

CLARK COUNTY, KENTUCKY

CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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§ 10.01 SHORT TITLES.

(A) All ordinances of a permanent and general nature of the county as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections shall be known and designated as "The Code of Clark

County, Kentucky", for which designation "codified ordinances" or "code" may be substituted. Title heads, chapter heads, and section and division heads or titles, and explanatory notes and cross references, do not constitute any part of the law as contained in the code. (KRS 446.140)

(B) All references to codes, titles, chapters, and sections are to those components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "traffic code". Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01". Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 DEFINITIONS.

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

ACTION. Includes all proceedings in any court of this state.

(KRS 446.010(1))

AND. May be read **OR**, and **OR** may be read **AND**, if the sense requires it.

ANIMAL. Includes every warm-blooded living creature except a human being.

(KRS 446.010(2))

AVIS. The automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards.

(KRS 446.010(55))

COMPANY. May extend and be applied to any corporation, company, person, partnership, joint stock company, or association.

(KRS 446.010(9))

CORPORATION. May extend and be applied to any corporation, company, partnership, joint stock company, or association.

(KRS 446.010(10))

COUNTY. Clark County, Kentucky.

CRUELTY. As applied to animals, includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted.

(KRS 446.010(12))

DIRECTORS. When applied to corporations, includes managers or trustees.

(KRS 446.010(13))

DOMESTIC. When applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state.

(KRS 446.010(14))

DOMESTIC ANIMAL. Any animal converted to domestic habitat.

(KRS 446.010(15))

EXECUTIVE AUTHORITY. The County Judge/Execute.

(KRS 83A.010(6), KRS 91A.010(4))

FISCAL COURT. The Clark County Fiscal Court.

FEDERAL. Refers to the United States.

(KRS 446.010(17))

FOREIGN. When applied to a corporation, partnership, business trust, or limited liability company, includes all those incorporated or formed by authority of any other state.

(KRS 446.010(18))

KEEPER or **PROPRIETOR.** Includes all persons, whether acting by themselves or as a servant, agent, or employee.

KRS. Kentucky Revised Statutes.

LAND or **REAL ESTATE**. Includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest.

(KRS 446.010(23))

LEGISLATIVE BODY. The Clark County Fiscal Court.

(KRS 91A.010(8))

LIVESTOCK. Cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.

(KRS 446.010(25))

MAY. The act referred to is permissive.

(KRS 446.010(26))

MONTH. Calendar month.

(KRS 446.010(27))

OATH. Includes affirmation in all cases in which an affirmation may be substituted for an **OATH**. (KRS 446.010(28))

PARTNERSHIP. Includes both general and limited **PARTNERSHIPS**.

(KRS 446.010(30))

PEACE OFFICER. Includes sheriffs, constables, coroners, jailers, metropolitan and urban- county government correctional officers, marshals, police officers, and other persons with similar authority to make arrests.

(KRS 446.010(31))

PERSON. May extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies.

(KRS 446.010(33))

PERSONAL PROPERTY. Includes all property except real.

PREMISES. As applied to property, includes land and buildings.

PROPERTY. Includes real, personal, mixed estates, and interests.

PUBLIC AUTHORITY. Includes boards of education; the municipal, county, state, or federal government, its officers or an agency thereof; or any duly authorized public official.

PUBLIC PLACE. Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

REGULAR ELECTION. The election in even-numbered years at which members of Congress are elected, and the election in odd-numbered years at which state officers are elected.

(KRS 446.010(37))

SHALL. The act referred to is mandatory.

(KRS 446.010(39))

SIDEWALK. The portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

STATE. The Commonwealth of Kentucky.

STREET. Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the county.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

SWORN. Includes affirmed in all cases in which an affirmation may be substituted for an oath.

(KRS 446.010(43))

TENANT or **OCCUPANT**. As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of the premises, alone or with others.

VACANCY IN OFFICE. Exists when there is an unexpired part of a term of office without a lawful incumbent therein, when

the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, city, or district, or otherwise.

(KRS 446.010(46))

VIOLATE. Includes failure to comply with.

(KRS 446.010(47))

YEAR. Calendar year.

(KRS 446.010(49))

§ 10.03 RULES OF CONSTRUCTION.

(A) *Singular includes plural.* A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

(KRS 446.020(1))

(B) *Masculine includes feminine.* A word importing the masculine gender only may extend and be applied to females as well as males.

(KRS 446.020(2))

(C) *Liberal construction.* All sections of this code shall be liberally construed with a view to promote their objects and carry out the intent of the Fiscal Court.

(KRS 446.080(1))

(D) *Retroactivity.* No ordinance shall be construed to be retroactive, unless expressly so declared.

(KRS 446.080(3))

(E) *Technical terms.* All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases, and others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to that meaning.

(KRS 446.080(4))

§ 10.04 COMPUTATION OF TIME.

(A) In computing any period of time prescribed or allowed by order of court, or by any applicable ordinance or regulation, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the public office in which a document is required to be filed is actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(B) When an ordinance, regulation, or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(C) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday.

(KRS 446.030)

(D) In all cases where the law requires any act to be done in a reasonable time or reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall mean the time only as may be necessary for the prompt performance of the duty or compliance with the notice.

§ 10.05 MAJORITY MAY ACT FOR ALL; AUTHORIZED AGENT.

(A) Words giving authority to three or more public officers or other persons shall be construed as giving the authority to a majority of the officers or other persons.

(KRS 446.050)

(B) When the law requires an act to be done which may by law as well be done by an agent as by the principal, the requirement shall be construed to include those acts when done by an authorized agent.

§ 10.06 WRITINGS AND SIGNATURES.

(A) When this code requires any writing to be signed by a party thereto, it shall not be deemed to be signed unless the signature is subscribed at the end or close of the writing.

(B) Every writing contemplated by this code shall be in the English language.

(KRS 446.060)

§ 10.07 SEVERABILITY.

It shall be considered that it is the intent of the Fiscal Court in enacting any ordinance, that if any part of the ordinance be held unconstitutional the remaining parts shall remain in force, unless the ordinance provides otherwise, or unless the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that the Fiscal Court would not have enacted the remaining parts without the unconstitutional part; or unless the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the intent of the Fiscal Court.

(KRS 446.090)

§ 10.08 REVIVOR.

(A) A repealed ordinance without a delayed effective date is revived when the ordinance that repealed it is repealed by another ordinance enacted at the same meeting of the Fiscal Court.

(B) A repealed ordinance with a delayed effective date is revived by the enactment of a repealer of the ordinance that repealed it at the same or any subsequent meeting of the Fiscal Court as long as it takes effect prior to the effective date of the original repealer.

(C) An amended ordinance without a delayed effective date remains unchanged with respect to an amendment which is repealed at the same meeting of the Fiscal Court which enacted the amendment.

(D) An amended ordinance with a delayed effective date remains unchanged with respect to that amendment if the ordinance making the amendment is repealed at the same or at a subsequent meeting of the Fiscal Court, as long as the repealing ordinance takes effect prior to the effective date of the original amendment.

(E) No other action of the Fiscal Court repealing a repealer or an amendment shall have the effect of reviving the original language of the repealer or amendment, as the case may be.

