity only where the component hazardous material of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

(Ord. 340.8, passed 8-29-95)

### **§ 95.05 PERMIT REQUIRED FOR RELEASE.**

No person shall cause, threaten or allow the release of a hazardous material into the environment within the territorial boundaries of the county unless the release is an authorized release in accordance with an appropriate permit granted by that agency of state or federal government which has primary jurisdiction over the release and the release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

(Ord. 340.8, passed 8-29-95) Penalty, see § 95.99

### **§ 95.06 NOTICE TO PUBLIC SAFETY COMMUNICATIONS CENTER.**

(A) *Notice upon discovery.* When a release or a threatened release, other than an authorized release, of a hazardous material in a quantity equal to or exceeding the reportable quantity hereinbefore established for such material occurs or is imminent on any facilities of any kind within the county, the person in charge of the facilities, upon discovery of the release or threatened release, or evidence that a release has occurred even though it has apparently been controlled, shall immediately cause notice of the existence of the release or threatened release, the circumstances of same, and the location thereof to the Public Safety Communications Center.

(B) *Emergency telephone number.* The notice required to be given by this section in the county may be given by telephoning "371-1234" (or by telephoning 911). This one call will meet the requirements for notification of local agencies and, to the extent permitted by existing or future agreement, will provide notice to appropriate agencies of the Commonwealth of Kentucky, including, but not limited to, the Cabinet for Natural Resources and Environmental Protection, the Office of the State Fire Marshal in the Department of Housing, Buildings and Construction in the Cabinet for Public Protection and Regulation, and the Division of Disaster and Emergency Services in the Department of Military Affairs, when directed by the Emergency Management Office of the county.

(C) *Duty to control releases.* The notice required to be given by this section shall not be construed as forbidding or otherwise exempting any person on or about the facilities from exercising all diligence necessary to control the release prior to or subsequent to the notice to the Public Safety Communications Center, especially if the efforts may result in the containment of the release and/or the abatement of extreme hazard to the employees or the general public. Delays in reporting due to any in-house requirement for notification to off site owners/supervisors shall not be acceptable as reason for delay in notification required by this section, and any such delay may result in penalties.

(D) *Duty to report to other agencies.* No statement contained in this section shall be construed to exempt or release any person from any other notification or reporting procedures in accordance with applicable state or federal laws or regulations.

(Ord. 340.8, passed 8-29-95) Penalty, see § 95.99

### **§ 95.07 ADMINISTERING AGENCY.**

The purpose of this chapter is to establish a uniform county-wide program for protection of the environment from uncontrolled releases of hazardous materials to be administered by existing agencies of local government. The Department of Emergency Management shall be the lead agency in administering this chapter.

(Ord. 340.8, passed 8-29-95)

## **§ 95.08 RESPONSE AUTHORITY.**

(A) The Emergency Management Hazardous Materials Response Team (hereinafter called "HMRT") shall have primary authority to coordinate response to any release or threatened release of hazardous materials in any incorporated or unincorporated area of the county.

(B) The Fire Chief of the jurisdiction in which the release or threatened release is located shall have secondary authority for taking remedial or removal actions necessary to control or contain the release or threatened release and to assure the protection of human health, property and the environment. The role of HMRT is to give technical advice and assistance to the Emergency Management Director and Fire Chief. HMRT shall not direct the emergency response unless requested to do so by the Fire Chief or the Emergency Management Director or their authorized representative.

(C) HMRT or the Emergency Management Office shall immediately report any release or threatened release to the executive authority of the jurisdiction (e.g. Judge/Executive or his or her administrative assistant, Mayor, City Administrative Officer, County Administrator). If in the opinion of the executive authority, the seriousness of the situation warrants, the chief executive officer of the jurisdiction (Judge/Executive or Mayor or Emergency Management Director) shall declare the existence of a state of emergency in the jurisdiction, and thereafter, the response authority provided by this section shall then be vested in such chief executive officer. In such event, the chief executive officer may authorize HMRT, the Fire Chief, or other appropriate person to exercise all or part of the response authority provided by this section until further notice.

(D) All local emergency response personnel shall cooperate with and operate under the direction of the chief executive officer of the jurisdiction, the Emergency Management Director or other person then exercising response authority under this section until such time as the person then exercising response authority has determined that the response is complete, or responsibility for response has been assumed by the state or federal agency having primary jurisdiction over such release or threatened release.

(E) The person exercising response authority under this section shall coordinate and/or cooperate with other federal, state or local public health, safety and emergency agencies involved in the response to a release or threatened release of hazardous materials.

(F) The person exercising response authority under this section may, with the approval of the executive authority of the jurisdiction, obtain vital supplies, equipment, services and other properties found lacking and needed for the protection of human health, property and the environment and obligate the jurisdiction for the fair value thereof, pursuant to KRS 39 et al.

(Ord. 340.8, passed 8-29-95)

## **§ 95.09 LIABILITY FOR COSTS.**

Notwithstanding any other provision or rule of law, the following persons shall be jointly and severally liable for all costs of removal and remedial actions incurred by local public safety and emergency agencies as a result of a release or threatened release of hazardous materials into the environment:

(A) The owner and operator of a facility or vessel from which there is a release or substantial threat of release of hazardous materials.

(B) Any person who, at the time of disposal, transport, storage, or treatment of hazardous materials, owned or operated the facility or vessel used for such disposal, transport, treatment, or storage from which there was a release or substantial threat of a release of hazardous materials.

(C) Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by another party or entity from which facility there is a release or substantial threat of a release of hazardous materials.

(D) Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or substantial threat of a release of hazardous materials.

(Ord. 340.8, passed 8-29-95)

## **§ 95.10 AUTHORIZED RELEASE.**

There shall be no liability under this chapter for any release permitted by state or federal law, but only to the extent that such release

is made in accordance with an appropriate permit granted by the state or federal agency having primary jurisdiction over such release and that the release is in full compliance with such permit with respect to time, location and manner of the release so that such release will not create a hazard or potential hazard to human health, property or the environment; or, if the release is in substantially lesser quantities than those reportable quantities established by state or federal law, regulations, permit requirements, or ordinances of the jurisdiction in which the release occurs.

(Ord. 340.8, passed 8-29-95)

### **§ 95.11 CONTRACTUAL INDEMNIFICATION; SUBROGATION.**

(A) No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for a release of hazardous materials or threat thereof under this chapter. Nothing in this section shall bar any arrangement to insure, hold harmless or indemnify a party to such agreement for any liability under this chapter.

(B) Nothing in this section, including the provisions of division (A) above, shall bar a cause of action that an owner or operator or any other person subject to liability under this chapter, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(Ord. 340.8, passed 8-29-95)

### **§ 95.12 INSPECTIONS.**

The administering agency and the response authority shall have the authority to jointly conduct the periodic inspections of any facilities, for the purpose of ascertaining and causing to be corrected, any condition which may be a violation of this chapter. Joint inspection shall be conducted where necessary for purposes of HMPC Plan review. Inspections shall be made during working hours except by special arrangement with the person in charge of the facility.

(Ord. 340.8, passed 8-29-95)

### **§ 95.13 CONFIDENTIAL INFORMATION AND TRADE SECRETS.**

(A) Information and data provided by any person or obtained from any report, questionnaire, permit application, permit and monitoring program, and from inspections shall not be made available to the public or any other government agency, unless required by law.

(B) Upon submission of information in any form, it shall be the obligation of the submitter to separate all confidential and trade secret material from any materials subject to disclosure under the law.

(C) Any request made under the law for information containing confidential or trade secret information shall be brought to the attention of the person requesting confidentiality of its trade secrets by certified mail, return receipt requested. The notification shall advise the person requesting confidentiality of the decision of the administering agency regarding release of the confidential information. In no event will such confidential information be released until five days have elapsed from date notice is sent by certified mail.

(D) Within 72 hours after receipt of notice, the person requesting confidentiality of its trade secrets shall have the burden to initiate appropriate actions at law or otherwise to protect its confidential or trade secret information from disclosure, and must demonstrate that public disclosure of confidential or trade secret information is likely to cause substantial harm to his competitive position.

(E) Any individual who releases information containing confidential or trade secret information in violation of law or this section shall be subject to disciplinary action by his or her employer for malfeasance, misfeasance and willful neglect of official duties, and may further be guilty of misuse of confidential information under KRS 522.040.

(F) The provisions of this section shall in no way prohibit or limit the exchange of information, confidential or otherwise, between public agencies when the exchange is serving a legitimate government need or is necessary in the performance of a government function including, but not limited to, the carrying out of the provisions and intent of this chapter.

(G) Boone County Emergency Management shall be the repository for all trade secret information for the purposes of this chapter.

#### **§ 95.14 ENFORCEMENT; NOTICE OF VIOLATION.**

(A) The administering agency hereinbefore designated shall have primary responsibility for enforcement of the provisions of this chapter.

(B) Upon notification or discovery of any violation of the provisions of this chapter, the administering agency shall immediately investigate the site upon which the violation is located. The administering agency will be the lead enforcement agency for violations of this chapter. If a violation exists, a citation describing the violation may be served upon the person who is responsible for the facilities upon which the violation has occurred, if the identity of the person is known. The responsible party shall be notified either in writing or orally of the following:

- (1) A statement that if the situation is not remedied within the prescribed period of time, the administering agency may proceed to correct the violation;
- (2) A statement that the person shall be liable for any costs incurred by public agencies associated with their releases except for those costs that are associated with a normal emergency response;
- (3) A statement that after the administering agency has corrected the violation, a bill shall be sent charging the person the amount of costs and expenses incurred by the governmental agency in correcting the violation;
- (4) A statement that penalties may be levied for violations that have occurred.

(C) *Governmental response.* In cases where the identity of the person who is responsible for facilities upon which a violation has occurred is not known at the time a violation is reported or discovered, the county or any governmental agency within the county may take reasonable steps to abate any problem and may take reasonable steps to clean-up the area affected to assure continuing safety of the public and the environment. When the identity of the person responsible for the facility is determined, a bill shall be sent to that person for the costs for correcting the violation according to the provisions of divisions (A) and (B) of this section.

(D) *Injunctive relief.* The administering agency is empowered to seek injunctive relief for violations of this chapter should other means prove ineffective and a threat to public health and safety exists.

(Ord. 340.8, passed 8-29-95)

#### **§ 95.15 DISCLAIMER OF LIABILITY.**

This chapter shall not create liability on the part of the administering agency or on the part of the response authority for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons are advised to determine to their own satisfaction the level of protection, in addition to that required by this chapter, necessary or desirable to ensure that there is no unauthorized release of hazardous materials.

(Ord. 340.8, passed 8-29-95)

### **RELEASE PREVENTION AND CONTROL PLAN**

#### **§ 95.25 PERSONS REQUIRED TO SUBMIT AND MAINTAIN HMPC PLAN; EXEMPTIONS.**

(A) The following persons who use hazardous materials must prepare, submit and maintain a "Boone County Hazardous Materials Use and Spill Prevention Control Plan," hereinafter referred to as "HMPC Plan":

- (1) All federal, state and local government agencies which use hazardous materials in reportable quantities;
- (2) All of the following businesses or services within the county which use hazardous materials, as classified by the Standard Industrial Classification (SIC) Code:

<i>Classification</i>	<i>Business or Service</i>
0782	Lawn and garden services
2011 - 3999	Manufacturing
4011 - 4953	Transportation, communication and public utilities
5043	Photographic equipment and supplies (wholesale trade)
5085	Industrial supplies (wholesale trade)

<i>Classification</i>	<i>Business or Service</i>
5161 - 5199	Specific categories in wholesale trade
5541	Gasoline service stations (retail trade)
7011 - 7218	Industrial and commercial laundries, etc., in services
7342	Disinfecting and exterminating service
7395	Photofinishing laboratories in services
7512	Passenger car rental in services
7513	Truck rental and leasing
7538 - 7549	Automotive repair shops and auto services in services
8062	General medical and surgical hospitals in services
8063	Psychiatric hospitals in services
8069	Specialty hospitals except psychiatric in services

(3) Those persons not covered in subdivisions (1) or (2) above who use hazardous materials may be required to submit a HMPC Plan if the administering agency finds it necessary to protect the public health and safety.

(B) Exemptions.

(1) Persons who handle agricultural chemicals in the ordinary course of agricultural operations other than warehousing or bulk storage of chemicals for resale or commercial applications.

(2) Persons who handle hazardous materials otherwise regulated only at temporary construction sites, except for fuel storage.

(3) Persons who handle hazardous materials only in conjunction with residential use or property for non-commercial purposes.

(4) Consumer products and foodstuffs packaged for distribution to and intended for use by the general public. This refers to ingredients used in production of foodstuffs which are regulated by the Federal Food, Drug and Cosmetic Act, as amended.

(Ord. 340.8, passed 8-29-95) Penalty, see § 95.99

**§ 95.26 ELEMENTS OF HMPC PLANS.**

(A) The administering agency shall provide forms with the necessary instructions and requirements for completing HMPC Plans in compliance with this chapter.

(B) The HMPC Plans will include, but not be limited to:

(1) Facility identification;

(2) Spill history;

(3) Identification of hazardous materials (HM) storage, in-plant transfer, process and materials handling areas and hazardous materials truck, rail car and/or vessel loading and unloading areas;

(4) Description of plant site runoff from parking areas described in subdivision (3) of this division, including in-place containment appurtenances (e.g. dikes) and means of releasing rainwater from such areas;

(5) Other means of spill prevention, control and countermeasure of all listed hazardous materials, such as containment or detection equipment and absorbent materials;

(6) Provisions for the operation and maintenance of all items described in subdivision (5) of this division;

(7) Contingency plans, including spill notification procedures for both internal personnel as well as outside authorities, including the Boone County HMRT;

(8) Provisions for training of personnel in the utilization of contingency plans;

(9) Security provisions;

(10) Provisions for inspections, spill report preparation and records retention;

(11) Schedule (with actual dates or milestones) for plan elements yet to be implemented, with provisions for reporting progress to the administering agency;

(12) Provisions for periodic review and amendments to the plan;

(13) Certification of the plan by a registered professional engineer or an officer of the company;

(14) For the purposes of this section, only one plan need be submitted by the owner of electrical equipment at multiple locations when such equipment contains hazardous materials as a coolant, lubricant, or insulation for the operation of the equipment. Subdivisions (3) and (5) of this division shall not apply to single plans authorized under this section.

(Ord. 340.8, passed 8-29-95) Penalty, see § 95.99

### **§ 95.27 SUBMITTAL OF PLAN; DEADLINE; EXTENSION OF TIME.**

Those persons and facilities required to submit a HMPC Plan under this chapter shall submit such plans in duplicate to the administering agency within 180 days following the effective date of this chapter; provided, however, that persons required to submit HMPC Plans may request in writing for extensions of time where the complexity of the operations involved require additional time in which to complete such plans. When granted by the administering agency, such extensions of time shall be for periods of 30 days, renewable thereafter for like periods until January 1, 1991, at which time all HMPC Plans shall have been submitted to the administering agency for review.

(Ord. 340.8, passed 8-29-95)

### **§ 95.28 REVIEW AND APPROVAL OF PLAN.**

The HMPC Plan shall be reviewed by the administering agency, the Fire Department having jurisdiction, and, where appropriate, the Northern Kentucky Emergency Planning Committee, any sanitation district operating within the county, or other local agency with appropriate authority; however, final administrative action on the HMPC Plan shall be taken by the administering agency. Upon submission of the HMPC Plan or the granting of time extension in accordance with § 95.27, the person submitting the plan shall be presumed to be in compliance with this section pending final approval of the plan. HMPC Plans which do not provide the necessary information or are otherwise defective shall be rejected and returned to the person submitting the plan for revision and resubmittal.

(Ord. 340.8, passed 8-29-95)

### **§ 95.29 APPEAL OF DECISION; PUBLIC HEARING.**

Any rejection or denial of approval of an HMPC Plan by the administering agency may be appealed to the governing body of the jurisdiction in which the facility for which the plan is submitted is located. As soon as practicable following receipt of notice of the appeal, the governing body shall conduct a public hearing into the matter and, after consideration of all evidence and testimony relative to an appeal, shall, by majority vote, uphold the findings of the administering agency or may modify the requirements of the HMPC Plan for the particular facility as it may deem appropriate so long as modifications are in compliance with the intent of this chapter which is to promote and secure protection of human health, property and the environment against present or potential hazards occasioned by the uncontrolled release of hazardous materials into the environment.

(Ord. 340.8, passed 8-29-95)

### **§ 95.30 MODIFICATIONS TO PLAN.**

A new or modified HMPC Plan may be required and submitted to the administering agency when any person institutes the use of a new process or change in its manufacturing or processing facilities, or when there is significant change in its existing operations or wastewater constituents or characteristics.

(Ord. 340.8, passed 8-29-95)

### **§ 95.31 TRAINING AND EDUCATIONAL PROGRAMS.**

(A) Each employer who uses hazardous materials as herein defined and who is required to prepare an HMPC Plan shall be required to have an initial and on-going safety and accident prevention training program for all employees. This training and education shall include, but not be limited to, appropriate work practices, protective measures and emergency procedures. The details and frequency of the training program should be provided as a part of the HMPC Plan for the facility.

(B) The administering agency shall have the authority to require different frequencies of training for industries with frequent spills and/or spill histories.

(Ord. 340.8, passed 8-29-95)

### **§ 95.32 FEES FOR HMPC PLAN REVIEW OR APPROVAL.**

Fees shall be imposed for HMPC Plan review or approval, the revenues of which shall cover only the costs of HMPC Plan review and approval. The administering agency shall set and collect fees. The fee schedule shall be uniform for all persons required to submit HMPC Plans under the provisions of this chapter.