(KRS 446.100)

§ 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against a former ordinance, nor as to any act done, or penalty, forfeiture, or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any offense or act so committed or done, or any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising before the new ordinance takes effect, except that the proceedings thereafter had shall conform, so far as practicable, to the laws in force at the time of the proceedings. If any penalty, forfeiture, or punishment is mitigated by any provision of the new ordinance, the provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(KRS 446.110)

§ 10.10 CONSTRUCTION OF SECTION REFERENCES.

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, the reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

§ 10.11 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

§ 10.12 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature, and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.13 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the Fiscal Court, or a certain county officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinance, all ordinances and regulations of a similar nature serving the purpose effected prior to the codification and not inconsistent thereto shall remain in effect and are saved.

§ 10.14 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.

Any chapter, section, or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section, or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be *prima facie* evidence of the subsequent ordinances until the Fiscal Court shall adopt a new code of ordinances.

§ 10.15 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

§ 10.16 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the county exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.17 ERRORS AND OMISSIONS.

(A) If a manifest error be discovered, consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.18 HISTORICAL AND STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) If a KRS cite is included in the history, this indicates that the text of the section reads either verbatim or substantially the same as the statute. Example:

(KRS 83A.090)

(C) If a KRS cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection

or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see KRS 61.870 et seq.

§ 10.99 GENERAL PENALTY.

Where an act or omission is prohibited or declared unlawful in this code of ordinances, and no penalty is otherwise provided, the offense shall be deemed a violation, and the offender shall be fined not more than \$250 for each offense.

Cross-reference:

Fine schedule for administrative offenses, see § 33.195

Statutory reference:

Enforcement of ordinances, see KRS 83A.065

TITLE III: ADMINISTRATION

Chapter

- 30. GOVERNMENT ORGANIZATION**
- 31. FISCAL COURT**
- 32. FINANCIAL ADMINISTRATION**
- 33. DEPARTMENTS, BOARDS, AND COMMISSIONS**
- 34. PERSONNEL ADMINISTRATION**
- 35. CODE OF ETHICS**
- 36. COUNTY POLICIES**
- 37. AFFIRMATIVE ACTION**
- 38. TAXATION**
- 39. EMERGENCY TELEPHONE SERVICE**

CHAPTER 30: GOVERNMENT ORGANIZATION

Section

- 30.01 Organizational chart to be prepared
- 30.02 Annual review required
- 30.03 Reorganization recommendation; plan
- 30.04 Examination of records
- 30.05 Procedures for reports to Fiscal Court on county departments and agencies

§ 30.01 ORGANIZATIONAL CHART TO BE PREPARED.

The County Judge/Executive shall prepare and submit to the Fiscal Court an organizational chart showing the agencies and departments of county government and their organization. The organizational chart shall show the relationship of each agency and department and the lines of authority within county government.

(Prior Code, § 20.001) (Ord. passed 6-13-1994)

§ 30.02 ANNUAL REVIEW REQUIRED.

The County Judge/Executive shall annually review the government organization and may recommend reorganization of any agency or department by the Fiscal Court as provided in § 30.03.

(Prior Code, § 20.002) (Ord. passed 6-13-1994)

§ 30.03 REORGANIZATION RECOMMENDATION; PLAN.

- (A) A reorganization recommendation shall include, but shall not be limited to, the following:
 - (1) Specific measurable goals and time period indicated for meeting of each goal;
 - (2) A list of services to be expanded, abolished, or reduced as a result of the plan and the impact the plan will have on other services;
 - (3) The cost, both long term and short term, of the changes proposed; and
 - (4) The effect the plan will have on any personnel or facilities.
- (B) The reorganization plan shall be submitted to the Fiscal Court for review and available for public inspection 60 days prior to its effective date.

(Prior Code, § 20.003) (Ord. passed 6-13-1994)

§ 30.04 EXAMINATION OF RECORDS.

The Judge/Executive or Fiscal Court may cause the records and accounts of any administrative agency to be examined at any time.

(Prior Code, § 20.004) (Ord. passed 6-13-1994)

§ 30.05 PROCEDURES FOR REPORTS TO FISCAL COURT ON COUNTY DEPARTMENTS AND AGENCIES.

Upon request, the head of each county department, agency, or commission shall provide the Judge/Executive with the following information:

- (A) A statement which describes the activities of the department or agency during the month, and evaluates those activities in relation to agency or departmental objectives;
- (B) A financial statement for each agency or department. The financial statement shall contain the total amount of appropriations for the agency or department, the amount spent and encumbered by the department or agency during the preceding month, the total amount encumbered during the fiscal year, and the amount of the total appropriation which is still available for spending; and
- (C) A list of any citizen's complaints made to the agency or department during the preceding month and the steps taken by the agency or department to correct the situation.

(Prior Code, § 20.005) (Ord. passed 6-13-1994)

CHAPTER 31: FISCAL COURT

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- 31.01 Regular and special meetings
- 31.02 Presiding officer
- 31.03 Quorum
- 31.04 Disturbing meetings
- 31.05 Order of business
- 31.06 Fiscal Court records and minutes
- 31.07 Rules of order
- 31.08 County ordinances, orders, and resolutions
- 31.09 Court resolutions
- 31.10 Reapportionment of Magisterial Districts
- 31.11 Personnel manual

- 31.99 Penalty

§ 31.01 REGULAR AND SPECIAL MEETINGS.

(A) Regular meetings.

(1) Regular meetings of the County Fiscal Court shall be held in the County Fiscal Courtroom at Winchester, Kentucky, the second Wednesday morning of each month at 9:30 a.m., and the fourth Thursday evening of each month at 6:30 p.m.

(2) Provided, however, that if the regular meeting day or date falls on a legal holiday, the meeting shall take place on the next regular working day at the same place and hour.

(3) All meetings of the Fiscal Court at which any public business is discussed or any action taken shall be open to the public at all times except as otherwise permitted by KRS 61.810.

(B) Special meetings.

(1) The County Judge/Executive may call a special meeting of the Fiscal Court for the purpose of transacting any business over which the Fiscal Court has jurisdiction.

(2) Whenever a special meeting is necessary and the Judge/Executive is unable, or refuses to act, a majority of the Fiscal Court (or two Commissioners) may call it, if, in their opinion, the need exists.

(3) A special meeting may be called by the Judge/Executive or a majority of the members of the Fiscal Court by delivering personally, or by mail, written notice to each member and to each local newspaper, of general circulation, each

news service and each local radio or television station which has on file with the Fiscal Court a written request to be notified of special meetings.

(4) Notice of the special meeting must be delivered at least 24 hours prior to the time of the meeting as specified in the notice.

(5) If time does not permit giving 24 hours' notice, then notice that is reasonable under the circumstances and calculated to inform the public shall be given the news media and the public.

(6) It shall be the responsibility of the County Judge/Executive to prepare and distribute the proper notices.

(Prior Code, § 21.001) (Ord. passed 6-13-1994; Ord. 2007-3, passed 2-14-2007; Ord. 2019-01, passed 2-27-2019)

§ 31.02 PRESIDING OFFICER.

(A) The County Judge/Executive shall be the presiding officer of the Fiscal Court at all regular and special meetings.