(Ord. 340.8, passed 8-29-95)

## **KENTUCKY FIRE PREVENTION CODE**

### **§ 95.40 ADOPTION OF THE KENTUCKY FIRE PREVENTION CODE (STANDARDS OF SAFETY).**

The Kentucky Fire Prevention Code (Standards of Safety) as promulgated in 815 KAR 10:050 by the Commissioner of the Department of Housing, Buildings and Construction on the advice and recommendation of the State Fire Marshal, is hereby adopted in full as an ordinance of Boone County of the Commonwealth of Kentucky. Copies of the Code book are available through the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

(Ord. 07-97-01, passed 8-26-97)

## **§ 95.41 DESIGNATED ENFORCEMENT AGENT/AGENCIES.**

The following fire districts shall be designated as the local enforcement agents/agencies for the Standards of Safety as appointed by the Fiscal Court for the unincorporated areas of Boone County:

- (A) Belleview-McVile (Belleview-McVile Fire Chief or his designee);
- (B) Hebron (Hebron Fire Chief or his designee);
- (C) Burlington (Burlington Fire Chief or his designee);
- (D) Florence (Florence Fire Chief or his designee);
- (E) Petersburg (Petersburg Fire Chief or his designee);
- (F) Point Pleasant (Point Pleasant Fire Chief or his designee);
- (G) Union (Union Fire Chief or his designee);
- (H) Verona (Verona Fire Chief or his designee); and
- (I) Walton (Walton Fire Chief or his designee).

(Ord. 07-97-01, passed 8-26-97)

## **§ 95.42 PERMITS AND FEES.**

The requirements for permits and required fees, if any, shall be provided for by the fire districts listed in § 95.41 at their place of business.

(Ord. 07-97-01, passed 8-26-97)

## **§ 95.43 APPEAL PROCESS.**

All final decisions for the fire code enforcement agents/agencies as listed in § 95.41 shall be appealable to a local appeals board pursuant to the procedures adopted by the Fiscal Court.

(Ord. 07-97-01, passed 8-26-97)

## **§ 95.99 PENALTY.**

(A) Any person who is responsible for the release or substantial threat of a release of hazardous materials into the environment in violation of § 95.05 or who fails to report such release or threatened release in violation of § 95.06 of this chapter shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class A Misdemeanor and subject to a fine or imprisonment or by both such fine and imprisonment as is otherwise provided by law for such offense. Each day that the violation occurs, exists or continues shall be deemed to be a separate offense.

(B) Any person who otherwise violates any provision of this chapter other than §§ 95.05 or 95.06 shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class B Misdemeanor and subject to such fine or imprisonment or by both the fine and imprisonment as is otherwise provided by law for the offense. Each day that the violation occurs, exists or continues shall be deemed to be a separate offense.

(C) In addition to the penalties provided in divisions (A) and (B), any person violating any provisions of this chapter shall become liable civilly to the appropriate county or city government for any expense, loss or damage to the government or agency thereof caused by reason of such violation, including, but not limited to, any clean-up, evacuation, administration or other expenses, and legal expenses.

(Ord. 340.8, passed 8-29-95)



Section

*Park Rules and Regulations*

- 96.01 County Parks Department authorized to revise rules and regulations
- 96.02 Use of park outside of open hours
- 96.03 Open fires
- 96.04 Use of sports facilities
- 96.05 Animals in parks
- 96.06 Operation and parking of motor vehicles
- 96.07 Consumption of alcoholic beverages prohibited
- 96.08 Conduct of business and performance of services regulated
- 96.09 Reserved
- 96.10 Golfing on park property prohibited; exception
- 96.11 Repair or service of vehicles prohibited
- 96.12 Deposit of litter
- 96.13 Camping
- 96.14 Removal of trees or vegetation prohibited; exception
- 96.15 Posting of signs or advertisements
- 96.16 Hunting prohibited; exception
- 96.17 Ice fishing prohibited

*County Golf Course Rules and Regulations*

- 96.25 County Golf Course authorized to revise rules and regulations
- 96.26 Report to clubhouse; register slip or season pass required
- 96.27 Obscene language; physical abuse prohibited
- 96.28 Destruction of property
- 96.29 Rules of play
- 96.30 Use of golf carts
- 96.31 Violations; suspension of privileges
- 96.32 Exceptions
- 96.99 Penalty

**PARK RULES AND REGULATIONS**

The County Parks Department shall as needed create and revise such rules and regulations, set out in §§ 96.02 through 96.17, as are necessary to preserve park property and ensure the enjoyable use of the parks. A copy of these rules and regulations shall be on file in the Office of the County Parks Department.

(Ord. 2000-10, passed 5-16-00)

### **§ 96.02 USE OF PARK OUTSIDE OF OPEN HOURS.**

It shall be unlawful for any person to be on park property without permission after the park has closed. Open hours for the parks are as posted at each respective park. Permission for use of the parks outside of the posted time may be granted by the Director of the Parks Department (Director).

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.03 OPEN FIRES.**

It shall be unlawful for any person to have an open fire in any part of the park except in areas designated as proper and safe for open fires.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.04 USE OF SPORTS FACILITIES.**

(A) Persons wishing to use the tennis facilities must make reservations for them no more than 24 hours prior to the time of play. The time limit shall be one hour for singles and two hours for doubles. At the discretion of the Director a nominal fee may be assessed to offset the cost of scheduling and schedule enforcement.

(B) Surfaced courts are to be used for their intended sports only. No bicycles, skateboards, rollerblades, rollerskates, and the like, are permitted on the surfaced courts.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.05 ANIMALS IN PARKS.**

(A) It shall be unlawful for anyone to have a dog in the park unless the dog is on a leash at all times.

(B) It shall be unlawful for any person to ride or drive a horse in the park except in those areas laid off and designated as bridle paths.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

#### ***Cross-reference:***

*Animals and fowl, see §§ 91.01 et seq.*

### **§ 96.06 OPERATION AND PARKING OF MOTOR VEHICLES.**

(A) It shall be unlawful to ride a motorcycle or motor bike in the park except on park roads and in parking areas designed for public traffic.

(B) It shall be unlawful for any person to operate a motor vehicle in the parks except upon a roadway or in a parking area authorized for that purpose. When necessary the Parks Director may authorize parking outside of designated parking areas. Snowmobiles are allowed when weather conditions are favorable for their use and a written permit is obtained from the Parks Department. Parks Department, maintenance and emergency vehicles are excluded from this rule.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

***Cross-reference:***

*Traffic rules, see §§70.01 et seq.*

**§ 96.07 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.**

It shall be unlawful for any person to possess or consume alcoholic beverages in the park or in any Parks Department facility being used by the Parks Department for purposes of public recreation.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.08 CONDUCT OF BUSINESS AND PERFORMANCE OF SERVICES REGULATED.**

It shall be unlawful for any person, corporation, or other entity to conduct or engage in any form of trade, business or other commercial activity or perform any type of service for consideration within the boundaries of the park without obtaining the prior written consent of the Director.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.09 RESERVED.**

**§ 96.10 GOLFING ON PARK PROPERTY PROHIBITED; EXCEPTION.**

It shall be unlawful for any person to play or practice golf by hitting balls in or onto park property, except in those areas laid off or designated as golf practice areas.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.11 REPAIR OR SERVICE OF VEHICLES PROHIBITED.**

It shall be unlawful for any person to repair or service any vehicle within the boundaries of the park.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.12 DEPOSIT OF LITTER.**

It shall be unlawful for any person to dispose of litter in the park except in trash containers provided for that purpose.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.13 CAMPING.**

It shall be unlawful to camp overnight in a park without the written permission of the Director. Any authorized camping shall be done only in areas designated by the Director.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

**§ 96.14 REMOVAL OF TREES OR VEGETATION PROHIBITED; EXCEPTION.**

It shall be unlawful to cut or remove any trees, flowers or vegetation from within the boundaries of the parks, except when required for reasons of public safety or maintenance, and then only by Parks Department personnel, or agents/contractors of the Parks

Department and utility companies.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.15 POSTING OF SIGNS OR ADVERTISEMENTS.**

It shall be unlawful for any person to display, post, distribute, or place any sign, advertisement, circular notice, statement, banner, emblem or design within the park without a permit from the Director.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.16 HUNTING PROHIBITED; EXCEPTION.**

It shall be unlawful to hunt, trap or in any way injure or molest any wild animal found within the boundaries of the parks, except when required for reasons of public safety or as authorized by the Director of the Parks Department or a Conservation Officer with the Kentucky Department of Fish and Wildlife.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

### **§ 96.17 ICE FISHING PROHIBITED.**

It shall be unlawful for any person to ice fish on any county lake or pond.

(Ord. 2000-10, passed 5-16-00) Penalty, see § 96.99

## **COUNTY GOLF COURSE RULES AND REGULATIONS**

### **§ 96.25 COUNTY GOLF COURSE AUTHORIZED TO REVISE RULES AND REGULATIONS.**

The County Golf Course shall from time to time create and revise such rules and regulations, set out in §§ 96.26 through 96.32, as are necessary for the preservation of golf course property and for the enjoyment of the golf course facilities by the general community of park visitors. A copy of said rules shall be on file in the Office of the County Judge/Executive in the County Administration Building and shall be posted at the club house of the County Golf Course.

(Ord. 710.3, passed 5-17-83)

### **§ 96.26 REPORT TO CLUBHOUSE; REGISTER SLIP OR SEASON PASS REQUIRED.**

(A) All players must report to the clubhouse before play begins (includes season pass holders).

(B) Players not having a cash register slip or a season pass bag tag will be required to leave the course.

(Ord. 710.3, passed 5-17-83) Penalty, see § 96.99

### **§ 96.27 OBSCENE LANGUAGE; PHYSICAL ABUSE PROHIBITED.**

(A) No person shall direct obscene or abusive language at golf course employees.

(B) Physical abuse against any golf course employee will result in criminal prosecution of the offending person.

(Ord. 710.3, passed 5-17-83) Penalty, see § 96.99

### **§ 96.28 DESTRUCTION OF PROPERTY.**

Destruction of golf course property will result in criminal prosecution and future suspension of playing privileges of the offender.

(Ord. 710.3, passed 5-17-83)

### **§ 96.29 RULES OF PLAY.**

(A) Slow play will not be permitted.

(B) Only one foursome will be allowed on a tee.

(C) Using the golf course as a practice range (excessive practice putting, hitting shag balls onto the greens, and the like) will result in suspension of season pass privileges by the Golf Course Advisory Committee.

(Ord. 710.3, passed 5-17-83) Penalty, see § 96.99

### **§ 96.30 USE OF GOLF CARTS.**

Rules for the use of golf carts:

(A) Golf carts will remain 20 feet from tees and greens.

(B) Golf carts will remain on the cart paths at all times on par three holes.

(C) Golf carts must remain in the rough, except when crossing the fairway at right angles.

(D) Golf carts will not be allowed on the course when it is extremely wet. Release times will be posted in the pro shop by the Superintendent, and carts will not be released before the time indicated.

(E) Only two riders and two sets of clubs will be permitted on each golf cart.

(Ord. 710.3, passed 5-17-83) Penalty, see § 96.99

### **§ 96.31 VIOLATIONS; SUSPENSION OF PRIVILEGES.**

Any infraction of the rules set forth in this subchapter will result in the suspension of playing privileges for a length of time to be determined by golf course personnel and the possible suspension of season pass privileges to be determined by the Golf Course Advisory Committee and said suspension shall be in addition to any penalties set by ordinance or statute.

(Ord. 710.3, passed 5-17-83)

### **§ 96.32 EXCEPTIONS.**

Exceptions to these rules can only be granted by course management.

(Ord. 710.3, passed 5-17-83)

### **§ 96.99 PENALTY.**

(A) Any person or entity in violation of the rules and regulations for use of the county parks as set forth in §§ 96.02 through 96.17 of this chapter shall be deemed guilty of a violation and fined not less than \$25 nor more than \$100. In addition, the violator may be ordered to pay restitution to the County Parks Department for any damage caused.

(Ord. 2000-10, passed 5-16-00)

(B) Any violation of §§ 96.25 through 96.32 shall be deemed guilty of a violation and punishable by a fine of not less than \$10 nor

more than \$100.

(Ord. 710.3, passed 5-17-83)

## CHAPTER 97: STREETS AND SIDEWALKS

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Section

### *General Provisions*

97.01 Debris on county roads or right-of-way

### *Repair of Unsafe Sidewalks*

97.15 Definitions

97.16 Power of county to repair unfit sidewalks

97.17 Resolutions relating to unfit sidewalks

97.18 Easements granted for installation and maintenance of sidewalks

97.19 Petition alleging that a sidewalk is unfit; complaint; notice and hearing

97.20 Issuance of order to repair

97.21 Failure to comply; repair by county; lien for expense

97.22 Service of complaints and orders

97.23 Injunction to restrain enforcement of order

97.24 Powers of county officers to investigate and obtain evidence

97.25 Appropriations

### *Specifications for Street and Drainage Construction*

97.35 Standard specifications for street and drainage construction adopted by reference

97.36 Inspection and certification of construction

97.37 Acceptance of infrastructure into county system; acceptance contingent on meeting specifications

97.38 Water flowing over county roads; unauthorized connections prohibited

### *Culvert Construction*

97.45 Applicability

97.46 Authorized official to determine need for culvert

97.47 Property owner responsible for costs of culvert installation; maintenance by Road Department

97.48 Installation by County Road Department; costs to become a lien against property

97.49 Blocking county road ditch; construction with unapproved materials

### *Right-of-Way Encroachment Policy*

97.60 Adoption

97.61 Permit required

97.62 Conformance with agencies having jurisdiction; approval required

- 97.63 Transferal of permitted right; property owners frontage rights
- 97.64 Application procedure; denial of permit
- 97.65 Requirements applicable to excavating, filling and landscaping permits
- 97.66 Disposal of excavation material
- 97.67 Specialty safety requirements
- 97.68 Maintenance of utilities on bridges
- 97.69 Maintenance of entrances
- 97.70 Drainage requirements
- 97.71 Permittee's responsibility for inadequate downstream highway drainage facilities
- 97.72 Entrances and related roadway modifications
- 97.73 Encroachment permit to be obtained prior to approval of zoning permit
- 97.74 Administration and enforcement
- 97.99 Penalty

***Cross-reference:***

*Equine feces on roadways, see § 91.02*

*Signs in public right-of-way, see § 154.01*

## **GENERAL PROVISIONS**

### **§ 97.01 DEBRIS ON COUNTY ROADS OR RIGHT-OF-WAY.**

(A) *Unlawful to deposit materials on county roads or right-of-way.* It shall be unlawful for any person(s), corporation, association or other entity to deposit or cause to be deposited, mud, soil and/or debris on county roads or the right-of-way of any county road whether directly or indirectly, with or without the use of vehicular or mobile equipment, without the written consent of the Director of Public Works.

(B) *Unlawful to cause, by grading or disturbing soil, mud or soil to be deposited on road or right-of-way.* It shall be unlawful for any person(s), corporation, association or other entity to grade or disturb the soil in any area of the county in such a manner as to cause or allow mud or soil to wash or otherwise be moved from the graded or disturbed area and deposited onto a county road.

(C) Written notice of violation.

(1) Any person(s), corporation, association or other entity found to be in violation of this section shall be issued a written notice from the County Code Enforcement Officer ordering:

- (a) Cleaning, by pressure wash if found necessary, of the road or right-of-way; and/or
- (b) A stop work order until the road or right-of-way is cleaned.

(2) Any notice given under this section shall allow four hours for compliance, from the time such notice is given. Failure to comply within four hours shall constitute a violation of this section and a complaint may be filed.

(D) *County clean-up at expense of violating party.* Unless immediate corrective action is taken, the county, through the Public Works Department, may remove or clean the mud, soil and/or debris from the county road and/or right-of-way and any such removal or cleaning by the county under this section shall be at the expense of the violating party, jointly and severally, including, but not necessarily limited to, the developer, builder, contractor and/or home owner of the subject property. The Public Works Department shall issue a bill for the actual cost incurred. This bill must be paid in full within 10 days of the date of issue. Failure to pay this bill

shall result in the county having a lien on the owner's land from which the mud, soil or debris was caused, directly or indirectly, to be deposited on the county road and/or right-of-way.

(E) *Stop work order.* It shall be unlawful to violate the conditions and restrictions of a county "stop work" order at any time. Each day that such a violation occurs or continues to occur shall be considered a separate violation for which the violator shall be penalized under the provisions of this chapter.

(Ord. 620.10, passed 10-25-94; Am. Ord. 04-02, passed 1-27-04) Penalty, see § 97.99

## **REPAIR OF UNSAFE SIDEWALKS**

### **§ 97.15 DEFINITIONS.**

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

**COUNTY AUTHORITY.** Any housing authority or government that is in charge of any department or branch of the government of the county relating to safety, health, building regulations or construction of concrete or asphalt surfaces in the county.

**COUNTY OFFICER.** The officer or officers who are authorized by ordinances and resolutions adopted by the Fiscal Court to exercise the powers prescribed by ordinances and resolutions.

**GOVERNING BODY.** The Boone County Fiscal Court.

**OWNER.** The holder of title in fee simple of the land over which the sidewalk is constructed and every mortgagee of record unless the sidewalk is located within the county right-of-way in which case **OWNER** means the holder of title in fee simple and every mortgagee of record of the land adjoining the right-of-way.

**PARTIES IN INTEREST.** All individuals, associations, corporations, or other entities who have an interest of record in the land over which the sidewalk is constructed unless the sidewalk is located within the county right-of-way in which case **PARTIES OF INTEREST** means the individuals associations, corporations or other entities who have an interest of record in the land adjoining the right-of-way.

**SIDEWALK.** Any permanent walkway or footpath constructed of a hard surface such as concrete or asphalt and located near or on the edge of a lot or in any location that the walkway appears to be for the convenience of the general public.

(Ord. 620.7, passed 3-8-88)

### **§ 97.16 POWER OF COUNTY TO REPAIR UNFIT SIDEWALKS.**

Whenever the Fiscal Court of the county finds that there exists in the county sidewalks that are unsafe or hazardous due to deterioration, damage and/or disrepair that the inhabitants of the county, the county may repair the sidewalks in the manner provided herein.

(Ord. 620.7, passed 3-8-88)

### **§ 97.17 RESOLUTIONS RELATING TO UNFIT SIDEWALKS.**

Upon the adoption of a resolution finding that conditions of the character described in § 97.16 exist within the county, the governing body may adopt further resolutions designating or appointing a county officer to exercise powers prescribed by the resolutions. The resolutions shall include the provisions of this subchapter.

(Ord. 620.7, passed 3-8-88)

### **§ 97.18 EASEMENTS GRANTED FOR INSTALLATION AND MAINTENANCE OF SIDEWALKS.**



By installing a sidewalk on county right-of-way the installer and all subsequent owners of adjacent property are deemed to have been granted an easement for purposes of installing and maintaining sidewalks and maintenance and repair of the sidewalk is the necessary consideration for the privilege of installing the sidewalks.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.19 PETITION ALLEGING THAT A SIDEWALK IS UNFIT; COMPLAINT; NOTICE AND HEARING.**

A petition may be filed by the county officer, by a county authority or by at least five residents of the county. The petition shall be filed with the county officer and shall allege that a sidewalk is unfit or unsafe due to deterioration, disrepair or damage. After the filing of the petition, the county officer shall inspect the sidewalk. If inspection discloses a basis for the allegations in the petition, the county officer shall issue and cause to be served upon the owner and parties of interest a complaint stating the basis of the complaint and a notice of hearing. The notice of hearing shall fix a time and place for the hearing which shall be held not less than 10 nor more than 30 days after service of the complaint. The complaint shall inform the owners and parties in interest of their right to file an answer to the complaint and to appear in person or otherwise and to give testimony at the time and placement in the notice and shall also state that the rules of evidence prevailing in courts of law and/or equity shall not be controlling in a hearing before the county officer.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.20 ISSUANCE OF ORDER TO REPAIR.**

If after notice and hearing, the county officer shall determine that the sidewalk in question is unfit or unsafe, the officer shall state in writing his or her findings of fact supporting the determination and shall issue and cause to be served on the owners and/or parties in interest an order specifying the extent of repairs necessary and the time limit within which the repairs must be made.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.21 FAILURE TO COMPLY; REPAIR BY COUNTY; LIEN FOR EXPENSE.**

If the owner or parties in interest fail to comply with an order to repair, the county officer may cause the sidewalk to be repaired. The cost of repairs shall be a lien upon the property over which the sidewalk passes unless the sidewalk is within the county right-of-way in which event the lien shall be upon the property adjoining the right-of-way over which the sidewalk passes.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.22 SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by a county officer pursuant to provisions of this subchapter shall be served by certified mail or by personally delivering to the owners and/or parties in interest a copy of the complaint or order.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.23 INJUNCTION TO RESTRAIN ENFORCEMENT OF ORDER.**

(A) Any person affected by an order issued under this subchapter may, within 30 days of the date of service or the order, petition the Circuit Court for an injunction restraining the county officer from proceeding under this chapter.

(B) The remedy provided herein shall be the exclusive remedy and no person shall be entitled to recover any damages for action taken pursuant to this chapter or because of any persons failure to comply with an order of the county officer pursuant to this chapter.

(Ord. 620.7, passed 3-8-88)

#### **§ 97.24 POWERS OF COUNTY OFFICERS TO INVESTIGATE AND OBTAIN EVIDENCE.**

The governing body of the county hereby authorized the county officer to exercise powers as are necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to, the following:

- (A) To investigate the conditions of sidewalks in the county and to determine which sidewalks present a danger or hazard to residents of the county;
- (B) To administer oaths, affirmations, examine witnesses and receive evidence;
- (C) To enter upon premises for purposes of investigation but entries shall be made in the manner as to cause the least possible inconvenience to the persons in possession;
- (D) To appoint and fix the duties of officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter.

(Ord. 620.7, passed 3-8-88)

## **§ 97.25 APPROPRIATIONS.**

The Fiscal Court may make appropriations from its revenues as it may deem necessary for the purpose of carrying out the provisions of this chapter.

(Ord. 620.7, passed 3-8-88)

## **SPECIFICATIONS FOR STREET AND DRAINAGE CONSTRUCTION**

### **§ 97.35 STANDARD SPECIFICATIONS FOR STREET AND DRAINAGE CONSTRUCTION ADOPTED BY REFERENCE.**

The Standard Specifications for Street and Drainage Construction are adopted herein by reference as if fully set out herein and the same shall be and hereby are adopted as the minimum standards of construction for all roads, storm sewers and sidewalks constructed in the county after the effective date of this subchapter.

(Ord. 620.5, passed 2-23-87)

#### ***Editor's note:***

*In accordance with KRS 67.077(4), a copy of the standard specifications for street and drainage construction is available for public inspection during regular business hours at the county clerk's office.*

### **§ 97.36 INSPECTION AND CERTIFICATION OF CONSTRUCTION.**

That any person or entity undertaking to construct a road, street or storm sewer within the county shall apply to the County Road Supervisor or other county official as designated by the Fiscal Court for inspection and certification that such road, street, sidewalk or storm sewer has met specifications as set forth in this subchapter. The County Road Supervisor shall prepare a written inspection report in duplicate showing date and time and by whom inspection was made, where tests were made, thickness and type of paving material, and whether the project meets specification. If the project does not meet specifications, the person performing the inspection shall state in the written report, the defects found and action required to bring the project up to the standards. The original of the inspection report shall be kept by the County Road Supervisor or other county official designated by the Fiscal Court. The copy of the inspection report shall be given to the builder.

(Ord. 620.5, passed 2-23-87)

### **§ 97.37 ACCEPTANCE OF INFRASTRUCTURE INTO COUNTY SYSTEM; ACCEPTANCE CONTINGENT ON MEETING SPECIFICATIONS.**

(A) The one year after the completion of any road, street, storm sewer or sidewalk, the developer and/or contractor shall request acceptance of the infrastructure into the county system. Upon receipt of that request, the County Road Supervisor or other county official designated by the Fiscal Court shall review all field reports and test results, make a field examination of the project, and report his findings to the Fiscal Court. The results of this final inspection will determine whether the project is in compliance and will be accepted by the Fiscal Court or whether there are defects which must be corrected prior to acceptance.

(B) Any road, street, sidewalk, or storm sewer that is constructed without meeting the specifications as set forth herein will never be accepted by the Fiscal Court as a county road, street, sidewalk, or storm sewer.

(Ord. 620.5, passed 2-23-87)

### **§ 97.38 WATER FLOWING OVER COUNTY ROADS; UNAUTHORIZED CONNECTIONS PROHIBITED.**

No entity or person shall construct a drain or drainage system of any type such that the water being drained flows onto or over a county road or shall make an unauthorized connection with a county sewer or storm sewer.

(Ord. 620.5, passed 2-23-87) Penalty, see § 97.99

## **CULVERT CONSTRUCTION**

### **§ 97.45 APPLICABILITY.**

This subchapter shall apply only when the County Road Department is performing normal road ditch maintenance, or the property owner constructs a new driveway or entrance onto a county road. This subchapter does not apply to "road construction projects."

(Ord. 620.6A, passed 2-23-87)

### **§ 97.46 AUTHORIZED OFFICIAL TO DETERMINE NEED FOR CULVERT.**

The authorized official(s) that determines the need for a culvert shall be the County Engineer or the County Road Supervisor or other county personnel, appointed by the Judge/Executive.

(Ord. 620.6A, passed 2-23-87)

### **§ 97.47 PROPERTY OWNER RESPONSIBLE FOR COSTS OF CULVERT INSTALLATION; MAINTENANCE BY ROAD DEPARTMENT.**

(A) When the County Road Department, or their agents, are performing normal ditch maintenance along a county road, and it is deemed necessary by the County Engineer or Road Supervisor, or other appropriate county personnel, to install a new culvert, or to replace an existing culvert that does not meet county standards in regards to type of material used in construction of said culvert, or sizes of said culvert, the property owner shall pay for the cost of purchasing and installing said culvert, by the County Road Department.

(B) Whenever a property owner constructs a new driveway or entrance onto a county road, the property owner shall be responsible for the cost of said culvert construction.

(C) Before the County Road Department installs said culvert, pursuant to divisions (A) or (B) of this section, the owner of the property in question shall be notified in writing of the need of said culvert and be informed as to the cost of installing said culvert.

(D) After the owner of said property requiring a culvert of culverts, pays for the installation of said culvert or culverts, the County Road Department shall maintain the culvert, including replacement, if necessary, unless damage is caused by the property owner's negligence.

(Ord. 620.6A, passed 2-23-87)

## **§ 97.48 INSTALLATION BY COUNTY ROAD DEPARTMENT; COSTS TO BECOME A LIEN AGAINST PROPERTY.**

If the property owner, after receipt of notice pursuant to § 97.47(C) of this subchapter, refuses or for any reason, does not pay for the cost of installing said culvert, the County Road Department shall install said culvert or culverts and said cost shall become a lien on said property, capable of being filed with the County Clerk's Office.

(Ord. 620.6A, passed 2-23-87)

## **§ 97.49 BLOCKING COUNTY ROAD DITCH; CONSTRUCTION WITH UNAPPROVED MATERIALS.**

If any contractor, property owners, or property owner's agents blocks a county road ditch, with any type of material or constructs a culvert with material that is not approved by the County Road Department, said contractor, property owner, or property owner's agent, shall be liable for any damages caused to said road, plus the cost of returning said ditch to the original condition.

(Ord. 620.6A, passed 2-23-87)

## **RIGHT-OF-WAY ENCROACHMENT POLICY**

### **§ 97.60 ADOPTION.**

The County Fiscal Court hereby approves and adopts the Boone County Right-of-Way Encroachment Policy, as set out in this subchapter.

(Ord. 620.11, passed 8-29-95)

### **§ 97.61 PERMIT REQUIRED.**

Any firm, individual or governmental agency, municipal or public utility company, which desires access to a road in the right-of-way system or desires to perform any type of work upon the right-of-way of the road, must obtain a permit from the Public Works Director, or his or her designee. Contractors performing the work must have in his or her possession at all times a copy of the permit, authorization letter, and detailed drawings of work to be done.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

### **§ 97.62 CONFORMANCE WITH AGENCIES HAVING JURISDICTION; APPROVAL REQUIRED.**

No permit shall constitute a license to perform any work that is inconsistent with, or that does not meet the requirements of local, state, federal, and/or any other agency having jurisdiction over the permitted work location, and it is the responsibility of the applicant to obtain approval from all agencies having jurisdiction before beginning work.

(Ord. 620.11, passed 8-29-95)

### **§ 97.63 TRANSFERAL OF PERMITTED RIGHT; PROPERTY OWNERS FRONTAGE RIGHTS.**

(A) No permitted right shall be transferred to another except by written consent of the Public Works or his or her designee, and the use of the permit applied for may not be changed from one type of business to another without the written consent of the Director of Public Works or his or her designee. No right or privilege belonging to any abutting property owners, shall be affected, interfered with or abridged, because of the requirements of this subchapter or by any permit issued hereunder. The Public Works Director, or his or her designee, are not responsible for any damage claim which may arise between the applicant and any other property owner concerning the property or its occupancy or use. In all cases which involve join driveways or other infringement upon abutting properties, the encroachment form shall contain, upon initial submission, written consent from all affected property owners.

(B) If the application is made to install a privately owned utility along the county's right-of-way in front of the property of others, the signature of these owners stating their approval, or a copy of the recorded easement must be on the application before a permit can be issued.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

#### **§ 97.64 APPLICATION PROCEDURE; DENIAL OF PERMIT.**

(A) An application and permit form as provided by the Public Works Department will be used to process applications and approve permits for excavating, unless work is incidental to an entrance application. The Public Works Director, or his or her designee, shall decide whether the activity is incidental to an entrance. All applications for a permit to excavate over 1,000 cubic yards on the right-of-way of a highway constructed must be submitted to the Director of Public Works, or his or her designee, for their concurrence and approval.

(B) The permit may not be issued if:

- (1) The filling or excavating will adversely affect natural drainage.
- (2) The filling will expose unsightly views.
- (3) The filling will create erosion or stability problems.
- (4) The filling or excavation will require greater maintenance efforts.
- (5) The landscaping will require greater maintenance efforts.

(6) The excavating, filling or landscaping will interfere with or otherwise create problems for other permitted activities on the right-of-way as utility installations.

(Ord. 620.11, passed 8-29-95)

#### **§ 97.65 REQUIREMENTS APPLICABLE TO EXCAVATING, FILLING AND LANDSCAPING PERMITS.**

(A) There are several requirements which apply only to excavating, filling and landscaping permits.

(B) One or more of the following items must result before a permit may be issued:

- (1) Excavating will improve sight distance.
- (2) Excavating will enlarge the clear zone.
- (3) Excavating will provide a more pleasing view for other road users.
- (4) Excavating will provide for easier mowing.
- (5) Excavating will improve slope stability problems.
- (6) Filling will allow the elimination of guardrail and enlarge the clear zone.
- (7) Filling will improve stability problems.
- (8) Filling will provide for easier mowing.
- (9) Filling will provide for more pleasing view to road users.
- (10) Landscaping will improve drainage conditions.
- (11) Landscaping will provide a more pleasing view to the road users.

(Ord. 620.11, passed 8-29-95)

#### **§ 97.66 DISPOSAL OF EXCAVATION MATERIAL.**

Any material removed from county right-of-way shall be disposed of by the applicant as directed by the Department of Public Works Director, or his or her designee. If the material is needed on the county maintained highway within a reasonable hauling distance, it shall be used to improve the county maintained highway. If the material is not needed by the Department of Public Works, the Director of Public Works, or his or her designee, may allow the applicant to dispose of it on the applicant's property. In no case will the applicant be permitted to place it on other private property for monetary gain.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

### **§ 97.67 SPECIALTY SAFETY REQUIREMENTS.**

Specific care shall be taken by the permittee to provide adequate signing and safety precautions in accordance with *Manual of Uniform Traffic Control Devices*, current issue.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

#### ***Editor's note:***

*In accordance with KRS 67.077(4), a copy of the Manual of Uniform Traffic Control Devices is available for public inspection during regular business hours at the county clerk's office.*

### **§ 97.68 MAINTENANCE OF UTILITIES ON BRIDGES.**

The applicant shall maintain the utility in good condition at his or her own expense and shall paint or repaint exposed metal parts of all lines where paint is used for the purpose of protection. This function should be performed when conditions dictate or at the direction of the Director of Public Works, or his or her designee.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

### **§ 97.69 MAINTENANCE OF ENTRANCES.**

(A) *Newly constructed private and commercial entrances.* Future maintenance of the entrances shall not be the responsibility of the Public Works Department except that the Public Works Department will maintain the entrances from the edge of the pavement of the roadway to the normal width of the roadway shoulder only. Maintenance of the remainder of the entrance on the county's right-of-way will be provided by the property owner. If the Public Works Director, or his or her designee, requires the replacement of a drainage structure to correct a drainage problem along the highway, the cost of the replacement may be borne by the Public Works Department provided the entrance was originally constructed and maintained to county standards.

(B) Old or existing entrances.

(1) In specific individual cases where in the judgment of the Director of Public Works, or his or her designee, a residential or farm entrance is causing damage to the roadway or danger to the public, the Director of Public Works, or his or her designee, may authorize maintenance work including materials to correct the problem.

(2) When a drainage structure has been approved by the Director of Public Works and it becomes inadequate to function properly, or when it has been damaged by the Public Works Department, it may be replaced at the expense of the Public Works Department.

(C) Entrances in violation of rules and regulations.

(1) Entrances constructed in violation of this policy shall be immediately removed where drainage is affected.

(2) Private and commercial entrances which have been constructed for three or more years, without the property owner being informed in writing that his or her entrance is in violation of the Department of Public Works rules and regulation, shall be treated as a properly permitted entrance as far as their maintenance is concerned. This shall not be interpreted to give the property owner the same rights as a properly permitted entrance as set forth in this manual.

(D) *Entrances existing prior to state maintenance.* Private and commercial entrances which were constructed prior to the Director of Public Works accepting a road into the county maintained system for another agent or agency shall be considered as

properly permitted entrances for all purposes.

(E) Public school entrances, exits and pull-offs.

(1) The Public Works Department will maintain, at its expenses, that portion of public school entrances and exits (including all drainage structures) which are located on the county's right-of-way.

(2) Those areas located on the county's right-of-way which have developed, and will develop in the future as pull-offs, and deceleration and acceleration lanes by school buses will also be maintained at the expense of the Public Works Department.