(B) If a County Judge/Executive is not present or able to preside, a majority of the Commissioners shall elect one of their number to preside.

(Prior Code, § 21.002) (Ord. passed 6-13-1994)

§ 31.03 QUORUM.

(A) No less than a majority of the members of the Fiscal Court shall constitute a quorum for the transaction of business.

(B) No proposition shall be adopted except with the concurrence of at least a majority of the members present.

(Prior Code, § 21.003) (Ord. passed 6-13-1994)

§ 31.04 DISTURBING MEETINGS.

It shall be unlawful to disturb any meeting of the Fiscal Court or to behave in a disorderly manner at any such meeting.

(Prior Code, § 21.004) (Ord. passed 6-13-1994) Penalty, see §31.99

§ 31.05 ORDER OF BUSINESS.

(A) At each meeting of the Fiscal Court, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order;
- (2) Roll call;
- (3) Approve minutes;
- (4) First and second reading of budget amendments;
- (5) Approve transfers;
- (6) Approve bills;
- (7) Approve Treasurer's report;
- (8) Presentations;
- (9) Ordinances; first and second readings;
- (10) General orders;
- (11) Personnel orders;
- (12) Announcements;
- (13) Old business;
- (14) New business and committee reports;
- (15) Public comment;
- (16) Adjourn to closed session:
 - (a) Potential litigation KRS 61.810(c);
 - (b) Property acquisition KRS 61.810(b);
 - (c) Personnel matters KRS 61.810(f); and
 - (d) Industrial prospects KRS 61.810(g).

(17) Adjournment.

(B) The County Judge/Executive shall prepare an agenda for each Fiscal Court meeting and deliver it to all participants and news media at least 48 hours in advance of any meeting.

(C) The County Judge/Executive shall prepare an itemized list of all claims. The list shall accompany the agenda prepared and delivered by the County Judge/Executive pursuant to division (B) above.

(D) No bill shall be disapproved for payment unless the Fiscal Court orders, for good cause, that the bill not be paid.

(Prior Code, § 21.005) (Ord. passed 6-13-1994; Ord. 2007-4, passed 2-14-2007)

§ 31.06 FISCAL COURT RECORDS AND MINUTES.

(A) The Clerk of the Fiscal Court shall attend all meetings of the Fiscal Court and keep a full and complete record of its proceedings.

(B) The Clerk of the Fiscal Court shall keep an index for all Fiscal Court records and make such index and records available for public inspection in accordance with KRS 61.870 to 61.884.

(Prior Code, § 21.006) (Ord. passed 6-13-1994)

§ 31.07 RULES OF ORDER.

(A) Except when in conflict with the foregoing provisions, Robert's Rules of Order shall govern the deliberations of the Fiscal Court.

(B) The rules of order, other than those prescribed by statute, may be suspended at any time by consent of a majority of the members present at the meeting.

(Prior Code, § 21.007) (Ord. passed 6-13-1994)

§ 31.08 COUNTY ORDINANCES, ORDERS, AND RESOLUTIONS.

(A) A county ordinance is an official act of the Fiscal Court of a general and lasting nature which is enforceable within the jurisdiction of the county or a lawful appropriation of money.

(B) All county ordinances shall be adopted in conformity with KRS 67.075 to 67.077, except that emergency ordinances may be adopted as provided in KRS 67.078.

(C) (1) A court order is an official act of the Fiscal Court of a more transient nature than that of an ordinance.

(2) Court orders may be passed by a majority vote of the members of the Fiscal Court present, provided there is a quorum present.

(KRS 67.078(1))

(3) Court orders shall be used to direct the County Judge/Executive or a county employee to perform the acts desired by the Fiscal Court which shall include court resolutions.

(Prior Code, § 21.008) (Ord. passed 6-13-1994)

§ 31.09 COURT RESOLUTIONS.

Court resolutions express the position or sentiment of the court about a particular subject and may be transmitted to some individual or body to convey that position or sentiment. A resolution may be adopted by a majority vote of the members of the Fiscal Court present, provided there is a quorum present.

(Prior Code, § 21.009) (Ord. passed 6-13-1994)

§ 31.10 REAPPORTIONMENT OF MAGISTERIAL DISTRICTS.

(A) The reapportionment plan for the Justice of the Peace Districts for the county, as presented by the Commissioners appointed under the provisions of KRS 67.045, as set forth in their written report dated November 6, 1982, and March 17, 1992, is hereby made a part of and incorporated and adopted herein by reference. Pursuant to the report, the county is hereby divided into seven Magisterial Districts as set forth on certain maps which are hereby made a part of and incorporated herein by reference.

(B) The district boundaries of the county shall be redrawn and the precincts of the county be reappointed to comply with the voter charge to create six magisterial voting districts.

(Prior Code, § 21.010) (Ord. 82-9, passed 12-8-1982; Ord. 92-2, passed 5-13-1992; Ord. 2013-9, passed 8-14-2013)

§ 31.11 PERSONNEL MANUAL.

The personnel manual of the County Fiscal Court, copies of which are on file in the office of the County Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. 2004-5, passed 3-10-2004; Ord. 2004-6, passed 3-10-2004; Ord. 2004-11, passed 5-26-2004; Ord. 2005-15, passed 8-10-2005; Ord. 2006-11, passed 10-11-2006; Ord. 2007-5, passed 2-14-2007; Ord. 2007-7, passed 2-28-2007; Ord. 2007-12, passed 5-9-2007; Ord. 2007-13, passed 5-9-2007; Ord. 2007-14, passed 5-9-2007; Ord. 2020-01, passed 2-12-2020; Ord. 2020-05, passed 9-9-2020)

§ 31.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of § 31.04 shall be fined not less than \$1 nor more than \$10 for each offense.

(Prior Code, § 21.004) (Ord. passed 6-13-1994)

CHAPTER 32: FINANCIAL ADMINISTRATION

Section

Fiscal Management

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- 32.02 Fiscal management
- 32.03 Procedures for County Treasurer
- 32.04 Procedures for administration of the budget by the County Judge/Executive
- 32.05 Claims against the county

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FISCAL MANAGEMENT

§ 32.01 BUDGET PREPARATION.

(A) The County Judge/Executive shall prepare the county budget for review and adoption by the Fiscal Court as provided by KRS Chapter 68 and the rules and regulations of the state local finance office.

(B) By April 1 of each year, each county agency and department and each county office, board, or commissioner, or other group that receives county funds, shall submit to the County Judge/Executive a written budget request showing the amount of funds requested and containing a brief explanation of the need for such funds.

(Prior Code, § 22.001) (Ord. passed 6-13-1994)

§ 32.02 FISCAL MANAGEMENT.

The County Treasurer (or some other financial officer) shall invest and reinvest county funds as provided in KRS 66.480.

(Prior Code, § 22.002) (Ord. passed 6-13-1994)

§ 32.03 PROCEDURES FOR COUNTY TREASURER.

(A) Claims against the county that are within budgeted line item amounts and that arise under duly authorized contracts are to be paid by checks co-signed by the County Judge/Executive and the Treasurer.

(B) No expenditures may be made in excess of revenues or for purposes other than appropriated.