(F) *Industrial entrances.* When improvements are necessary for entrances to industrial facilities, the cost for them may in some instances be borne by the Fiscal Court policy on industrial access roads. For these reasons, the Director of Public Works, or his or her designee, should contact the Fiscal Court to determine whether the Department of Public Works, or the permittee, shall bear the resulting costs, whether additional improvements are necessary.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

## **§ 97.70 DRAINAGE REQUIREMENTS.**

(A) Any entrance, whether in a rural or urban area, shall not obstruct or restrict the normal water courses involved, unless suitable provisions are made therefore. The Director of Public Works shall be satisfied that the type, size and installation of the drainage features proposed in the application are adequate for present and foreseeable future requirements and have a reasonable life span. As to the type of drainage pipe material, the Director of Public Works shall be governed by the subdivision regulations, latest edition, if replacement under the maintenance policy would involve a hardship to the department. If small pipe is used in the normal ditch and with no large fill, the applicant may make the choice.

(B) Requirements for drainage shall be as follows:

(1) Necessary drainage structures for an entrance shall not be tied onto an existing highway drainage structure unless the necessary junction boxes, manholes, and catch basins are installed by permittee in accordance with county specifications.

(2) The size, length and type of the entrance pipe shall be as required by the Director of Public Works, but in no case shall be less than 12 inches in diameter, and not less than 20 feet in length.

(3) All entrance pipes, whether of corrugated metal, concrete or bituminous coated corrugated metal shall meet appropriate department specifications and requirements. Pipes shall be of sufficient length to prevent end damage. Sloped box inlet or outlet may be required by the Director of Public Works.

(4) Valley gutters constructed of concrete or bituminous material, which meet department standards, may be used in lieu of entrance pipe where the pipe cannot be placed.

(5) (a) Where long lengths of pipe are used, catch basins or clean-out boxes shall be installed at approximate intervals of not less than 100 feet based upon pipe diameter of 12 inches.

(b) Special consideration may be given to placement of clean-out boxes at longer intervals for pipe with larger diameters. Boxes shall also be constructed at all angles in pipe alignment.

(6) When necessary, gratings and catch basins must be employed to intercept and prevent water flowing from the driveway over the sidewalks or roadway.

(7) Utilities are not to be placed in or through existing drainage conduits.

(8) When a fill is to be placed against an existing roadway, the fill shall be constructed to intersect the outside shoulder edge and slope away from the road on a 6:1 slope to the ditch flow line or a depth of three feet. Furthermore, special drainage features as required by the Director of Public Works, shall be required of the applicant to adequately drain the road bed and shoulders. This refers to french drains or toe drains in the existing fill.

(9) Occasionally, underpavement drainage is provided by sand, crushed stone or other types of drains from the pavement through the shoulder of the road. Requests to join the pavement at these existing drainage points must be accompanied by plans showing the methods proposed to extend these drains so that their original purpose will be continued. This provision is applicable to commercial and private entrances.

(10) Any proposal to alter or significantly increase a drainage area, runoff factors or change in any way a drainage structure must be accompanied by a complete drainage survey (upstream and downstream) based upon a 25-year and 100-year storm with hydraulic analysis of all affected drainage structures in the area.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

#### **§ 97.71 PERMITTEE'S RESPONSIBILITY FOR INADEQUATE DOWNSTREAM HIGHWAY DRAINAGE FACILITIES.**

(A) In the event that any permittee's development is to create sufficient additional surface drainage run-off, so that the existing downstream highway drainage facilities such as cross-drain pipes or culverts, storm drain systems, entrance pipes open ditches, paved ditches, special channels, or any other drainage facility within county maintained right-of-way becomes inadequate to accommodate the increased flow it is then the sole responsibility to the permittee to:

(1) Modify or replace the downstream highway drainage facility or facilities, in order that the increased flow is adequately accommodated to the satisfaction of the department; or

(2) Provide and on-site retention basin of appropriate capacity and discharge design to enable the existing downstream highway drainage facilities to continue to function adequately to the satisfaction of the department.

(B) The permittee is required to gather whatever data and submit whatever plans and information as the Director of Public Works deems necessary in order to enable him or her to properly evaluate the proposals and ascertain that highway standards will be met and satisfactory results obtained.

(C) Any alterations and measure determined to be necessary are to be a part of the permittee's commercial access permit, and no permits are to be issued prior to final agreement on all aspect of this work.

(D) It is further specified that the permittee must assume all responsibility for any law suits or damage claims resulting from alterations made in the existing highway drainage system.

(Ord. 620.11, passed 8-29-95) Penalty, see § 97.99

#### **§ 97.72 ENTRANCES AND RELATED ROADWAY MODIFICATIONS.**

(A) *Private entrances.* In order to secure original construction to meet the standards of the department and to assure that proper drainage in the ditch will not be impaired, the department is authorized to construct at it expense, residential or farm entrances, provided the required drainage pipes or structures are furnished at the expense of the property owner. To secure the required finished grade, the department is authorized to provide initial surfacing of entrances on the county's right-of-way with stone or gravel except as required by the subdivision regulations, latest edition.

(B) *Commercial entrances.* These shall be constructed at the cost of the applicant, pursuant to plans approved by the Director of Public Works. The cost of improvements necessary, whether required at the time of approval of the permit or after the facility is in operation, will be borne by the permittee up to three years from the date of completion on the permit.

(C) *Industrial entrances.* The cost for industrial entrances must be borne by the applicant.

(Ord. 620.11, passed 8-29-95)

#### **§ 97.73 ENCROACHMENT PERMIT TO BE OBTAINED PRIOR TO APPROVAL OF ZONING PERMIT.**

A right-of-way encroachment permit must be obtained from the County Public Works Department prior to approval of a zoning permit from the County Planning and Zoning Commission.

(Ord. 620.11, passed 8-29-95)

#### **§ 97.74 ADMINISTRATION AND ENFORCEMENT.**



This Right-of-Way Encroachment Policy shall be administered and enforced by the County Public Works Director or his designee.

(Ord. 620.11, passed 8-29-95)

### **§ 97.99 PENALTY.**

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be guilty of a misdemeanor and shall be fined not more than \$500.

(B) Any person(s), corporation, association or other entity found to be in violation of § 97.01 shall be deemed guilty of a misdemeanor and fined not less than \$250 nor more than \$500.

(Ord. 620.10, passed 10-25-94)

(C) Any firm, corporation, individual or governmental agency violating the provisions of §§ 97.35 through 97.38 and §§ 97.60 through 97.74 of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$50 nor more than \$500.

(Ord. 620.5, passed 2-23-87; Am. Ord. 620.11, passed 8-29-95)

## **TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. GENERAL LICENSING AND CERTIFICATION PROVISIONS**

**111. SEXUALLY ORIENTED BUSINESSES**

**112. ALCOHOLIC BEVERAGES**

**113. PRECIOUS METALS DEALERS**

**114. MERCHANT GUARD GUARD**

**115. DEVELOPMENT AREA NO. 1**

**116. DEVELOPMENT AREA NO. 2**

### **CHAPTER 110: GENERAL LICENSING AND CERTIFICATION PROVISIONS**

Section

#### ***General Provisions***

- 110.01 Definitions
- 110.02 General business certificate required
- 110.03 Occupational license tax payment required
- 110.04 Apportionment
- 110.05 Employers to withhold
- 110.06 Returns required
- 110.07 Extensions
- 110.08 Refunds
- 110.09 Federal audit provisions

- 110.10 Administrative provisions
- 110.11 Information to remain confidential
- 110.12 Use of occupational license tax
- 110.13 Increases in occupational license tax
- 110.14 Promulgation and enforcement of regulations

***Mental Health/Intellectual Disability/Aging***

- 110.25 Definitions
- 110.26 Statutory authority
- 110.27 Occupational license tax payment required
- 110.28 Apportionment
- 110.29 Employers to withhold
- 110.30 Returns required
- 110.31 Extensions
- 110.32 Refunds
- 110.33 Federal audit provisions
- 110.34 Administrative provisions
- 110.35 Information to remain confidential
- 110.36 Use of occupational license tax
- 110.37 Promulgation and enforcement of regulations
  
- 110.98 Severability
- 110.99 Penalty

**GENERAL PROVISIONS**

**§ 110.01 DEFINITIONS.**

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

**ADMINISTRATOR.** An official administrator of the occupational license tax, to be appointed by the Fiscal Court.

**BUSINESS.** Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. **BUSINESS** shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

**BUSINESS ENTITY.** Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

**COUNTY.** The County of Boone, Kentucky.

**COMPENSATION.** Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

**CONCLUSION OF THE FEDERAL AUDIT.** The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

**FINAL DETERMINATION OF THE FEDERAL AUDIT.** The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

**FISCAL YEAR.** As defined in Section 7701(a)(24) of the Internal Revenue Code.

**EMPLOYEE.** Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

**EMPLOYER.** As defined in Section 3401(d) of the Internal Revenue Code.

**INTERNAL REVENUE CODE.** The Internal Revenue Code as defined in KRS 67.750.

**NET PROFIT.** Gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(3) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(5) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

**PERSON.** Every natural person, whether a resident or non-resident of the county. Whenever the word "person" is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

**RETURN or REPORT.** Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the county.

**SALES REVENUE.** Receipts from the sale, lease, or rental of goods, services, or property.

**TAX DISTRICT.** Any county with the authority to levy net profits, or occupational license taxes.

**TAXABLE NET PROFIT.**

(1) In case of a business entity having payroll or sales revenue only within the county means "net profit" as defined in this section.

(2) In case of a business entity having payroll or sales revenue both within and without the county means "net profit" as defined in this section, and as apportioned under § 110.04 of this chapter.

**TAXABLE YEAR.** The calendar year or fiscal year ending during the calendar year, upon the basis of which net profit is computed.

(Ord. 07-27, passed 12-18-07)

## **§ 110.02 GENERAL BUSINESS CERTIFICATE REQUIRED.**

(A) Every business entity engaged in any business in the county shall be required to apply for, remit \$25 and obtain a general business certificate from the county before the commencement of business or in the event of a change of business status. Licensees are required to notify the county of any changes in address, the cessation of business, or any other changes which render the information supplied to the county in the certificate application inaccurate.

(B) If the applicant has more than one physical place of business in the county, each business entity located within the county shall be required to have a general business certificate posted at each location as prescribed above.

(C) The general business certificate shall be renewed annually at a cost of \$25 per certificate by any business entity conducting business within the county. A general business certificate may not be renewed to any business entity who has not first complied with the provisions of this subchapter including payment of all proper fees and taxes provided for in this chapter.

(D) Personnel of the Boone County Finance Department shall have the authority to inspect the premises of any business entity in the county during regular business hours in order to verify that a general business certificate is posted in a conspicuous place in public view in the place of business.

(E) If the business entity does not have a place of business to post the general business certificate then in that event the business entity shall have the general business certificate upon the individual(s) conducting business within the county and shall display same to the Boone County Finance Department personnel or their duly authorized agent upon request.

(F) Exemption from the general business certificate requirement is granted for any business entity that operates within the county for three or less days per county fiscal year (July 1 to June 30) and receives not more than \$5,000 in gross receipts or pays less than \$5,000 in gross compensation.

(G) Exemption - An exemption of two days per county fiscal year (July 1 to June 30) is granted to any private individual who holds a sale of personal property upon premises which that private individual owns or leases and occupies as a residence. This exemption is not available to public auctions.

(Ord. 07-27, passed 12-18-07)

## **§ 110.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.**

(A) (1) Except as provided in division (E) of this section, every employee or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the county an occupational license tax for the privilege of engaging in such activities within the county. The occupational license tax shall be measured by 8/10 of 1% of:

(a) All wages and compensation paid or payable in the county for work done or services performed or rendered in the county by every resident and nonresident who is an employee;

(b) The net profit from business conducted in the county by a resident or nonresident business entity.

(2) In no event shall any person or business entity as defined in this chapter pay more than 0.8% of his or her gross receipts or net profit or the current year dollar equivalent of \$120, in 1978 dollars, as determined in § 110.13, whichever is less in one fiscal year.

(B) All partnerships, S Corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The occupational license tax imposed in this chapter is assessed against income before it is "passed through" these entities to the owners.

(C) If any business entity dissolves, ceases to operate, or withdraws from Boone County during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the county.

(D) If a business entity makes or is required to make, a federal income tax return, the occupational license tax shall be computed for the purpose of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(E) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public Service Corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the county;

(5) Business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;

(6) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky except as provided in KRS 91A.080;

(7) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.

(Ord. 07-27, passed 12-18-07) Penalty, see § 110.99

## **§ 110.04 APPORTIONMENT.**

(A) Except as provided in division (D) of this section, net profit shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is two, and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profit by the sales factor as set forth in division (C) of this section;

(3) For the purpose of divisions (A) through (D) of this section, the business entity shall file an apportionment form provided by the Boone County Finance Department.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the county during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the county based on the time the individual's service is performed within the county.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the county during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the county if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the

purchaser within the county regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the county and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the county based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the county and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the county, the business entity may petition the county or the county may require, in respect to all or any part of the business entity's business activity, if reasonable.

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the county; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and outside the county, the occupational license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the county. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services performed within the county bears to the total wages and compensation paid or payable. In order for the county to verify the accuracy of a taxpayer's reported percentages under this section, the taxpayer shall maintain adequate records.

(Ord. 07-27, passed 12-18-07)

### **§ 110.05 EMPLOYERS TO WITHHOLD.**

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 110.03.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the county, and pay to the county, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the county.

(C) Every employer who fails to withhold or pay to the county any sums required by this chapter to be withheld and paid shall be personally and individually liable to the county for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The county shall have a lien upon all the property of any employer who fails to withhold or pay over to the county sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the county, the lien shall commence as of the date the amounts withheld were required to be paid to the county. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the county.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the county a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements with the Boone County taxable wages and withholding, or a detailed employee listing with the required equivalent information, as determined by the county, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the county during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the county, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this section unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) Every employee receiving compensation in the county subject to the occupational license tax shall be personally liable for the tax notwithstanding the provisions of divisions (G) and (H) of this section. In all cases where the employer does not withhold the tax levied under this chapter from the employee, such employee or employees shall be responsible for filing with the county each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the occupational license tax it shall become the duty of the employee to file with the county. The payment is required to be made by an employee, can be made quarterly, for the periods ending March 31, June 30, September 30, and December 31 of each year or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All occupational license taxes must be received by February 28 for the preceding calendar year, together with a copy of the employee's W-2 form. If for any reason the occupational license taxes due hereunder have not been withheld by the employer in whole or in part, the employee is required to file an annual return on or before April 15 with Boone County and to pay the occupational license tax due on all compensation earned which has not been subject to withholding, together with any applicable interest and penalty. The employee shall provide the original copy of the statement furnished to him or her by his or her employer showing all of the compensation earned by him or her wherever employed, during the period for which such return is made. In addition to the compensation earned by him or her, such return shall show such other pertinent information as may be required by the Boone County Fiscal Court. Each person making a return required by this section shall at the time of filing the appropriate return pay to the Boone County Fiscal Court the amount of license tax due under this subsection: provided, that any portion of the license tax deducted by the employer shall be credited on the return and only the balance, if any, shall be due and payable at the time of filing said return.

(Ord. 07-27, passed 12-18-07; Am. Ord. 09-14, passed 11-10-09)

## **§ 110.06 RETURNS REQUIRED.**

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the county.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the county. Whenever, in the opinion of the county, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the county may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The county may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to an occupational license tax governed by the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with rules as the county from time to time may prescribe. Whenever the county deems it necessary, the county may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the county deems sufficient to determine the tax liability the business entity.

(D) The county may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the county at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) It shall be the responsibility of persons who make Federal Form 1099 non-employee compensation payments to natural personal other than employees for services performed within the county, to maintain records of such payments and to report such payments to the county. The payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the

calendar year in which the non employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the county. The information required to be reported by said licensee shall include:

- (1) Payer's name, address, social security and/or federal identification number.
- (2) Recipient's name and address.
- (3) Recipient's social security and/or federal identification number.
- (4) Amount of non employee compensation paid in the calendar year.
- (5) Amount of non employee compensation earned in the county for the calendar year.

(Ord. 07-27, passed 12-18-07) Penalty, see § 110.99

### **§ 110.07 EXTENSIONS.**

(A) The county may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the county and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the county. A fraction of a month is counted as an entire month.

(Ord. 07-27, passed 12-18-07)

### **§ 110.08 REFUNDS.**

(A) Where there has been an overpayment of tax under this chapter, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or credit is received by the county from the employer within two years from the date the overpayment was made.

(B) An employee who has compensation attributable to activities performed outside the county, based on time spent outside the county, whose employer has withheld and remitted to this county, the occupational license tax on the compensation attributable to activities performed outside the county, may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall file the request for refund form provided by the county that includes a schedule and computation sufficient to verify the refund claim and the county may confirm with the employer the percentage of time spent outside the county and the amount of compensation attributable to activities performed outside the county prior to approval of the refund.

(Ord. 07-27, passed 12-18-07; Am. Ord. 08-09, passed 6-3-08)

### **§ 110.09 FEDERAL AUDIT PROVISIONS.**

(A) (1) As soon as practicable after each return is received, the county may examine and audit the return. If the amount of tax computed by the county is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the county within five years from the date the return was filed, except as otherwise provided in this section.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this section, or six months from the date



the county receives the final determination of the federal audit from the business entity, whichever is later.

(2) The times provided in this section may be extended by agreement between the business entity and the county. For the purposes of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The county may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

(Ord. 07-27, passed 12-18-07)

#### **§ 110.10 ADMINISTRATIVE PROVISIONS.**

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(B) (1) Any tax collected pursuant to the provisions of this ordinance may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the county, whichever is the later, except that:

(a) In any case where the assessment period contained in § 110.09 has been extended by an agreement between the business entity and the county, the limitation contained in this section shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this section or six months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this section and division (C) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested exclusively in the county.