(C) No appropriations may be made which exceed adopted budget amounts.

(D) The Treasurer shall keep a record of each budget appropriation, all expenditures from that appropriation, and each budget fund. This record is called the Appropriation Expenditure Ledger.

(E) The Treasurer shall maintain a General Ledger in which all transactions are entered, either in detail or in summary. Each fund (General Fund, Road Fund, Jail Fund, Local Government Economic Assistance (LGEA) Fund, and the like) has a complete balancing set of General Ledger Accounts. Control Accounts are established for the Cash Receipts Register and the Appropriation Expenditure Ledger.

(F) The Treasurer shall maintain a Cash Receipts Register containing columns for total cash received, source of revenue, and miscellaneous revenue for each fund.

(G) The Treasurer shall maintain an Appropriation Expenditure Ledger. This ledger is a group of accounts supporting in detail the appropriation and expenditure accounts of the General Ledger. An account must be provided for each appropriation made in the budget. The original appropriation shall be entered and all amendments and transfers authorized by order of the Fiscal Court. All expenditures shall be charged to an Appropriation Expenditure Account.

(H) The Treasurer shall maintain a record of all warrants paid (except payroll) in chronological order in a Warrant Distribution Register. Columns are provided for date, payee, warrant number, appropriation expenditure account number, and amount. Separate columns are provided for each fund so that one register serves all funds.

(I) The Treasurer shall maintain a Payroll Authorization Book which is designed to facilitate convenient preparation and certification of the payroll. One order of the Fiscal Court may be made to authorize payment for all employees for more than one payroll period.

(J) The Treasurer shall maintain an Individual Earnings Record for each employee, including gross earnings, deductions, and net pay at the time computed.

(K) The Treasurer shall maintain a Notes Payable Register which provides information on notes for temporary loans in anticipation of the current year's revenue, indicating the principal amount, interest rate, and due date.

(L) The Treasurer shall maintain a Bond Register which records the history and authorization of each bond issue, whether general obligation bonds, revenue bonds, or special levy bond. A separate sheet shall be prepared for each issue.

(Prior Code, § 22.003) (Ord. passed 6-13-1994)

§ 32.04 PROCEDURES FOR ADMINISTRATION OF THE BUDGET BY THE COUNTY JUDGE/EXECUTIVE.

(A) The County Judge/Executive shall administer the county budget as provided by state law.

(B) At the beginning of each fiscal year, the total amount of the appropriation represents the "free balance", or unused appropriations amount for each account. As expenditures are made during the year, the amount of the expenditure is subtracted from the free balance to keep an accurate record of the exact amount of the unused appropriation at any time.

(C) When an item is ordered, the free balance is encumbered in that amount although it may be considerable time before the actual expenditure occurs.

(D) The Judge/Executive or department head shall write and sign all warrants directing the Treasurer to make a payment for claims within budgeted amounts and arising under contracts authorized by the Fiscal Court, and shall maintain a record of such warrants.

(Prior Code, § 22.004) (Ord. passed 6-13-1994)

§ 32.05 CLAIMS AGAINST THE COUNTY.

(A) All claims for payment from the county shall be filed in writing and in a form prescribed by the County Judge/Executive.

(B) Each claim shall be recorded by date or receipt and presented to the Fiscal Court at its next meeting.

(C) Each claim shall designate the budget fund and classification from which the claim will be paid and each warrant shall specify the budget fund and classification.

(D) Each order of the Fiscal Court disapproving a claim shall state the reason for the disapproval of the claim.

(E) The payroll for county officials and regular county employees, as well as other recurring payments such as interest and principal on bonded debt, monthly utility bills, and completed contracts approved by the County Fiscal Court that the Fiscal Court may designate shall not require monthly Fiscal Court approval.

(Prior Code, § 22.005) (Ord. passed 6-13-1994)

PURCHASING

§ 32.20 PURCHASE AND CONTRACTING FUNCTION.

(A) The purchase and contracting function includes the negotiation and execution of all contracts for supplies, services, and construction, and the administration of the county purchasing system. The County Judge/Executive is responsible for this function but may delegate to a purchasing officer or department any of the tasks involved:

- (1) Prepare specifications, invitations to bid, solicitations for proposals, and awards of contracts;
- (2) Conduct a reasonable inquiry and make a written determination of responsibility for bidders and offerors; and maintain a list of prequalified responsible contractors for particular types of supplies, services, and construction items;
- (3) Prepare a written finding as to the need for use of the negotiated process rather than sealed bids where the negotiated process is appropriate, and compile an annual report of all contracts made through negotiation during the fiscal year;
- (4) Notify suppliers, through advertisement or other permissible methods, of invitations to bid and solicitations for proposals;
- (5) Open bids and determine the responsiveness of each bid, conduct appropriate negotiations with offerors, and select the supplier or contractor which is most advantageous to the county;
- (6) Cancel any invitation to bid upon a written determination that such action is in the best interest of the county;
- (7) Inspect the place of business and any operation and examine any financial information of any offeror engaged in the negotiated process with the county; and cause an audit to be made of any contractor under a negotiated contract; and
- (8) Store all supplies as needed and maintain an inventory and accounting of all property of the county.

(B) Purchasing and contract procedures shall be handled in accordance with the provisions of the Kentucky Model Procurement Code as set forth in KRS 45A.345 to 45A.400, or as thereafter amended.

(Prior Code, § 22.100) (Ord. passed 6-13-1994; Ord. 2002-16, passed 7-31-2002)

§ 32.21 AUTHORIZATION OF COUNTY CONTRACTS.

(A) Every contract, change, or amendment thereto, of the county, shall be authorized or approved by the Fiscal Court before it is executed by the Judge/Executive.

(B) Every contract of the county, except small purchases, shall be approved by the County Attorney as to form and legality.

(Prior Code, § 22.101) (Ord. passed 6-13-1994)

§ 32.22 SELECTION OF VENDORS AND CONTRACTS.

(A) The agency, department, or person requiring supplies, services, or construction shall submit to the purchasing officer a written request containing specifications and quantities desired.

(B) The purchasing officer shall determine the need for items requested, the approximate cost and whether or not the expenditure is provided for in the budget.

(C) If bidding is required by statute or by order of Fiscal Court, the Judge/Executive or the purchasing officer shall place an advertisement in the newspaper of largest circulation in the county at least once not less than seven nor more than 21 days before bid opening. The advertisement shall include the time and place the bids will be opened, and the time and place where the specifications may be obtained.

(D) If the durability of the product, the quality of service, or other factors are to be considered in bid selection, such factors shall be stated in the advertisement.

(E) The Judge/Executive shall open all bids publicly at the time and place stated in the advertisement; and shall select the lowest and best bid by a qualified bidder. If the lowest bid is not selected, the reasons for the selection shall be stated in writing.

(F) The Judge/Executive shall submit the bid selected to the Fiscal Court for approval and thereafter shall notify, in writing, all bidders of the award.

(G) The Judge/Executive shall sign the contract, if one is used, and shall issue a purchase order to vendors and retain two copies.

(H) When items are delivered, the invoice shall be placed in a file by vendor's name; when payment is made, one copy of the purchase order shall be placed in the vendor's file and one filed in numerical order with other paid purchase orders.