(Ord. 07-27, passed 12-18-07)

#### **§ 110.11 INFORMATION TO REMAIN CONFIDENTIAL.**

(A) No present or former employee of the county shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the county or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the county from testifying in any court, or from introducing as evidence returns or reports filed with the county, in an action for violation of a county tax law or in any action challenging the county laws.

(B) The county reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the county if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the county the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the county may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.

(C) In addition, the county is empowered to execute similar reciprocity agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter.

(Ord. 07-27, passed 12-18-07) Penalty, see § 110.99

## § 110.12 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the general business certificate and occupational license taxes under the provisions of this chapter shall be paid to the county and placed to the credit of the county's general revenue fund.

(Ord. 07-27, passed 12-18-07)

## § 110.13 INCREASES IN OCCUPATIONAL LICENSE TAX.

(A) On July 1 of each year after July 1, 1978, the occupational license tax established by ordinance, as passed by the Fiscal Court of the county as Ordinance 430.1, on the 2nd day of May 1978 to become effective on the June 1, 1978, of \$120 in § 110.03 of this chapter will be increased or decreased to reflect business and economic fluctuations. For this purpose, the Consumer Price Index (1976-1969 Index = 100, for all items, hereinafter called INDEX), for Cincinnati, Ohio published by the Bureau of Labor Statistics of the United States Department of Labor, for the month of July, 1978, shall be the base month for calculating adjustments to the fixed annual occupational license tax. If the INDEX for July, 1979, and for each corresponding month at the end of each year thereafter, shows a decrease or increase in the purchasing power of the fixed amount occupational license tax in § 110.03, as compared in each case to the INDEX for the month of July, 1978, the fixed annual occupational license tax for the succeeding year shall be adjusted accordingly to the nearest whole dollar.

(B) If at the time required for the determination of the occupational license fee tax adjustment, the INDEX is no longer published or issued, the Fiscal Court shall use such other index as is then generally recognized and accepted for similar determinations of purchasing power.

(Ord. 07-27, passed 12-18-07)

## § 110.14 PROMULGATION AND ENFORCEMENT OF REGULATIONS.

(A) It shall be the duty of the Administrator to collect all general business certificate fees and occupational license taxes and deposit the same in the General Fund of the county, to be used to defray the general expense of the county government.

(B) The Administrator shall have the power and it shall be his or her duty to make and publish such rules and regulations as may be necessary to administer this chapter and to provide such printed forms as may be required for reporting, paying and receipting all such fees and taxes and for all other requirements for the proper and efficient administration of this chapter. The Administrator is hereby charged with the enforcement of the provisions of this chapter, and, is hereby empowered to prescribe, adopt, promulgate and enforce regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including, but not limited to, provisions of the re-examining and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

(Ord. 07-27, passed 12-18-07)

## MENTAL HEALTH/INTELLECTUAL DISABILITY/AGING

## § 110.25 DEFINITIONS.

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

**ADMINISTRATOR.** An official administrator of the occupational license tax, to be appointed by the Fiscal Court.

**BUSINESS.** Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. **BUSINESS** shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

**BUSINESS ENTITY.** Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

**COUNTY.** The County of Boone, Kentucky.

**COMPENSATION.** Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

**CONCLUSION OF THE FEDERAL AUDIT.** The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

**FINAL DETERMINATION OF THE FEDERAL AUDIT.** The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

**FISCAL YEAR.** As defined in Section 7701(a)(24) of the Internal Revenue Code.

**EMPLOYEE.** Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any, officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

**EMPLOYER.** As defined in Section 3401(d) of the Internal Revenue Code.

**INTERNAL REVENUE CODE.** The Internal Revenue Code as defined in KRS 67.750.

**NET PROFIT.** Gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(3) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(5) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

**PERSON.** Every natural person, whether a resident or non-resident of the county. Whenever the word **PERSON** is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

**RETURN or REPORT.** Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the county.

**SALES REVENUE.** Receipts from the sale, lease, or rental of goods, services, or property.

**TAX DISTRICT.** Any county with the authority to levy net profits, or occupational license taxes.

**TAXABLE NET PROFIT.**

(1) In case of a business entity having payroll or sales revenue only within the county means net profit as defined in this section;

(2) In case of a business entity having payroll or sales revenue both within and without the county means net profit as defined in this section, and as apportioned under § 110.28: and

**TAXABLE YEAR.** The calendar year or fiscal year ending during the calendar year, upon the basis of which net profit is computed.

(Ord. 07-26, passed 12-18-07)

**§ 110.26 STATUTORY AUTHORITY.**

As provided in KRS 68.510 to 68.550, for the purpose of providing county residents with a public service program for the development and expansion of social service programs for senior citizen, mental health and intellectual disability, the question of whether a license fee shall be imposed at a percentage rate not to exceed 15/100 of one percent (.0015) was submitted to the voters of the county at the November 5, 1986 General Election. As a result of the affirmative vote by the majority of the voters, nothing herein contained shall prevent the Fiscal Court, as determined necessary from time to time for the benefit of the county, from lowering the percentage rate or fixed amount license fee set out in § 110.27.

(Ord. 07-26, passed 12-18-07; Am. Ord. 11-01, passed 2-8-11)

**§ 110.27 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.**

(A) Except as provided in § 110.29 of this section, every employee or business entity engaged in any occupation, business, trade, profession, or other activity within the county shall pay to the county an occupational license tax for the privilege of engaging in the activities which license fee shall be measured by .0015 of:

(1) All wages and compensation paid or payable in the county for work done or services performed or rendered in the county by every resident and nonresident who is an employee:

(2) The net profit from business conducted in the county by a resident or nonresident business entity.

No employee shall have over \$25 withheld from his or her salary, wages, or commissions in a one year period. No businesses, trade, occupation or profession shall pay over \$25 tax on its net profits in a one year period.

(B) All partnerships, S Corporations, and all other entities where income is "passed through" to the owners are subject to this subchapter. The occupational license tax imposed in this subchapter is assessed against income before it is "passed through" these entities to the owners.

(C) If any business entity dissolves, ceases to operate, or withdraws from Boone County during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the county.

(D) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purpose of this subchapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(E) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local

primary, regular, or special elections;

(4) Public Service Corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly service who are also engaged in public service activity are required to may a license fee on their net profit derived from the non-public service activities apportioned to the county:

(5) Business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;

(6) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky except as provided in KRS 91A.080;

(7) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor;

(Ord. 07-26, passed 12-18-07)

## **§ 110.28 APPORTIONMENT.**

(A) Except as provided in division (D) of this section, net profit shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profit by the sales factor as set forth in division (C) of this section.

(3) For the purpose of divisions (A) through (D) of this section, the business entity shall file an apportionment form provided by the Boone County Finance Department.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the county during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the county based on the time the individual's service is performed within the county.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the county during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the county if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the county regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the county and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the county based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the county and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the county, the business entity may petition the county or the county may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the county;  
or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and outside the county, the occupational license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the county. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services performed within the county bears to the total wages and compensation paid or payable. In order for the county to verify the accuracy of a taxpayer's reported percentages under this section, the taxpayer shall maintain adequate records.

(Ord. 07-26, passed 12-18-07)

### **§ 110.29 EMPLOYERS TO WITHHOLD.**

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 110.27.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the county, and pay to the county, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the county.

(C) Every employer who fails to withhold or pay to the county any sums required by this subchapter to be withheld and paid shall be personally and individually liable to the county for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The county shall have a lien upon all the property of any employer who fails to withhold or pay over to the county sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the county, the lien shall commence as of the date the amounts withheld were required to be paid to the county. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the county.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the county a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements with the Boone County taxable wages and withholding, or a detailed employee listing with the required equivalent information, as determined by the county, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the county during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the county, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this section unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) Every employee receiving compensation in the county subject to the occupational license tax shall be personally liable for the tax notwithstanding the provisions of division (G) and (H) of this section. In all cases where the employer does not withhold the tax levied under this subchapter from the employee, such employee or employees shall be responsible for filing with the county each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the occupational license tax it shall become the duty of the employee to file with the county. The payment is required to be made by an employee, can be made quarterly, for the periods ending March 31, June 30, September 30, and December 31 of each year or at any time the

employee wishes to make an estimated payment for the year in which wages are earned. All occupational license taxes must be received by February 28 for the preceding calendar year, together with a copy of the employee's W-2 form. If for any reason the occupational license taxes due hereunder have not been withheld by the employer in whole or in part, the employee is required to file an annual return on or before April 15 with Boone County and to pay the occupational license tax due on all compensation earned which has not been subject to withholding, together with any applicable interest and penalty. The employee shall provide the original copy of the statement furnished to him or her by his or her employer showing all of the compensation earned by him or her, wherever employed, during the period for which such return is made. In addition to the compensation earned by him or her, such return shall show such other pertinent information as may be required by the Boone County Fiscal Court. Each person making a return required by this section shall at the time of filing the appropriate return pay to the Boone County Fiscal Court the amount of license tax due under this subsection; provided, that any portion of the license tax deducted by the employer shall be credited on the return and only the balance, if any, shall be due and payable at the time of filing said return.

(Ord. 07-26, passed 12-18-07; Am. Ord. 09-14, passed 11-10-09)

### **§ 110.30 RETURNS REQUIRED.**

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the county.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the county. Whenever, in the opinion of the county, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the county may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The county may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to an occupational license tax governed by the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with rules as the county from time to time may prescribe. Whenever the county deems it necessary, the county may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the county deems sufficient to determine the tax liability the business entity.

(D) The county may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the county at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) It shall be the responsibility of persons who make Federal Form 1099 "non-employee compensation payments" to natural personal other than employees for services performed within the county, to maintain records of such payments and to report such payments to the county. Said payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the county. The information required to be reported by said licensee shall include:

- (1) Payer's name, address, social security and/or federal identification number.
- (2) Recipient's name and address.
- (3) Recipient's social security and/or federal identification number.
- (4) Amount of non employee compensation paid in the calendar year.
- (5) Amount of non employee compensation earned in the county for the calendar year.

(Ord. 07-26, passed 12-18-07)

### **§ 110.31 EXTENSIONS.**

(A) The county may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the county and the business entity for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the county. A fraction of a month is counted as an entire month.

(Ord. 07-26, passed 12-18-07)

### **§ 110.32 REFUNDS.**

(A) Where there has been an overpayment of tax under § 110.29 of this subchapter, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or credit is received by the county from the employer within two years from the date the overpayment was made.

(B) An employee who has compensation attributable to activities performed outside the county, based on time spent outside the county, whose employer has withheld and remitted to this county, the occupational license tax on the compensation attributable to activities performed outside the county, may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall file the request for refund form provided by Boone County that includes a schedule and computation sufficient to verify the refund claim and the county may confirm with the employer the percentage of time spent outside the county and the amount of compensation attributable to activities performed outside the county prior to approval of the refund.

(Ord. 07-26, passed 12-18-07)

### **§ 110.33 FEDERAL AUDIT PROVISIONS.**

(A) As soon as practicable after each return is received, the county may examine and audit the return. If the amount of tax computed by the county is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the county within five years from the date the return was filed, except as otherwise provided in this section.

(1) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(2) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this section, or six months from the date the county receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this section may be extended by agreement between the business entity and the county. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The county may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

(Ord. 07-26, passed 12-18-07)

### **§ 110.34 ADMINISTRATIVE PROVISIONS.**

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this subchapter.



(B) Any tax collected pursuant to the provisions of this subchapter may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the county, whichever is the later, except that:

(1) In any case where the assessment period contained in § 110.33 has been extended by an agreement between the business entity and the county, the limitation contained in this section shall be extended accordingly.

(2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this section or six months from the conclusion of the federal audit, whichever is later.

For the purposes of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this subchapter is vested exclusively in the county.

(Ord. 07-26, passed 12-18-07)

### **§ 110.35 INFORMATION TO REMAIN CONFIDENTIAL.**

(A) No present or former employee of the county shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the county or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the county from testifying in any court, or from introducing as evidence returns or reports filed with the county, in an action for violation of a county tax law or in any action challenging the county laws.

(B) The county reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the county if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the county the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the county may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.

(C) In addition, the county is empowered to execute similar reciprocity agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this subchapter.

(Ord. 07-26, passed 12-18-07)

### **§ 110.36 USE OF OCCUPATIONAL LICENSE TAX.**

(A) All money derived from license fees under the provisions of this subchapter shall be paid to the Boone County Finance Department.

(B) Such fees shall be placed to the credit of:

(1) The General Revenue Fund of the county and shall be used and expended in defraying the current, general and incidental expenses of the county, in conjunction with the implementation and on-going services and collection of the license fee herein.

(2) Appropriation accounts of agencies operating senior citizens, mental health and intellectual disability public service programs in such amounts as the Fiscal Court may deem necessary.

(3) The funds shall be allocated to such aforementioned agencies providing such public service programs on an annual basis, July 1 through June 30.

(4) Such agencies desiring funds shall make an application to the Fiscal Court no later than March 1 preceding the fiscal year. The application shall be on forms provided by the Fiscal Court.

(5) Using the information supplied on the application, the Fiscal Court will allocate funds directly to the agency(s) and contract with those agencies for the services desired.

(6) All funds shall be used solely for services to county residents.

(Ord. 07-26, passed 12-18-07; Am. Ord. 11-01, passed 2-8-11)

### **§ 110.37 PROMULGATION AND ENFORCEMENT OF REGULATIONS.**

(A) In order to reduce administrative costs and to minimize paperwork for employers, employees and businesses entities, this subchapter shall be administered in conjunction with Boone County Fiscal Court's other occupational license fees tax as deemed necessary by the Fiscal Court.

(B) It shall be the duty of the Administrator to collect all occupational license taxes and deposit the same with the county. The Administrator shall have the power and it shall be his or her duty to make and publish such rules and regulations as may be necessary to administer this subchapter and to provide such printed forms as may be required for reporting, paying and receipting all such fees and taxes and for all other requirements for the proper and efficient administration of this subchapter. The Administrator is hereby charged with the enforcement of the provisions of this subchapter, and, is hereby empowered to prescribe, adopt, promulgate and enforce regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this subchapter including, but not limited to, provisions of the re-examining and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

(Ord. 07-26, passed 12-18-07)

### **§ 110.98 SEVERABILITY.**

Each section and each provision of each section of this chapter are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this chapter, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

(Ord. 07-27, passed 12-18-07; Am. Ord. 07-26, passed 12-18-07)

### **§ 110.99 PENALTY.**

(A) (1) A business entity subject to occupational net profit tax may be subject to a penalty equal to 5% of the tax due for each calendar month or fraction thereof if the business entity:

- (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the county; or
- (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(2) The total penalty levied pursuant to this section shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(B) Every employer who fails to file a return or pay the tax on or before the time prescribed under § 110.05 may be subject to a penalty in amount equal to 5% of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the county. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the county.

(E) The county may enforce the collection of the occupational tax due under § 110.03 of this chapter and any fees, penalties, and interest as provided in divisions (A), (B), (C) and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent

authorized by law, the county shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor,

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(H) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the county and required to be filed with the county by the provisions of this chapter, or by the rules of the county or by written request for information to the business entity by the county.

(I) Any person violating the provisions of § 110.11 of this chapter by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than \$500 or imprisoned for not longer than six months, or both.

(J) Any person violating the provisions of § 110.11 of this chapter by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(K) Failure of a business entity conducting business within the county to maintain a general business certificate will constitute a Class B misdemeanor. Every day that the business entity is in violation will constitute a separate offense.

(Ord. 07-27, passed 12-18-07; Am. Ord. 07-26, passed 12-18-07)

## **CHAPTER 111: ADULT SEXUALLY ORIENTED BUSINESSES**

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### Section

- 111.01 Rationale and findings
- 111.02 Definitions
- 111.03 Classifications
- 111.04 License required
- 111.05 Issuance of license
- 111.06 Fees
- 111.07 Inspection
- 111.08 Expiration and renewal of license
- 111.09 Suspension
- 111.10 Revocation
- 111.11 Hearing; license denial, suspension, revocation; appeal
- 111.12 Transfer of license
- 111.13 Hours of operation
- 111.14 Regulations pertaining to exhibition of sexually explicit films on premises
- 111.15 Loitering; exterior lighting; monitoring requirements
- 111.16 Applicability to existing businesses
- 111.17 Prohibited conduct

- 111.18 Scierter required to prove violation or business licensee liability
- 111.19 Failure of county to meet time frame not to risk applicant/licensee rights
- 111.20 Conflicting code provisions repealed
- 111.99 Penalty

## § 111.01 RATIONALE AND FINDINGS.

(A) *Purpose.* It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the county. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(B) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Fiscal Court, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Bellanca v. N.Y. State Liquor Authority*, 452 U.S. 714 (1981); and *Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville and Davidson County*, 466 F.3d 391 (6th Cir. 2006) (*Deja Vu III*); 729, *Inc. v. Kenton County*, 2006 WL 2842884 (E.D. Ky. 2006); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (*en banc*); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 2006 WL 2827608 (Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *181 South, Inc. v. Fischer*, 454 F.3d 228 (3rd Cir. 2006); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Kentucky Restaurant Concepts, Inc. v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ky. Ct. App. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. Metro Gov't*, Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookman v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13, 1999)(table); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strinmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Commonwealth v. Jameson*, 2006 WL 3386489 (Ky. 2006); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California -1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota -1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); and Kenton and Campbell Counties, Kentucky - 2003, 2005, the Fiscal Court finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects

upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the county's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the county's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the county. The county finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(Ord. 07-06, passed 3-13-07)

## § 111.02 DEFINITIONS.

For purposes of this chapter, the words and phrases defined hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

**ADMINISTRATOR.** The County Administrator or his or her designee.

**ADULT BOOKSTORE or ADULT VIDEO STORE.** A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A principal business activity exists where the commercial establishment:

- (1) Has a substantial portion of its displayed merchandise which consists of said items; or
- (2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; or
- (3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items; or
- (4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items; or
- (5) Maintains a substantial section of its interior business space for the sale or rental of said items; or

(6) Maintains an **ADULT ARCADE**, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

**ADULT CABARET.** A nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

**ADULT MOTION PICTURE THEATER.** A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.

**CHARACTERIZED BY.** Describing the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

**COUNTY.** Boone County, Kentucky.

**EMPLOY, EMPLOYEE, and EMPLOYMENT.** Describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**ESTABLISH or ESTABLISHMENT.** Shall mean and include any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;

- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.

**HEARING OFFICER.** An attorney, not otherwise employed by the county, appointed by the Fiscal Court to serve until a successor is appointed, and retained to serve as an independent tribunal to conduct hearings under this chapter.

**INFLUENTIAL INTEREST.** Any of the following:

- (1) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business;
- (2) Ownership of a financial interest of 30% or more of a business or of any class of voting securities of a business; or
- (3) Holding an office (such as president, vice president, secretary, treasurer, managing member, managing director, and the like) in a legal entity which operates the sexually oriented business.

**LICENSEE.** A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, it shall mean the person in whose name the sexually oriented business employee license has been issued.

**NUDITY** or **STATE OF NUDITY.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**OPERATE** or **CAUSE TO OPERATE.** To cause to function or to put or keep in a state of doing business. **OPERATOR** means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

**PERSON.** Individual, proprietorship, partnership, corporation, association, or other legal entity.

**PREMISES.** The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

**REGULARLY.** Refers to the consistent and repeated doing of the act so described.

**SEMI-NUDE** or **STATE OF SEMI-NUDITY.** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**SEMI-NUDE MODEL STUDIO.** A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

- (1) By a college, junior college, or university supported entirely or partly by taxation; or
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) In a structure:
  - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
  - (b) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.

**SEXUAL DEVICE.** Any three dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices

primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**SEXUAL DEVICE SHOP.** A commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

**SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

**SEXUALLY ORIENTED BUSINESS.** An adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, a sexual device shop, or a sexual encounter center.

**SPECIFIED ANATOMICAL AREAS.** Include:

(1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED CRIMINAL ACTIVITY.** Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(1) KRS 510.040, 510.050, or 510.060 (rape in the first, second, or third degree); KRS 510.070, 510.080, or 510.090 (sodomy in the first, second, or third degree); KRS 510.110, 510.120, or 510.130 (sexual abuse in the first, second, or third degree); KRS 510.140 (sexual misconduct); KRS 510.148, 510.150 (indecent exposure);

(2) KRS 517.050 (falsifying business records);

(3) KRS 529.020, 529.030, 529.040, or 529.050 (prostitution, promoting prostitution in the first, second, or third degree); KRS 529.070, (permitting prostitution);

(4) KRS 531.020, 531.030, or 531.040 (distributing obscene matter, distributing obscene matter to minors, using minors to distribute obscene matter);

(5) KRS 218A.140, et seq. (offenses relating to controlled substances);

(6) Any offense listed in KRS 531.300 through 531.370 (sexual exploitation of minors offenses);

(7) Engaging in organized crime (KRS 506.120) relating to a sexually oriented business;

(8) Any criminal attempt, conspiracy, or solicitation to commit one of the foregoing offenses; or

(9) Any offense in another jurisdiction that, had the predicate act(s) been committed in Kentucky, would have constituted any of the foregoing offenses.

**SPECIFIED SEXUAL ACTIVITY.** Any of the following:

(1) Intercourse, oral copulation, masturbation or sodomy; or

(2) Excretory functions as a part of or in connection with any of the activities described in (1) above.

**SUBSTANTIAL.** At least 35% of the item(s) so modified.

**TRANSFER OF OWNERSHIP OR CONTROL** (of a sexually oriented business). Any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means;  
or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**VIEWING ROOM.** The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

(Ord. 07-06, passed 3-13-07)

### **§ 111.03 CLASSIFICATION.**

The classifications for sexually oriented businesses shall be as follows:

- (A) Adult bookstore or adult video store;
- (B) Adult cabaret;
- (C) Adult motion picture theater;
- (D) Semi-nude model studio;
- (E) Sexual device shop;
- (F) Sexual encounter center.

(Ord. 07-06, passed 3-13-07)

### **§ 111.04 LICENSE REQUIRED.**

(A) *Business license.* It shall be unlawful for any person to operate a sexually oriented business in the county without a valid sexually oriented business license.

(B) *Employee license.* It shall be unlawful for any person to be an employee, as defined in this chapter, of a sexually oriented business in the county without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(C) *Application.* An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the County Administrator a completed application made on a form provided by the County Administrator. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by division (D) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this division, accompanied by the appropriate licensing fee:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
- (2) Current business address or another mailing address for the applicant.
- (3) Written proof of age, in the form of a driver's license or a copy of a birth certificate, accompanied by a picture identification document issued by a governmental agency.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in § 111.02, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
  - (a) Been declared by a court of law to be a nuisance; or
  - (b) Been subject to a court order of closure or padlocking.



(8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this chapter shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The information provided pursuant to this division shall be supplemented in writing by certified mail, return receipt requested, to the County Administrator within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

(D) *Signature.* A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

(E) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the County Administrator on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

## **§ 111.05 ISSUANCE OF LICENSE.**

(A) *Business license.* Upon the filing of a completed application for a sexually oriented business license, the County Administrator shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the county and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the county to deny or grant an annual license. Within 20 days of the filing of a completed sexually oriented business license application, the County Administrator shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The County Administrator shall issue a license unless:

(1) An applicant is less than 18 years of age.

(2) An applicant has failed to provide information required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this chapter has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter or is not in compliance with the locational requirements of any ordinance or regulation in effect in the county.

(5) Any sexually oriented business in which the applicant has had an influential interest has, in the previous five years (and at a time during which the applicant had the influential interest):

(a) Been declared by a court of law to be a nuisance; or

(b) Been subject to an order of closure or padlocking.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in § 111.02.

(B) *Employee license.* Upon the filing of a completed application for a sexually oriented business employee license, the County Administrator shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the county to deny or grant an annual license. Within 20 days of the filing of a completed sexually oriented business employee license application, the County Administrator shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The County Administrator shall issue a license unless:

(1) The applicant is less than 18 years of age.

(2) The applicant has failed to provide information as required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this chapter has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):

(a) Been declared by a court of law to be a nuisance; or

(b) Been subject to an order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in § 111.02.

(C) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

(Ord. 07-06, passed 3-13-07)

### **§ 111.06 FEES.**

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: \$100 for the initial fee for a sexually oriented business license and \$50 for annual renewal; \$50 for the initial sexually oriented business employee license and \$25 for annual renewal.

(Ord. 07-06, passed 3-13-07)

### **§ 111.07 INSPECTION.**

Sexually oriented businesses and sexually oriented business employees shall permit the County Administrator and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the county to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

(Ord. 07-06, passed 3-13-07)

### **§ 111.08 EXPIRATION AND RENEWAL OF LICENSE.**

(A) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this chapter.

(B) Application for renewal of an annual license should be made at least 90 days before the expiration date of the current annual license, and when made less than 90 days before the expiration date, the expiration of the current license will not be affected.

(Ord. 07-06, passed 3-13-07)

### **§ 111.09 SUSPENSION.**

(A) The County Administrator shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed 30 days if the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee or any other person to violate this chapter.

(B) The County Administrator shall issue a written notice of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this chapter.

(Ord. 07-06, passed 3-13-07)

### **§ 111.10 REVOCATION.**

(A) The County Administrator shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee or any other person to violate this chapter and a suspension of the licensee's license has become effective within the previous 12-month period.

(B) The County Administrator shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or

(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the premises of the sexually oriented business.

(C) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(D) When, after the notice and hearing procedure described in this chapter, the county revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one year from the date revocation becomes effective.

(Ord. 07-06, passed 3-13-07)

### **§ 111.11 HEARING; LICENSE DENIAL, SUSPENSION, REVOCATION; APPEAL.**

(A) (1) When the County Administrator issues a written notice of intent to deny, suspend, or revoke a license, the County Administrator shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the County Administrator for the respondent. The notice shall specify a date, not less than ten days nor more than 20 days after the date the notice is issued, on which the Hearing Officer shall conduct a hearing on the County Administrator's written notice of intent to deny, suspend, or revoke the license.

(2) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the County Administrator's witnesses. The County Administrator shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five days after the hearing.

(3) If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the Hearing Officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the Hearing Officer shall, contemporaneously with the issuance of the decision, order the County Administrator to immediately

withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the County Administrator shall contemporaneously therewith issue the license to the applicant.

(B) If any court action challenging the Hearing Officer's decision is initiated, the County Administrator shall prepare and transmit to the court a transcript of the hearing within ten days after receiving written notice of the filing of the court action. The county shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the County Administrator. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the county's enforcement of the denial, suspension, or revocation, the County Administrator shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the county's enforcement.

(Ord. 07-06, passed 3-13-07)

### **§ 111.12 TRANSFER OF LICENSE.**

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

### **§ 111.13 HOURS OF OPERATION.**

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

### **§ 111.14 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS ON PREMISES.**

(A) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The County Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

- (a) That the occupancy of viewing rooms less than 150 square feet is limited to one person.
- (b) That sexual activity on the premises is prohibited.
- (c) That the making of openings between viewing rooms is prohibited.
- (d) That violators will be required to leave the premises.
- (e) That violations of these regulations are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in division (5)(a) through (e) above.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this division remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(B) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

### **§ 111.15 LOITERING; EXTERIOR LIGHTING; MONITORING REQUIREMENTS.**

(A) It shall be the duty of the operator of a sexually oriented business to:

(1) Post conspicuous signs stating that no loitering is permitted on such property;

(2) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every 90 minutes or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(B) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(C) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

### **§ 111.16 APPLICABILITY TO EXISTING BUSINESSES.**

All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of 90 days following the effective date of this chapter. By the end of said 90 days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter.

(Ord. 07-06, passed 3-13-07)

### **§ 111.17 PROHIBITED CONDUCT.**

It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

(A) It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

(B) It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from any patron or customer and on a stage at least 18 inches from the floor in a room of at least 1,000 square feet.

(C) It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(D) It shall be a violation of this chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(E) It shall be a violation of this chapter for any person to knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

(F) A sign in a form to be prescribed by the County Administrator, and summarizing the provisions of divisions (A), (B), (C), (D), and (E), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

(Ord. 07-06, passed 3-13-07) Penalty, see § 111.99

#### **§ 111.18 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LICENSEE LIABILITY.**

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. 07-06, passed 3-13-07)

#### **§ 111.19 FAILURE OF COUNTY TO MEET TIME FRAME NOT TO RISK APPLICANT/LICENSEE RIGHTS.**

In the event that a county official is required to act or to do a thing pursuant to this chapter within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the county official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the county of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the county's action has passed.

(Ord. 07-06, passed 3-13-07)

#### **§ 111.20 CONFLICTING CODE PROVISIONS REPEALED.**

Any provision(s) in this code specifically in conflict with any provision in this chapter is hereby deemed inoperative and repealed.

(Ord. 07-06, passed 3-13-07)

#### **§ 111.99 PENALTY.**

(A) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a Class A Misdemeanor, and, upon conviction, shall be punishable by up to a \$500 fine and/or up to 12 months in the county jail. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

(B) The county's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the county, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this chapter, or any of the laws in force in the county or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

(Ord. 07-06, passed 3-13-07)

## CHAPTER 112: ALCOHOLIC BEVERAGES

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Section

### *General Provisions*

112.01 Possession and/or use by minors prohibited

### *Licensing Provisions*

112.10 License required

112.11 Lack of county license prima facie presumption of unlawful trafficking

112.12 Duty of those conducting business to comply

112.13 License fees

112.14 Hours when sales are permitted

112.99 Penalty

### ***Cross-reference:***

*Adult entertainment establishments, see §§ 111.01 et seq.*

## GENERAL PROVISIONS

### **§ 112.01 POSSESSION AND/OR USE BY MINORS PROHIBITED.**

No person being the owner, occupant or otherwise in possession of any property located in the county, shall knowingly allow any person under the age of 21 years, except members of his or her immediate family (spouse or children), to remain on such property while in the possession of any alcoholic beverage or while consuming any alcoholic beverage.

(Ord. 340.5, passed 10-7-86) Penalty, see § 112.99

### ***Cross-reference:***

*Offenses against county regulations, see §§ 130.01 et seq.*

## LICENSING PROVISIONS

### **§ 112.10 LICENSE REQUIRED.**

No person or entity shall do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transport or other traffic in alcoholic beverages, unless that person or entity holds the kind of license that authorizes such act.

(Ord. 410.7, passed 3-21-95) Penalty, see § 112.99

### **§ 112.11 LACK OF COUNTY LICENSE PRIMA FACIE PRESUMPTION OF UNLAWFUL TRAFFICKING.**

The holding of a permit from the Commonwealth of Kentucky or any city in the county to traffic in alcoholic beverages without the corresponding required county license shall in all cases raise a prima facie presumption that the holder of such state or city permit is unlawfully trafficking in alcoholic beverages.

(Ord. 410.7, passed 3-21-95)

### **§ 112.12 DUTY OF THOSE CONDUCTING BUSINESS TO COMPLY.**

(A) Any person or entity conducting a place of business patronized by the public who does not have a license to sell alcoholic beverages shall not permit the sale or trafficking of alcoholic beverages on the premises of the place of business.

(B) Any person or entity conducting a place of business patronized by the public, which has only a license to sell alcoholic malt beverages and not the corresponding license to sell liquor or distilled spirits, shall not permit the sale or trafficking of liquor or distilled spirits on the premises of the place of business.

(C) Any person or entity conducting a place of business patronized by the public and holding a license to sell liquor or distilled spirits shall not permit any person to drink such beverages on the premises of the place of business unless a license to sell such beverages by the drink is obtained.

(Ord. 410.7, passed 3-21-95) Penalty, see § 112.99

### **§ 112.13 LICENSE FEES.**

(A) A Commissioner of Alcoholic Beverages shall be appointed by the Fiscal Court and shall have the authority to set the fee for all licenses with respect to all trafficking in alcoholic beverages in the county.

(B) Those holding a valid license for traffic in alcoholic beverages issued by a city in the county may deduct the fee of such a city license from the fee to be charged for a like license from the county.

(Ord. 410.7, passed 3-21-95)

### **§ 112.14 HOURS WHEN SALES ARE PERMITTED.**

(A) A person or entity holding a license under the provisions of this chapter and applicable state law may sell alcoholic beverages or do any act as authorized by the license. The sale of alcoholic beverages shall occur only during the hours hereinafter set out for each license, except that no sale of alcoholic beverages shall be made during the hours the polls are open on any regular, primary, school or special election day. The hours when sales are permitted are as follows:

(1) A licensee holding a distilled spirits and wine retail package license: during the period between the hours of 6:00 a.m. to 1:00 a.m. daily, except Sunday, and from 11:00 a.m. to midnight on Sunday.

(2) A licensee holding a distilled spirits and wine retail drink license and restaurant wine license: during the period between the hours of 6:00 a.m. to 2:30 a.m. daily, except Sunday and from 1:00 p.m. to midnight on Sunday.

(3) A licensee holding a distilled spirits license, wine wholesaler's license and malt beverage distributor's license: during the period between the hours of 6:00 a.m. and 12:00 a.m. daily excluding Sunday.

(4) A licensee holding a malt beverage retailer's license: during the period between the hours of 6:00 a.m. to 2:30 a.m. daily, except Sunday and during the period between the hours of 11:00 a.m. to midnight on Sunday.



(B) During all times when a licensed premises is open and the licensee is not permitted to sell alcoholic beverages, a licensee shall provide a separate area within the licensed premises capable of being locked, closed off or otherwise properly separated, within which is kept all stocks of alcoholic beverages and all fixtures and apparatus connected with the business as a licensee, and said area shall be kept locked or separated.

(Ord. 410.7, passed 3-21-95; Am. Ord. 05-03, passed 4-19-05; Am. Ord. 08-08, passed 6-3-08; Am. Ord. 13-10, passed 4-23-13)  
Penalty, see § 112.99

### **§ 112.99 PENALTY.**

(A) Any person found to be in violation of § 112.01 of this chapter shall be deemed guilty of a misdemeanor and fined not more than \$300 or imprisoned for not more than 90 days, or both.

(Ord. 340.5, passed 10-7-86)

(B) Any person or entity in violation of any provision of §§ 112.10 through 112.14 of this chapter shall be deemed guilty of a misdemeanor and fined not less than \$50 nor more than \$500. Each day that a violation continues shall constitute a separate offense for which a citation may be issued and a fine imposed.

(Ord. 410.7, passed 3-21-95)

## **CHAPTER 113: PRECIOUS METALS DEALERS**

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### Section

113.01 Keeping of daily register required

113.02 Maintenance and condition of articles; examination by police

113.03 Engaging in business with minor prohibited; restricted hours

113.99 Penalty

### **§ 113.01 KEEPING OF DAILY REGISTER REQUIRED.**

It shall be the duty of all persons dealing in the purchase, sale or exchange of second-hand or antique jewelry, coins, watches, diamonds or other precious stones, cutlery, old gold, silver, platinum, or other precious metals, or any other second-hand manufactured articles, composed wholly or in part of gold, silver, platinum or other precious metals to keep a daily register on a form provided by the County Police Department and the County Sheriff, of every article received by them in the course of their business and the persons from whom such articles were acquired. The register shall contain as minute a description of each article as is reasonable, including any identification numbers and the manufacturer's name, as well as the name, age, sex, race, address, driver's license number, general description of the individual or individuals selling or exchanging the articles, and their signatures.