(I) The purchasing officer shall enter the amount of the expenditure in the purchases ledger.

(Prior Code, § 22.102) (Ord. passed 6-13-1994)

§ 32.23 PROCEDURES FOR DETERMINATION OF QUALIFICATION OF BIDDERS.

- (A) Each bidder or offeror shall furnish, on prescribed forms, information pertaining to all contracts completed in the past two years and financial institutions used.
- (B) The purchasing officer shall contact at least one purchaser listed by the bidder or offeror to verify the record of performance.
- (C) A credit check may be made through an established organization and the information compared with the information furnished by the bidder/offeror.
- (D) In the event the information is conflicting or incomplete, the purchasing officer shall make further inquiry of the bidder/offeror, including inspection of the place of business or examination of the bonds or records.
- (E) The contractors who have demonstrated by past performance the ability to perform satisfactorily in accordance with contracts on a timely basis and have shown a sound financial structure shall be qualified as responsible.
- (F) The purchasing officer shall make a written determination as to the extent of responsibility of each bidder/offeror and shall maintain a list of those who qualify as responsible contractors for particular types of supplies, services, and construction items.
- (G) The purchasing officer shall inform prospective contractors of the pre-qualification procedures and encourage them to supply the information required for pre-qualification.
- (H) A new or small business, particularly a minority enterprise, may be exempt from the qualification requirements where circumstances warrant.

(Prior Code, § 22.103) (Ord. passed 6-11-1994)

§ 32.24 PROCEDURES PREREQUISITE TO USE OF NEGOTIATED PROCESS.

- (A) The negotiated process may be used instead of advertisement for bids in which the amounts exceed \$30,000 in the following circumstances:
 - (1) An emergency exists;
 - (2) The contract is for professional services; and
 - (3) All bids received exceed the amount budgeted.
- (B) Before an emergency is declared, the purchasing officer shall determine whether or not the delay in obtaining bids will result in danger to health, safety, or property and submit such determination to the Judge/Executive.
- (C) The Judge/Executive shall certify the existence of any emergency and file a copy of such certificate with the chief financial officer of the county.
- (D) A professional service is one performed by a licensed professional and an activity for which the license is required.
- (E) In the event all bids submitted are in excess of funds available, the Judge/Executive or purchasing officer shall prepare a written determination that there are no additional funds available so as to permit an award to the responsible bidder with the lowest and best bid and delay in advertising for additional bids is not in the best interest of the county.

(Prior Code, § 22.104) (Ord. passed 6-13-1994)

§ 32.25 PROCEDURES FOR NEGOTIATED PROCESS.

- (A) When the prerequisites have been met for use of the negotiated process, the Judge/Executive or purchasing officer shall proceed to negotiate with one or more suppliers in order to obtain the most advantageous terms for the county.
- (B) The Judge/Executive or purchasing officer shall prepare a record of all negotiated contracts, showing the items and quantities acquired, name of suppliers, cost, and date of contract.
- (C) Professional services shall be negotiated with such persons as are properly licensed to perform such services and shall be limited to those services to which the license applies.
- (D) Where there has already been a bid process and more than one bid was received and all were in excess of the amount available, the lowest three bidders shall be notified that the county desires to negotiate a contract for a lesser amount based on revised quantities or specifications and fix a time for submission of proposals.
- (E) The Judge/Executive or purchasing officer shall examine the proposals received and shall negotiate with the suppliers for the terms most advantageous to the county.
- (F) The best negotiated proposal shall be submitted to the Fiscal Court for approval and award.
- (G) The Judge/Executive or purchasing officer shall notify all persons submitting a proposal that the award has been made.

(Prior Code, § 22.105) (Ord. passed 6-13-1994)

§ 32.26 SMALL PURCHASE PROCEDURES.

- (A) The Judge/Executive or purchasing officer determines the need for any item requested and whether or not the contract is for less than \$30,000 and the expenditure is provided for in the budget.
- (B) The purchasing officer obtains three price quotes from vendors and selects the one most advantageous to the county.
- (C) Four copies of the purchase order are prepared; one for the vendor, one for the agency requesting the items, and two for the Judge/Executive.
- (D) The purchasing officer enters the anticipated expenditures in the small purchase ledger.
- (E) After payment is made, the purchasing officer files one copy of the purchase order in numerical sequence and the other copy alphabetically by vendor's invoice.
- (F) The purchasing officer enters the actual amount of expenditure in the ledger.

(Prior Code, § 22.106) (Ord. passed 6-13-1994)

§ 32.27 STORAGE AND INVENTORY CONTROL.

- (A) The purchasing officer is responsible for the receipt and inspection of all property and supplies to be stored.
- (B) Each item shall be inspected upon receipt and all items which do not conform to specification shall be rejected with a written notice of such rejection given to the vendor within 30 days.
- (C) All supplies shall be stored in a central location under the supervision of the purchasing officer and according to the appropriate group classification.
- (D) Stock cards shall be used for such items, showing the receipts, issues, remaining balance, and date; and such cards shall be kept in a central file and attached in a visible place on each property bin.
- (E) Every transaction shall be recorded as soon as it occurs.
- (F) Inventory shall be maintained by actual county.
- (G) Sufficient stores of supplies shall be maintained to meet the anticipated needs of all departments.

(Prior Code, § 22.107) (Ord. passed 6-13-1994)

§ 32.28 PROCEDURE FOR DISPOSITION OF SURPLUS PROPERTY.

- (A) The Judge/Executive shall prepare a written statement which describes the property, including the date of acquisition and its intended use at the time.
- (B) The statement shall include the proposed disposition of the property and the reasons such a disposition is in the public interest.
- (C) The statement shall include the present use of the property and evidence of consultation with the person having custody or control.
- (D) The method of disposition shall be stated, and whether it is to be transferred to another governmental agency or to a private concern; compensation, if any, to be received; and whether it is to be sold at public auction, by sealed bids, or through negotiations.
- (E) If the property is to be sold through negotiations, the property shall be appraised by at least two competent and independent appraisers and the appraisals attached. No property shall be sold on a negotiated basis for less than the appraised value.

(Prior Code, § 22.108) (Ord. passed 6-13-1994)

§ 32.29 LOCAL PROCUREMENT POLICY FOR CDGB PROGRAM.

- (A) *General provisions.*
 - (1) All procurements made by the County Fiscal Court (hereafter referred to as "LPA") involving the expenditure of state Community Development Block Grant Funds will be made in accordance with the following procurement standards.
 - (2) Procurement transactions, regardless of method or dollar value, will maximize open and free competition. The county shall not engage in procurement practices which may be considered restrictive in trade.
 - (3) Purchases will be reviewed by the County Judge/Executive of the LPA to prevent duplication and to ensure that costs are reasonable.
- (B) *Methods for procurement.* Procurements shall be made by one of the following methods: small purchase procedures, competitive sealed bids, competitive negotiation, or non-competitive negotiation.
- (1) *Small purchases.* Purchases of supplies, equipment, and services which cost over \$200 but less than \$30,000 will

require no legal advertisement. The LPA will solicit telephone responses from at least three vendors. Purchases that cost between \$40 and \$200 require three over-the-telephone quotations of rate, price, and the like. A memorandum will be prepared setting forth the date the calls were made, parties contacted, and prices obtained. For purchase of less than \$50, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

(2) *Competitive sealed bids.*

(a) Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease, or other agreement for materials, supplies, equipment, or contractual services other than those personal or professional exceeds \$30,000, an invitation for bids (IFB) notice will generally be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice will appear not less than seven days and not more than 21 days before the due date for bid proposals. The Agency may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

(b) The IFB will include a general description of the goods or services to be procured, the bid deposit and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB. The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as § 3 of the 1968 Housing Act being 12 U.S.C. § 1701a, § 109 of the 1974 Housing and Community Development Act being 42 U.S.C. § 5309, the Civil Rights Act of 1964, Executive Order 11246, and the Davis-Bacon Act being 40 U.S.C. §§ 3141 et seq.

(c) In addition to price, the following are bid evaluation criteria which may be used with varying weight dependent upon the particular procurement to be made. The criteria and their weights will be established by the IFB:

1. The character, integrity, reputation, judgment, experience and efficiency of the contractor;
2. The ability of the vendor to provide material or service promptly or within the time specified, without delay or interference;
3. The quality of performance by the vendor on previous contracts, orders, or services; and
4. The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

(d) The criteria upon which a bid will be awarded will be established by a review committee, which will include, if possible, persons with applicable technical skills. The LPA will appoint the reviewers, making certain that these individuals have no potential conflicts of interest with the firms or individuals under review. The committee will have no less than three members. The committee will maintain written records of its deliberations including an evaluation of each bid received.

(e) Sealed bids will be opened in public at the time and place stated in the IFBs. The bids will be tabulated by the LPA at the time of bid opening. The results of the tabulation and the bid documents will be evaluated by the review committee, which will make recommendations to the LPA. The LPA will make the decision as to whom the contract shall be awarded. After the bid award is made by the LPA, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

(f) The LPA may cancel an invitation for bid or reject all bids if it is determined in writing that such is in the best interests of the LPA. The LPA may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

(C) *Competitive negotiation.*

(1) The LPA will utilize competitive negotiations, regardless of contract amount, upon a written determination that:

(a) Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid price or the lowest evaluated bid price (in other words, bidding is not feasible);

(b) The services to be procured are professional or personal in nature. With the exception of procurement of certain professional services (principally engineering services), competitive negotiations will proceed as follows;

(c) Proposals will be solicited through newspaper advertisement; additionally, a request for proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven days and not more than 21 days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor except for engineering services; and

(d) Award must be made to the offeror whose proposal is determined in writing by a review committee to be the most advantageous to the LPA. Evaluations must be based on the factors set forth in the request for proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

(2) For the procurement of certain professional services, an alternative to RFPs may be used. The LPA may publish a request for qualifications. RFQs are handled in a similar method to RFPs with the exception that cost is not a factor in the initial evaluation. A review committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the selection committee will negotiate cost. If the committee is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The committee will maintain a written record of all such negotiations.

(D) *Non-competitive negotiations.*

(1) Non-competitive negotiations may be used for procurements in excess of \$20,000 when bidding or competitive negotiations are not feasible. The Agency may purchase goods and services through non-competitive negotiations when it is determined in writing by the Agency that competitive negotiation or bidding is not feasible and that:

- (a) An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures;
- (b) The product or service can be obtained only from one source;
- (c) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis;
- (d) Only one satisfactory proposal is received through RPP or RFQ; or
- (e) The state has authorized the particular type of non-competitive negotiation (example - the procurement of services by an Area Development District).

(2) Procurement by non-competitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The state must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

(E) *Contracts.* Generally, all procurement in excess of \$200 will be memorialized and supported by a written contract. Where it is infeasible or impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will be prepared. The contractual provisions required by "The Common Rule" will be included in all contracts.

(F) *Documentation.* All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RPQ data, and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is infeasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, and the like). Whatever form of documentation and filing is employed, the purpose of this section is to ensure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost (including the issue of reasonableness of cost), and basis for payment.

(G) *Locally owned, minority owned, female owned, and small businesses.* Efforts will be made and documented to solicit participation of locally owned, minority owned, female owned, and small businesses. Where feasible, evaluation criteria will include a factor with an appropriate weight for these firms. A list of locally owned, minority owned, female owned, and small businesses and also minority businesses located within the trade region shall be maintained and utilized when issuing IFBs, RFPs, and RFQs. This list shall also be consulted when making small purchases.

(H) *Code of conduct.*

(1) *Conflict of interest*

- (a) No elected official, employee, or designated agent of the LPA will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists.
- (b) A conflict of interest occurs when the official, employee, or designated agent of the LPA, partners of such individuals, immediate family members, or an organization, which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

(2) *Acceptance of gratitudes.* No elected official, employee, or designated agent of the LPA shall solicit or accept gratitudes, favors, or anything of monetary value from contractors, potential contractors, subcontractors, or potential subcontractors.

(Ord. 2004-13, passed 6-28-2004)

§ 32.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any elected official, employee, or designated agent of the LPA who knowingly and deliberately violates the provisions of § 32.29 will be open to civil suit by the citizens of the county without the legal protection of the LPA. Furthermore, such a violation of these procurement standards is grounds for dismissal by the LPA.

(2) Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement

standards will be barred from future transactions with the LPA.

(Ord. 2004-13, passed 6-28-2004)

CHAPTER 33: DEPARTMENTS, BOARDS, AND COMMISSIONS

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COUNTY ROAD DEPARTMENT

§ 33.001 ESTABLISHMENT.

- (A) There is hereby created and established a County Road Department consisting of a County Road Engineer (or supervisor) and such other employees of the Department as may from time to time be provided for by the County Judge/Executive and the Fiscal Court.
- (B) The County Road Engineer (or supervisor) shall be appointed by the Judge/Executive with the approval of the Fiscal Court as provided in KRS 179.020 and shall serve for a period of two or four years unless removed in accordance with KRS 179.060.
- (C) The Fiscal Court shall set the number and compensation of all employees of the Road Department.
- (D) All appointments to the Road Department, and removals therefrom, shall be made by the County Judge/Executive with the approval of the Fiscal Court in accordance with the provisions of state law and the county personnel policy.

(Prior Code, § 23.001) (Ord. passed 6-13-1994)

§ 33.002 ROAD ENGINEER; DUTIES.

- (A) The County Road Engineer (or supervisor) shall be the head of the Road Department subject to the order and direction of the County Judge/Executive.
- (B) The Road Engineer (or supervisor) shall keep such records and make such reports concerning the activities of his or her Department as may be required by KRS Chapter 179, this code, or by the County Judge/Executive.
- (C) The Road Engineer (or supervisor) shall be responsible for the performance of the Road Department and all of its functions; all persons who are employees of the Road Department shall be subject to the supervision and direction of the Road Engineer (or supervisor).

(Prior Code, § 23.002) (Ord. passed 6-13-1994)

§ 33.003 COUNTY ROAD INVENTORY.