(Ord. 320.4, passed 4-21-81) Penalty, see § 113.99

### **§ 113.02 MAINTENANCE AND CONDITION OF ARTICLES; EXAMINATION BY POLICE.**

All persons engaged in business as described in § 113.01 shall retain each and every article received by them in the same state or condition in which it was received, and all articles received during any one day's transaction shall be kept separately and shall not be co-mingled with articles received during any other day's transactions for a period of 72 hours following their receipt and shall be made available for examination to members of the Police Department, Sheriff's Department, State Police, or other law enforcement official for this period before such articles are re-sold or exchanged.

(Ord. 320.4, passed 4-21-81) Penalty, see § 113.99

### § 113.03 ENGAGING IN BUSINESS WITH MINOR PROHIBITED; RESTRICTED HOURS.

No person engaged in business as described in § 113.01 shall purchase or exchange second-hand or antique jewelry, coins, watches, diamonds or other precious stones, cutlery, or old gold, silver, platinum or other precious metals, or any other second-hand manufactured articles composed wholly or in part of gold, silver, platinum or other precious metals from any person less than 18 years of age, and no purchases in articles shall occur between the hours of 10:00 p.m. and 8:00 a.m.

(Ord. 320.4, passed 4-21-81) Penalty, see § 113.99

### § 113.99 PENALTY.

Violation of any of the duties, requirements or prohibitions contained in this chapter shall be deemed a Class A Misdemeanor.

(Ord. 320.4, passed 4-21-81)

#### *Statutory reference:*

*Imprisonment for misdemeanors, see KRS 532.090*

*Fines for misdemeanors, see KRS 534.040*

## CHAPTER 114: PRIVATE DETECTIVE AGENCIES; MERCHANT GUARD

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### Section

- 114.01 Definitions
- 114.02 License required
- 114.03 License application; fee
- 114.04 License fees
- 114.05 Persons prohibited from receiving license
- 114.06 Identification cards, badges, uniforms and equipment
- 114.07 Change in personnel
- 114.08 New vehicle; report to Judge/Executive
- 114.09 Unlawful acts
- 114.99 Penalty

### § 114.01 DEFINITIONS.

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

**AGENTS** and **EMPLOYEES.** All persons employed by a merchant guard or merchant patrol in the conduct of his or her business, except stenographic and clerical employees whose duties are confined entirely to stenographic and clerical duties in the business office of the merchant guard or merchant patrol, or other employees not directly engaged in providing protection and/or surveillance.

**BUSINESS** or **INDUSTRIAL GUARD.** Any individual who accepts employment from a single employer for the purpose of watching, guarding, or otherwise protecting the persons or property of that employer only, or to preserve the peace in the conduct of that employer's business, except any individual so employed by any common carrier engaged in interstate commerce, but shall exclude maintenance men and installers, janitors, repairmen, or persons engaged in similar occupations and officers of the Florence City, Walton City, or County Police Departments, engaged in off-duty employment.

**MERCHANT GUARD** or **MERCHANT PATROL**. Any person who conducts or is engaged in the business of providing protection to persons and property, or preserving the peace in the conduct of any business, except a business or industrial guard.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06)

#### **§ 114.02 LICENSE REQUIRED.**

(A) It shall be unlawful for any person, firm or corporation to engage in the business of a merchant guard or merchant patrol, or to act as a business or industrial guard without obtaining a license as hereinafter provided.

(B) It shall be unlawful for any merchant guard or merchant patrol to employ any agent or employee unless the person to be employed has obtained a license as hereinafter provided.

(C) It shall be unlawful for any person to accept employment as an agent or employee of a merchant guard or merchant patrol without obtaining a license as hereinafter provided.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06) Penalty, see § 114.99

#### **§ 114.03 LICENSE APPLICATION; FEE.**

(A) Applications for a license as a merchant guard or merchant patrol, or agent or employee of a merchant guard or merchant patrol shall file an application with the office of County Judge/Executive or his designee on forms to be provided by him for that purpose and shall contain, in addition to the information required by the general licensing ordinance, the following:

(1) If an application for a license as a merchant guard or merchant patrol, a description of the nature and type of business to be conducted, the services to be offered, and the area expected to be covered in the conduct of the business; a statement as to the number of employees to be employed as agents or employees; a statement as to the number and type of vehicles to be used in the conduct of the business and a description thereof, including any radio equipment; a description of the equipment used in the maintenance of the office, other than vehicles to be used in the conduct of the business, and, any other pertinent facts required by the Judge/Executive.

(2) If an applicant for a license as an agent or an employee of a merchant guard or merchant patrol, or as a business or industrial guard, the name of the person by whom the applicant is to be employed; the address where the applicant is to be employed; the nature of the service to be rendered, the purpose of the employment, and any other pertinent facts required by the Judge/Executive in accordance to the law. In addition, the Judge/Executive shall require evidence that the applicant will be employed by a merchant guard or merchant patrol, or other employer in the event the application is approved.

(3) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor, or ordinance violation (other than traffic violations); the nature of the offense, the penalty or punishment imposed, and the date and place where the penalty or punishment imposed, and the date and place where such offense occurred.

(4) A statement as to whether or not the applicant has ever had a judgment or conviction for fraud, deceit, or misrepresentation entered against him, and, if so, the details thereof.

(5) A statement as to the business of employment record of the applicant for 10 years immediately preceding the date of application.

(6) Three letters certifying to the good character and business responsibility of the applicant.

(B) All applications for licenses shall be accompanied by an application fee of \$10.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06)

#### **§ 114.04 LICENSE FEES.**

Every person, firm or corporation that engages in the business of a merchant guard or merchant police shall pay an annual license fee of \$25, payable May 1, annually.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06) Penalty, see § 114.99

## **§ 114.05 PERSONS PROHIBITED FROM RECEIVING LICENSE.**

No license shall be issued to any of the following persons:

- (A) Any person under 18 years of age or one who is not a citizen of the United States of America.
- (B) Any person whose character and reputation and record of sobriety is not satisfactory to the License Inspector and the Police Department.
- (C) Any person against whom a judgment or conviction for fraud, deceit or misrepresentation has been entered within 10 years immediately preceding the date of application.
- (D) Any person who has a record of drug addiction, or a record of violent acts against persons or property.
- (E) Any person who is unable to prove that he or she will be employed as a business or industrial guard, or any agent or employee of an industrial guard or merchant police upon issuance of a license.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06)

## **§ 114.06 IDENTIFICATION CARDS, BADGES, UNIFORMS AND EQUIPMENT.**

(A) *Identification cards.* In addition to the license, the Judge/Executive or his or her designee shall issue to each licensee an identification card approximately two and one-half inches by four inches, which shall include the following:

- (1) The type of license and expiration date thereof;
- (2) Name, address, physical description and picture of the licensee;
- (3) The name of the employer if the licensee is a business or industrial guard, or the agent and employee of the merchant guard or merchant patrol;
- (4) The signature of the licensee and that of the License Inspector;
- (5) Such other information as the Judge/Executive may deem advisable.

(B) The Judge/Executive, in addition to the identification card hereinabove provided for, may issue a uniform type badge to be designed by him, but the Judge/Executive is hereby authorized to approve the use of badges and insignia, provided to agents or employees by the merchant guard or merchant patrol, or to business or industrial guards by an employer, where such badges and insignia are not a colorable imitation of, or cannot be confused with the badge worn by officers of the Florence City, Walton City or County Police or the County Sheriff's Office.

(C) Uniforms, if any, worn by business or industrial guards, and agents or employees of merchant guards and merchant patrols while employed within the Florence City, Walton City or county, will be of a color different from that worn by officers of Florence City, Walton City, and County Police Department, and the County Sheriff's Office, and of the State Highway Patrol. The uniforms shall be presented to the Judge/Executive for his or her approval as to color, prior to issuance to employees and agents of merchant guards or merchant patrols and before being worn by the business and industrial guards and once the determination is made, it shall not thereafter be changed, except by approval by the Judge/Executive.

(D) The vehicles used in the conduct of the merchant guard or merchant patrol business, within the county by a licensee, shall be of a color approved by the Judge/Executive and shall be different from that of the vehicles of any regular police unit of any city in the county, the County Police, or the Sheriff of the county, and once determined, shall not be changed except by the Judge/Executive. In addition, the vehicles shall not be equipped with any lights or sirens in violation of the Traffic Code of the City of Florence, county or the Commonwealth of Kentucky; nor shall any insignias be painted on the sides thereof which are similar to, or, which could be confused with that painted on the sides of the vehicles of the above mentioned divisions.

(E) The words "police" or "officer" shall not be used in any advertising, or upon the premises within the limits of the City of Florence occupied by the merchant guard or merchant patrol, nor on any of its vehicles or equipment.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06)

### **§ 114.07 CHANGE IN PERSONNEL.**

(A) Whenever a business or industrial guard or agent or employee of a merchant guard or merchant patrol is discharged for any reason, his or her employer shall immediately notify the Judge/Executive of such fact, together with the reasons for the dismissal.

(B) When a business or industrial guard or agent or employees of a merchant guard or merchant patrol is dismissed, he or she shall forthwith surrender the identification card and badge issued him or her, to the Judge/Executive. In the event the person surrendering a set of identification card and badge is re-employed during the remainder of the year, the identification card and badge may be re-issued to him or her without charge.

(C) Any licensee changing a place of business or abode, shall immediately notify the Judge/Executive of such fact, together with the address of the new place of business or abode; provided, however, that in the event a licensee changes his or her place of abode, this shall not be deemed to be a transfer of license or require the payment of any additional fee.

(Ord. 430.2, passed 6-3-80; Am. Ord. 06-18, passed 10-17-06)

### **§ 114.08 NEW VEHICLE; REPORT TO JUDGE/EXECUTIVE.**

Whenever a new vehicle is acquired by a licensee for use in the conduct of his or her business, the type and description of the vehicle shall be immediately reported to the Judge/Executive.

(Ord. 430.2, passed 6-3-80) Penalty, see § 114.99

### **§ 114.09 UNLAWFUL ACTS.**

It shall be unlawful:

(A) For any licensee to arrest any person except when that person commits a criminal offense in the presence of the licensee.

(B) For any licensee to fail to turn over any such person arrested immediately to the appropriate unit of a regularly established unit of the police in the city where the offense occurs or to the County Police.

(C) For any licensee to hinder or interfere with any investigation under the jurisdiction of any regularly established police department of a city in the county or of the County Police Department.

(D) For any licensee to fail to report immediately to the appropriate regularly established unit of city or county police department all violations of county, state and federal laws which constitute felonies or breach of the peace coming to his attention.

(E) For any licensee to wear a uniform, badge or insignia other than authorized by the Judge/Executive.

(F) For any licensee to represent himself to be an officer of any regularly established unit of City or County Police Department.

(G) For any licensee to fail to conduct himself in a lawful and orderly manner at all times.

(Ord. 430.2, passed 6-3-80) Penalty, see § 114.99

### **§ 114.99 PENALTY.**

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, in addition to having its license revoked, shall be fined not less than \$25 nor more than \$500 for each offense.

(Ord. 430.2, passed 6-3-80)

## **CHAPTER 115: DEVELOPMENT AREA NO. 1**

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- 115.01 Definitions
- 115.02 Establishment and designation of Development Area No. 1
- 115.03 Findings
- 115.04 Establishment of percentage of increments
- 115.05 Appointment of Special Counsel and Financial Advisor
- 115.06 Hearing, conditions precedent and activation date
- 115.07 Creation of special funds for outstanding increment bonds
- 115.08 Incorporation of recitals
- 115.09 Termination
- 115.10 Conflicts repeal

## **§ 115.01 DEFINITIONS.**

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

**ACT.** KRS 65.680 through 65.699.

**ACTIVATION DATE.** The date established in § 115.06, which shall also constitute the commencement date.

**COMMONWEALTH.** The Commonwealth of Kentucky.

**COUNTY.** Boone County, Kentucky.

**DEVELOPMENT AREA NO. 1.** A contiguous geographic area, located within the geographical boundaries of the county, which is created for infrastructure development purposes by this chapter in which one or more projects are proposed to be located to be known as **DEVELOPMENT AREA NO. 1**.

**FINANCIAL ADVISOR.** Ross, Sinclair & Associates.

**INCREMENT or INCREMENTS.** The amount of revenues received by the county and/or agency determined by subtracting the amount of old revenues from the amount of new revenues, in any calendar year, with respect to Development Area No. 1.

**KRS.** Kentucky Revised Statutes, as amended.

**NEW REVENUES.** Shall have the same meaning and definition as set forth and defined in KRS 65.680(20).

**OLD REVENUES.** Shall have the same meaning and definition as set forth and defined in KRS 65.680(21).

**PROJECT or ECONOMIC DEVELOPMENT PROJECT.** Shall have the same meaning as set forth in KRS 65.680(24), and specifically shall refer to the economic and infrastructure development for industrial/commercial use, located within Development Area No. 1, established by this chapter, which has been determined by the Fiscal Court for the county as contributing to economic development.

**SPECIAL COUNSEL.** Peck, Shaffer & Williams, LLP.

**SPECIAL FUND.** Development Area No. 1 Fund in which increments and other revenues collected within the development area are deposited and from which funds are used to pay the costs of projects or to pay debt charges on increment bonds associated with Development Area No. 1.

(B) Any term not defined herein shall have the same meaning as set forth in KRS 65.680.

(Ord. 05-13, passed 9-20-05)

## **§ 115.02 ESTABLISHMENT AND DESIGNATION OF DEVELOPMENT AREA NO. 1.**

(A) All that area described in Exhibit A, incorporated herein by reference, is located within the county and is hereby established and designated as the Development Area No. 1.

(B) Development Area No. 1, as described in Exhibit A, is hereby created and established as of the date this chapter shall become effective as set forth in § 115.06(B) (activation date or commencement date).

(Ord. 05-13, passed 9-20-05)

## **§ 115.03 FINDINGS.**

The county specifically finds, in accordance with and pursuant to the Act, that the project, and the creation and establishment of Development Area No. 1, is for a public purpose and for infrastructure and economic development purposes for the benefit and welfare for the citizens of the county. The Fiscal Court further finds that the establishment and designation of Development Area No. 1 will result in the increase in the value of property located within Development Area No. 1 and/or result in an increase in employment within and around Development Area No. 1. The county therefore finds that there is a necessity for the establishment and creation of Development Area No. 1 as authorized by this chapter, and therefore directs the establishment of Development Area No. 1 in accordance with the terms and conditions as set forth in the Act, and in accordance with these findings.

(Ord. 05-13, passed 9-20-05)

## **§ 115.04 ESTABLISHMENT OF PERCENTAGE OF INCREMENTS.**

(A) The percentage of increment that the county shall distribute, each year, for use in the infrastructure development of the Development Area No. 1, shall be 50%. The maximum amount of increment to be requested from the county for real and personal property taxes shall be 80%.

(B) All increments derived from the county shall be received by the county and shall be used to pay the costs of the infrastructure development and projects, and to pay, when appropriate, debt services and charges on any increment bonds which may be authorized by a subsequent ordinance, or resolution, of the county, and for such other purposes as may be determined by the county by its Fiscal Court and that are appropriate and in compliance with the purposes set forth in this chapter and within the Act.

(C) The county, by and through Fiscal Court, may enter into a grant contract with any other city or county for the release of increments in furtherance of any project within the development area in accordance with KRS 65.696.

(D) The county, by and through Fiscal Court, pursuant to KRS 65.6851, will impose a 2% assessment fee on certain newly created jobs as a result of a project within the development area, such employees being subject to the state tax imposed by KRS 141.020. The total assessment levied under this provision shall not exceed an amount equal to 2% of the gross wages of the employee and shall be paid in accordance with the procedures set forth in §§ 110.01 through 110.14 and the special levy set forth in §§ 10.35 through 110.99, inclusive of mental health and general fund portions of said payroll tax. When such assessment is levied, 100% of the payroll tax receipts over and above the amount due pursuant to §§ 110.01 through 110.14 and the special levy set forth in §§ 110.25 through 110.99, inclusive of mental health and general fund portions of said payroll tax, shall be applied as part of the assessment fee toward the development area. Prior to such an assessment, all conditions contained within KRS 65.6851 shall be met.

(Ord. 05-13, passed 9-20-05)

## **§ 115.05 APPOINTMENT OF SPECIAL COUNSEL AND FINANCIAL ADVISOR.**

(A) The county hereby authorizes and approves the appointment of Peck, Shaffer & Williams, LLP, as Special Counsel to the county for purposes of the establishment of Development Area No. 1, such approving legal opinions as may be required for the establishment of Development Area No. 1 and, to act as Bond Counsel with respect to the issuance of any increment bonds which may be authorized and issued after the date and adoption of this chapter and the approval of Development Area No. 1.

(B) The county hereby authorizes and approves the appointment of Ross, Sinclair & Associates, as Financial Advisor to the county with respect to the development of Development Area No. 1 and the issuance of any increment bonds after the date and adoption of this chapter and approval of Development Area No. 1.

(Ord. 05-13, passed 9-20-05)

#### **§ 115.06 HEARING, CONDITIONS PRECEDENT AND ACTIVATION DATE.**

(A) This chapter shall not become effective until occurrence of the following:

(1) The county shall hold a public hearing in accordance with KRS 65.686(1) upon a date certain at which all interested parties shall be afforded a reasonable opportunity to express their views on the proposed creation and establishment of the Development Area No. 1 and its boundaries.