- (A) The County Road Engineer (or supervisor) shall prepare and maintain a current inventory of the county road system.
- (B) The county road inventory shall include the following information for each county road:
 - (1) The road number and name;
 - (2) Road length;
 - (3) The type of surface, its condition, and width;
 - (4) Width of the right-of-way; and
 - (5) The number of bridges on the road, their posted limit, and condition.
- (C) The County Judge/Executive and the County Road Engineer (or supervisor) shall annually prepare and submit to the Fiscal Court for approval, a county road plan which shall provide for the expenditure of county road funds and set priorities for the construction and maintenance of county roads and bridges.

(Prior Code, § 23.003) (Ord. passed 6-13-1994)

§ 33.004 SPECIFICATIONS FOR COUNTY ROADS.

- (A) Roads may be accepted into the county road system by the Fiscal Court in accordance with KRS 179.470 and the minimum specifications set forth in this code.
- (B) Prior to Fiscal Court consideration of a road for acceptance into the county road system, the County Road Engineer shall certify that the following minimum specifications have been met or exceeded:
 - (1) Surveyed centerline and legal description of proposed road prepared by a licensed Kentucky registered land surveyor;
 - (2) A copy of all property owners' deeds and a certification of title certifying good, marketable, and fee simple title in the property owners proposing to deed the road right-of-way to the county;
 - (3) Certification by the property owners that fences, buildings, gates, and cattle gates have been removed from the proposed county road and right-of-way;
 - (4) Road right-of-way must have a minimum of 40 feet with a minimum of 18-foot gravel surface with four inches of compressed gravel and properly ditched and tiled;
 - (5) Road banks shall be stabilized and in grass or other suitable cover; and
 - (6) Road surface shall be smooth and properly graded and crowned.

(Prior Code, § 23.004) (Ord. passed 6-13-1994)

§ 33.005 ROAD DEPARTMENT PROPERTY.

- (A) Equipment and materials for the Road Department shall be acquired in accordance with the provisions of this code.
- (B) Employees of the Department shall be responsible for the good care of departmental equipment and property, whether fixed or movable, assigned to their use and keeping and shall promptly report to their supervisor the loss or damage to or unserviceable condition of such property.
- (C) Any employee found guilty of damages to or destruction of departmental property or equipment, either through willfulness or negligence, shall be required to pay all costs of repairs or replacements thereto.
- (D) No departmental property or equipment shall be used for private purposes or on private property.

(Prior Code, § 23.005) (Ord. passed 6-13-1994)

§ 33.020 POLICY.

It is the public policy of the city and county to promote fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age, or disability status.

(Prior Code, § 23.100) (Ord. 80-8, passed 5-14-1980)

§ 33.021 DEFINITIONS.

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

COMMISSION. The Winchester-Clark County Commission on Human Rights.

COMMISSIONER. A member of the Commission.

DISCRIMINATON. Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice or differentiation or preference in the treatment of a person because of race, color, religion, national origin, sex, age, or disability status.

(Prior Code, § 23.101) (Ord. 80-8, passed 5-14-1980)

§ 33.022 COMMISSION CREATED; APPOINTMENT; TERM; COMPENSATION.

(A) There is hereby created the Winchester-Clark County Commission on Human Rights.

(B) (1) The Commission shall consist of seven members who shall be appointed on a non-partisan basis and shall be broadly representative of employers, proprietors, trade unions, human rights groups, and the general public.

(2) The Mayor and County Judge/Executive shall appoint the members. Of the first members appointed, three shall be appointed for one year; two shall be appointed for two years; and two shall be appointed for three years. After the first appointments, all appointments shall be for a term of three years.

(3) A member chosen to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member whom he or she is to succeed. A member of the Commission is eligible for reappointment.

(4) Before making new appointments, the Mayor and County Judge/Executive shall request the recommendations of the Commission.

(C) No elected or appointed city and/or county official shall be a member of the Commission.

(D) The members shall serve without compensation.

(Prior Code, § 23.102) (Ord. 80-8, passed 5-14-1980)

§ 33.023 FUNCTIONS.

(A) The Commission shall encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age, or disability status, and shall promote mutual understanding and respect among all economic, social, racial, religious, sex, age, and ethnic groups; and shall endeavor to eliminate discrimination against and antagonism between religious, racial, sex, age, and ethnic groups and their members.

(B) The Commission shall administer such enforceable ordinances forbidding discrimination as the legislative bodies of the city and county may enact.

(Prior Code, § 23.103) (Ord. 80-8, passed 5-14-1980)

§ 33.024 POWERS; DUTIES.

In performing its functions, the Commission shall have the following powers and duties:

(A) To employ an executive director and other necessary personnel within the limits of funds made available. The executive director shall be a person who has training and experience in the field of intergroup relations;

(B) To conduct or arrange for research projects and studies into and public reports on discrimination and progress in equal opportunity in the community;

(C) To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities;

(D) To receive, initiate, investigate, seek to conciliate, and hold hearings on complaints alleging discrimination;

(E) To recommend methods for elimination of discrimination and intergroup tensions, and to use its best efforts to secure compliance with its recommendations;

(F) To cooperate with other intergroup relations agencies, both public and private, on the local, state, and national level in performing its functions under this subchapter;

(G) To cooperate with the various departments, agencies, and boards of the city and/or county or the state in effectuating the purposes of this subchapter;

(H) To enlist the support of civic, labor, religious, professional, and educational organizations and institutions in community activities and programs that will further the goals of this subchapter;

(I) To organize community committees and councils that will work toward the goals of this subchapter;

(J) To recommend legislation to the city and the county legislative bodies and modes of executive action to the Mayor and the County Judge/Executive that will effectuate the purposes of this subchapter;

(K) To submit an annual report of its activities and of the progress and problems in intergroup relations in the community to the Mayor and to the County Judge/Executive and the City Commission and County Fiscal Court; and

(L) To adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this subchapter.

(Prior Code, § 23.104) (Ord. 80-8, passed 5-14-1980)

§ 33.025 COOPERATION OF CITY AND COUNTY DEPARTMENTS.

The services of all other city and county departments, agencies, and boards shall be made available to the Commission upon its request. Information in the possession of any city and county departments, agencies, or boards shall be furnished to the Commission upon its request, and to the extent permitted by law.

(Prior Code, § 23.105) (Ord. 80-8, passed 5-14-1980)

§ 33.026 ELECTION OF OFFICERS.

(A) The Commission shall elect a Chairperson and Vice-Chairperson, a Secretary-Treasurer, and such other officers as it deems necessary.

(B) The Chairperson of the Commission shall appoint such committees as the Commission may deem necessary in order to carry out its functions.

(Prior Code, § 23.106) (Ord. 80-8, passed 5-14-1980)

§ 33.027 EXPENDITURES.

(A) The Commission shall adopt a budget for expenditures within the limits of the funds made available by the city and county.

(B) The Secretary-Treasurer shall make a semi-annual financial report to the Commission, the Mayor, and County Judge/Executive, and other city and county officials.

(Prior Code, § 23.107) (Ord. 80-8, passed 5-14-1980)

§ 33.028 OFFICE SPACE.

The Mayor and the County Judge/Executive may provide suitable office space and facilities for the Commission, if such is available.

(Prior Code, § 23.108) (Ord. 80-8, passed 5-14-1980)

§ 33.029 RELATIONSHIP WITH STATE'S COMMISSION ON HUMAN RIGHTS.