(2) Prior notice of said public hearing shall be published in a local newspaper with general circulation at least seven days, but no more than 21 days, prior to the scheduled hearing date and shall set forth the time and place of the hearing, including general description of the boundaries of the proposed Development Area No. 1 and include a declaration that the purpose of the hearing is to afford all interested parties an opportunity to express their views regarding Development Area No. 1.

(B) This chapter shall become effective on the date following completion of all the conditions precedent set forth herein, at which time Development Area No. 1 shall be established hereby. Such date will be the commencement date and shall be the date on which the required hearing is concluded.

(Ord. 05-13, passed 9-20-05)

#### **§ 115.07 CREATION OF SPECIAL FUNDS FOR OUTSTANDING INCREMENT BONDS.**

(A) The county hereby establishes a Special Fund referred to as Development Area No. 1 Special Fund. The county shall maintain the Special Fund, created hereby, which shall be pledged for the purposes set forth by this chapter. The County Treasurer will collect the increments, and other revenue, as set forth in the Act and deposit the monies in the Special Fund. Funds deposited in the Special Fund shall be disbursed at the times and in the amounts required by the county and, if permitted by the Act, to pay debt charges on increment bonds, if any, and for any other public legal purpose as determined by the county's Fiscal Court as provided for in the Act.

(B) The county may establish other funds and accounts as may be necessary or required with respect to the increments and the issuance of increment bonds.

(Ord. 05-13, passed 9-20-05)

#### **§ 115.08 INCORPORATION OF RECITALS.**

The preamble or recitals to this chapter are hereby declared and determined to be true and accurate in all respects and are incorporated into the body of this section, in full, by reference thereto.

(Ord. 05-13, passed 9-20-05)

#### **§ 115.09 TERMINATION.**

Development Area No. 1 shall cease to exist on the date marking 20 years from the commencement date established under § 115.06 herein.

(Ord. 05-13, passed 9-20-05)

#### **§ 115.10 CONFLICTS REPEAL.**

All ordinances, resolutions or parts thereof in conflict with provisions of this chapter are hereby repealed and this chapter shall take effect and be in full force in accordance with provisions of § 115.06(B) hereof.

(Ord. 05-13, passed 9-20-05)



Section

- 116.01 Definitions
- 116.02 Establishment and designation of Development Area No. 2
- 116.03 Findings
- 116.04 Establishment of percentage of increments
- 116.05 Hearing, condition precedent and activation date
- 116.06 Creation of special funds for outstanding increment bonds
- 116.07 Incorporation of recitals
- 116.08 Termination
- 116.09 Conflicts repeal

**§ 116.01 DEFINITIONS.**

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

**ACT.** KRS 65.680 through 65.699.

**ACTIVATION DATE.** The date established in § 116.05, which shall also constitute the commencement date.

**COMMONWEALTH.** The Commonwealth of Kentucky.

**COUNTY.** Boone County, Kentucky.

**DEVELOPMENT AREA NO. 2.** A contiguous geographic area, located within the geographical boundaries of the county, which is created for infrastructure development purposes by this chapter in which one or more projects are proposed to be located to be known as **DEVELOPMENT AREA NO. 2**.

**FINANCIAL ADVISOR.** A financial agent selected by the Fiscal Court.

**INCREMENT or INCREMENTS.** The amount of revenues received by the county and/or agency determined by subtracting the amount of old revenues from the amount of new revenues, in any calendar year, with respect to Development Area No. 2.

**KRS.** Kentucky Revised Statutes, as amended.

**NEW REVENUES.** Shall have the same meaning and definition as set forth and defined in KRS 65.680(20).

**OLD REVENUES.** Shall have the same meaning and definition as set forth and defined in KRS 65.680(21).

**PROJECT or ECONOMIC DEVELOPMENT PROJECT.** Shall have the same meaning as set forth in KRS 65.680(24), and specifically shall refer to the economic and infrastructure development for industrial/commercial use, located within Development Area No. 2, established by this chapter, which has been determined by the Fiscal Court for the county as contributing to economic development.

**SPECIAL COUNSEL.** Legal counsel selected by the Fiscal Court.

**SPECIAL FUND.** Development Area No. 2 Fund in which increments and other revenues collected within the development area are deposited and from which funds are used to pay the costs of projects or to pay debt charges on increment bonds associated with Development Area No. 2.

(B) Any term not defined herein shall have the same meaning as set forth in KRS 65.680.

(Ord. 07-03, passed 1-16-07)

## **§ 116.02 ESTABLISHMENT AND DESIGNATION OF DEVELOPMENT AREA NO. 2.**

(A) All that area described in Exhibit A, incorporated herein by reference, is located within the county and is hereby established and designated as the Development Area No. 2.

(B) Development Area No. 2, as described in Exhibit A, is hereby created and established as of the date this chapter shall become effective as set forth in § 116.05(B) (activation date or commencement date).

(Ord. 07-03, passed 1-16-07)

## **§ 116.03 FINDINGS.**

The county specifically finds, in accordance with and pursuant to the Act, that the project, and the creation and establishment of Development Area No. 2, is for a public purpose and for infrastructure and economic development purposes for the benefit and welfare for the citizens of the county. The Fiscal Court further finds that the establishment and designation of Development Area No. 2 will result in the increase in the value of property located within Development Area No. 2 and/or result in an increase in employment within and around Development Area No. 2. The county therefore finds that there is a necessity for the establishment and creation of Development Area No. 2 as authorized by this chapter, and therefore directs the establishment of Development Area No. 2 in accordance with the terms and conditions as set forth in the Act, and in accordance with these findings.

(Ord. 07-03, passed 1-16-07)

## **§ 116.04 ESTABLISHMENT OF PERCENTAGE OF INCREMENTS.**

(A) The percentage of increment that the county shall distribute, each year, for use in the infrastructure development of the Development Area No. 2, shall be 50%. The maximum amount of increment to be requested from the county for real and personal property taxes shall be 80%.

(B) All increments derived from the county shall be received by the county and shall be used to pay the costs of the infrastructure development and projects, and to pay, when appropriate, debt services and charges on any increment bonds which may be authorized by a subsequent ordinance, or resolution, of the county, and for such other purposes as may be determined by the county by its Fiscal Court and that are appropriate and in compliance with the purposes set forth in this chapter and within the Act.

(C) The county, by and through Fiscal Court, may enter into a grant contract with any other city or county for the release of increments in furtherance of any project within the development area in accordance with KRS 65.696.

(D) The county, by and through Fiscal Court, pursuant to KRS 65.6851, will impose a 2% assessment fee on certain newly created jobs as a result of a project within the development area, such employees being subject to the state tax imposed by KRS 141.020. The total assessment levied under this provision shall not exceed an amount equal to 2% of the gross wages of the employee and shall be paid in accordance with the procedures set forth in §§ 110.01 through 110.14 and the special levy set forth in §§ 10.25 through 110.99, inclusive of mental health and general fund portions of said payroll tax. When such assessment is levied, 100% of the payroll tax receipts over and above the amount due pursuant to §§ 110.01 through 110.14 and the special levy set forth in §§ 110.25 through 110.99, inclusive of mental health and general fund portions of said payroll tax, shall be applied as part of the assessment fee toward the development area. Prior to such an assessment, all conditions contained within KRS 65.6851 shall be met.

(Ord. 07-03, passed 1-16-07)

## **§ 116.05 HEARING, CONDITION PRECEDENT AND ACTIVATION DATE.**

(A) This chapter shall not become effective until occurrence of the following:

(1) The county shall hold a public hearing in accordance with KRS 65.686(1) upon a date certain at which all interested parties shall be afforded a reasonable opportunity to express their views on the proposed creation and establishment of the Development Area No. 2 and its boundaries.

(2) Prior notice of said public hearing shall be published in a local newspaper with general circulation at least seven days, but no more than 21 days, prior to the scheduled hearing date and shall set forth the time and place of the hearing, including general description of the boundaries of the proposed Development Area No. 2 and include a declaration that the purpose of the hearing is to afford all interested parties an opportunity to express their views regarding Development Area No. 2.

(B) This chapter shall become effective on the date following completion of all the conditions precedent set forth herein, at which time Development Area No. 2 shall be established hereby. Such date will be the commencement date and shall be the date on which the required hearing is concluded.

(Ord. 07-03, passed 1-16-07)

#### **§ 116.06 CREATION OF SPECIAL FUNDS FOR OUTSTANDING INCREMENT BONDS.**

(A) The county hereby establishes a Special Fund referred to as Development Area No. 2 Special Fund. The county shall maintain the Special Fund, created hereby, which shall be pledged for the purposes set forth by this chapter. The County Treasurer will collect the increments, and other revenue, as set forth in the Act and deposit the monies in the Special Fund. Funds deposited in the Special Fund shall be disbursed at the times and in the amounts required by the county and, if permitted by the Act, to pay debt charges on increment bonds, if any, and for any other public legal purpose as determined by the county's Fiscal Court as provided for in the Act.

(B) The county may establish other funds and accounts as may be necessary or required with respect to the increments and the issuance of increment bonds.

(Ord. 07-03, passed 1-16-07)

#### **§ 116.07 INCORPORATION OF RECITALS.**

The preamble or recitals to this chapter are hereby declared and determined to be true and accurate in all respects and are incorporated into the body of this section, in full, by reference thereto.

(Ord. 07-03, passed 1-16-07)

#### **§ 116.08 TERMINATION.**

Development Area No. 2 shall cease to exist on the date marking 20 years from the commencement date established under § 116.05 herein.

(Ord. 07-03, passed 1-16-07)

#### **§ 116.09 CONFLICTS REPEAL.**

All ordinances, resolutions or parts thereof in conflict with provisions of this chapter are hereby repealed and this chapter shall take effect and be in full force in accordance with provisions of § 116.05(B) hereof.

(Ord. 07-03, passed 1-16-07)

### **TITLE XIII: GENERAL OFFENSES**

Chapter

#### **130. OFFENSES AGAINST COUNTY REGULATIONS**

### **CHAPTER 130: OFFENSES AGAINST COUNTY REGULATIONS**

***General Provisions***

- 130.01 Roadside vendors prohibited
- 130.02 Concealed deadly weapons on government property
- 130.03 Electioneering prohibited where voting machines are located

***Weapons***

- 130.10 Definitions
- 130.11 Reserved
- 130.12 Forfeiture of weapon upon conviction
- 130.13 Exemption for persons authorized to carry concealed weapons
- 130.14 Supplying martial arts weapons to minors
- 130.99 Penalty

***Cross-reference:***

*Possession and/or use of alcohol by minors prohibited, see § 112.01*

**GENERAL PROVISIONS**

**§ 130.01 ROADSIDE VENDORS PROHIBITED.**

It shall be unlawful for any person, persons, corporation or association to sell or give away any form of produce, dairy products, or any form of merchandise on the public right-of-way.

(Ord. 420.1, passed 5-29-79) Penalty, see § 130.99

**§ 130.02 CONCEALED DEADLY WEAPONS ON GOVERNMENT PROPERTY.**

(A) Pursuant to the authorization of KRS Chapter 237, the County Fiscal Court does hereby prohibit the carrying of concealed deadly weapons into all buildings owned, leased or controlled by the government of the county that are occupied by or contain the business offices of the Boone County Commonwealth's Attorney, the Boone County Attorney, or the Boone County IV-D Child Support Program. The provisions of this chapter, as enacted under KRS Chapter 237, shall not be deemed to be a violation of KRS 65.870.

(B) All buildings or portions of buildings where the carrying of concealed deadly weapons is prohibited shall be clearly identified by signs posted at the entrance to the restricted area. Such signs shall be a minimum of eighteen inches square and shall read as follows: "THE POSSESSION OF CONCEALED DEADLY WEAPONS, EVEN WITH PROPER PERMIT, IS HEREBY PROHIBITED ON THIS PROPERTY."

(C) Any person or persons violating this chapter may be denied entrance to the building or ordered to leave the building.

(D) Any employee of the county government or any elected official of the county, excluding peace officers, who violates this chapter shall be subject to employee disciplinary measures.

(E) The provisions of this section are subordinate to any federal or state law that prohibits the carrying of concealed deadly weapons in the event the provisions of this section conflict or are contrary to that federal or state law.

(F) The adoption of this section shall be deemed to serve as public notice that the carrying of concealed deadly weapons shall be prohibited on county property designated by this section which shall also be posted accordingly.

### § 130.03 ELECTIONEERING PROHIBITED WHERE VOTING MACHINES ARE LOCATED.

(A) To fulfill the government's obligation to protect the voter and the integrity of the election process from actual or attempted fraud, from obstruction, from intimidation, real or inferred, from attempted or actual vote buying, from harassment, real, threatened or implied, from hindrance or delay all done under the disguise of electioneering, a electioneering free zone is established within 200 feet of the entrance to any building containing a polling place on any Election Day. No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of 200 feet of the main entrance of a building used by voters in which a voting machine is located on Election Day. No person shall, on the day of any election as established in KRS 118.025, intentionally cause interference, harassment, or alarm to any person on his or her way to vote. No person shall hinder or delay a voter, or solicit, or attempt to influence any voter in casting his or her vote within this 200-foot campaign free zone. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any political party, candidate or questions on the ballot in any manner. Nothing contained in this section shall prohibit electioneering conducted within the interior of a private residence or business establishment by persons having a leased or ownership interest in such property, within the campaign free zone, provided that all electioneering activities are confined to the interior of the buildings and cannot be heard or observed by any voters going to the polling place. Nothing in this section shall prohibit the displaying of political signs on private property or a private establishment by a person having a leased or ownership interest in that private property or private establishment within the campaign free zone, regardless of the distance from the polling place provided that the sign is not accompanied by a person engaging in electioneering within the 200-foot campaign free zone, and does not emit any sound and/or is not audio-visual or mechanical that engages in electioneering within the 200-foot campaign free zone and is no larger than four square feet in size.

(B) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce this section at the polls within 200 feet of the main entrance to the building used by voters in which the voting machine is located. Assistance may be requested of any law enforcement officer.

(C) Any property used for a polling location on Election Day shall not be considered a public place in any manner for public discourse. The grounds, building, sidewalks and parking lots at all polling locations are designated non-public forums for the Election Day.

(D) Violators of any provision of this section shall be guilty of a Class A Misdemeanor under the laws of the Commonwealth of Kentucky and shall be fined up to \$500 and/or up to one year in the county jail per violation.

(Ord. 04-14, passed 10-28-04)

## WEAPONS

### § 130.10 DEFINITIONS.

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

**CHECK POINT.** Those locations designated pursuant to law by airport authority as the point beyond which no one may pass without being subject to a security check.

**DEADLY WEAPON.** This term shall mean:

- (1) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
- (2) Any knife, which has a blade of three inches or longer, or any gravity knife;
- (3) A billy, nightstick or club;
- (4) A blackjack or slapjack;
- (5) Nunchaku karate sticks;

(6) Suriden or death star; or

(7) Artificial knuckles made from metal, plastic or other similar hard material.

**ON OR ABOUT HIS OR HER PERSON.** To have in one's possession whether in a suitcase, hand baggage, briefcase or other similar accessories or located about the person in any way that gives the person actual dominion and control over the weapon.

**SERIOUS PHYSICAL INJURY.** Physical injury which creates a substantial risk of death, or which causes serious and prolonged loss or disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(Ord. 320.3, passed 1-27-81)

### **§ 130.11 RESERVED.**

### **§ 130.12 FORFEITURE OF WEAPON UPON CONVICTION.**

Upon conviction of anyone under this subchapter all deadly weapons used, carried or possessed in violation of this subchapter shall be confiscated and turned over to the court of competent jurisdiction and be disposed of according to the laws of the Commonwealth of Kentucky.

(Ord. 320.3, passed 1-27-81)

### **§ 130.13 EXEMPTION FOR PERSONS AUTHORIZED TO CARRY CONCEALED WEAPONS.**

An exception to the enforcement of this subchapter shall be allowed for those persons authorized to carry a concealed weapon pursuant to KRS 527.020.

(Ord. 320.3, passed 1-27-81)

### **§ 130.14 SUPPLYING MARTIAL ARTS WEAPONS TO MINORS.**

No person, partnership, corporation or other legal entity shall sell, trade, barter, give or otherwise transfer any martial arts weapons or instruments, including, but not limited to, nunchakus, death stars, folding blossom shuriken, ninja blow guns, throwing stars, soft stars, kama, ninja key chains, ninja bokken, sai, butterfly knives, tanto, kris, arrowhead knives, nerve sticks, tonfa, moon axes, fighting chains, darn dao, shabo's, and ninja caltrops to a person under 18 years of age, in the unincorporated areas of the county.

(Ord. 340.4, passed 10-7-86) Penalty, see § 130.99

### **§ 130.99 PENALTY.**

(A) Any person, persons, corporation, or association violating the provisions of § 130.01 of this chapter shall be deemed guilty of a violation and fined not less than \$10 nor more than \$100.

(Ord. 420.1, passed 5-29-79)

(B) Any person who violates §§ 130.10 through 130.13 shall be guilty of a Class A Misdemeanor and as such shall be punishable by a fine of not less than \$100 nor more than \$500 or imprisonment for a term of not more than 12 months or both.

(Ord. 320.3, passed 1-27-81)

(C) Any person, partnership, corporation or other legal entity who violates the provisions of § 130.14 shall be deemed guilty of a misdemeanor and fined not less than \$50 nor more than \$250.

(Ord. 340.4, passed 10-7-86)