(A) The Commission shall, when requested, act in an advisory capacity to and otherwise cooperate with the state's Commission on Human Rights wherever possible to effectuate compliance with state laws.

(B) The Commission is authorized to enter into cooperative working agreements with the state's Commission on Human Rights whenever enforceable ordinances forbidding discrimination are enacted which are in conformity with state law.

(Prior Code, § 23.109) (Ord. 80-8, passed 5-14-1980)

WINCHESTER-CLARK COUNTY PARKS AND RECREATION BOARD

§ 33.040 ESTABLISHED.

The Winchester-Clark County Parks and Recreation Board is hereby established pursuant to KRS 97.035 as a joint undertaking of the City of Winchester and the county.

(Prior Code, § 23.200) (Ord. 80-18, passed 11-11-1980)

§ 33.041 MEMBERSHIP; APPOINTMENT; TERM.

(A) (1) The Board herein created shall consist of eight members, four of whom shall be appointed by the Mayor of the City of Winchester and four of whom shall be appointed by the County Judge/Executive.

(2) One member of the Board shall be appointed by the Mayor from the legislative body of the City of Winchester and one member shall be appointed by the Judge/Executive from the legislative body of the county.

(3) The terms of these members shall coincide with their terms on their respective legislative bodies.

(B) The terms of the members chosen from the public-at-large shall be for four years; provided, however, that for initial appointments, the Mayor and the Judge/Executive shall each appoint one member for a term of two years, one member for a term of three years, and one member for a term of four years.

(Prior Code, § 23.201) (Ord. 80-18, passed 11-11-1980)

§ 33.042 COMPENSATION.

Pursuant to KRS 97.035, members of the Board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(Prior Code, § 23.202) (Ord. 80-18, passed 11-11-1980)

§ 33.043 ELECTION OF OFFICERS; BOND.

The Board shall be a body corporate for all purposes and shall elect from its membership a Chairperson, Secretary, and Treasurer. The Treasurer shall execute a bond conditioned on the faithful performance of his or her duties sufficient in an amount to cover funds coming into his or her hands. The premium of his or her bond shall be paid from Board funds.

(Prior Code, § 23.203) (Ord. 80-18, passed 11-11-1980)

§ 33.044 POWERS.

The Board shall have the power to develop, maintain, and operate parks, playgrounds, and recreation centers, and to do all things permitted by statute in the furtherance of these purposes.

(Prior Code, § 23.204) (Ord. 80-18, passed 11-11-1980)

EXTENSION BOARD

§ 33.055 BOARD; DISTRICT CREATED.

(A) There is hereby created pursuant to the provisions of KRS 164.630, an Extension Board for the county.

(B) Pursuant to the petition of the County Extension Board, there is hereby created the County Extension District, whose boundaries shall be coexistent with the boundaries of the county, and which shall henceforth, from the adoption of this section, constitute a governmental subdivision of the state and a public body corporate.

(Prior Code, § 23.300) (Ord. 82-1, passed 3-24-1982; Ord. 98-10, passed 11-24-1998)

§ 33.056 MEMBERSHIP; APPOINTMENT; TERM.

(A) The Extension Board shall consist of six members plus the County Judge/Executive.

(B) The appointments shall be made with the approval of the Fiscal Court from nominations submitted by the County Extension Council.

(C) The first Board shall consist of two members appointed for terms of three years ending December 31, 1985, and two members for terms of two years ending December 31, 1984, and two members for terms ending December 31, 1983. Thereafter, all appointments shall be for terms of three years and shall become effective on January 1 of each year.

(D) The Extension Council shall submit to the County Judge/Executive, a list of two nominees for each member to be appointed to the Extension Board on or before December 1 of each year. The County Judge/Executive shall, from this list, appoint the required Board members.

(Prior Code, § 23.301) (Ord. 82-1, passed 3-24-1982)

WINCHESTER-CLARK COUNTY RECREATIONAL, TOURIST, AND CONVENTION COMMISSION

§ 33.070 COMMISSION CREATED.

There is hereby created the Winchester-Clark County Recreational, Tourist, and Convention Commission.

(Prior Code, § 23.400) (Ord. 92-9, passed 8-12-1992)

§ 33.071 COMPOSITION; APPOINTMENT; TERM.

(A) The Commission shall be composed of seven members to be appointed by the Mayor and the County Judge/Executive, jointly, in the following manner:

- (1) Three Commissioners from a list submitted by the local hotel and motel association;
- (2) One Commissioner from a list submitted by the local restaurant association;

- (3) One Commissioner from a list submitted by the Winchester-Clark County Chamber of Commerce;
- (4) One Commissioner by the Mayor of the City of Winchester; and
- (5) One Commissioner by the County Judge/Executive.

(B) Vacancies shall be filled in the same manner that original appointments are made.

(C) The Commissioners shall be appointed for terms of three years; provided, that in making the initial appointments, the Mayor and County Judge/Executive shall appoint two Commissioners for a term of three years, two Commissioners for a term of four years, and three Commissioners for a term of one year.

(Prior Code, § 23.401) (Ord. 92-9, passed 8-12-1992)

§ 33.072 ORGANIZATION; DUTIES; RESPONSIBILITIES.

(A) The Commission shall elect from its membership a Chairperson and a Treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers.

(B) The Commission shall annually submit to the local governing body or bodies which established it, a request for funds for the operation of the Commission for the ensuing year.

(Prior Code, § 23.402) (Ord. 92-9, passed 8-12-1992)

§ 33.073 OPERATION.

For the purpose of the operation of the Recreational, Tourist, and Convention Commission, there is hereby imposed a transient room tax as provided in Chapter 38.

(Prior Code, § 23.403) (Ord. 92-9, passed 8-12-1992)

OTHER DEPARTMENTS, BOARDS, AND COMMISSIONS

§ 33.085 BOARD OF ADJUSTMENT.

(A) For provisions concerning the Board of Adjustment, see §§155.065 to 155.067.

(B) The compensation paid to the members of the Winchester/Clark County Board of Adjustment shall be set by ordinance per meeting of said Board duly assembled and in session.

(Prior Code, § 23.500) (Ord. 2016-15, passed 11-9-2016)

§ 33.086 ETHICS COMMISSION.

For provisions concerning the Ethics Commission, see Chapter 35, §§ 35.45 through 35.51.

(Prior Code, § 23.501)

§ 33.087 PLANNING COMMISSION.

The compensation paid to the members of the Winchester/Clark County Planning and Zoning Commission shall be set by ordinance per meeting of said Commission duly assembled and in session.

(Prior Code, § 23.502) (Ord. 2016-15, passed 11-9-2016)

§ 33.088 911 ADVISORY BOARD.

For provisions concerning the 911 Advisory Board, see §§39.15 to 39.17.

(Prior Code, § 23.503)

COMMUNITY VISIONING COMMITTEE

§ 33.100 ESTABLISHMENT.

There is hereby created the joint Community Visioning Committee.

(Prior Code, § 23.600) (Ord. 2002-28, passed 11-27-2002)

§ 33.101 DUTIES.

The function of the joint Community Visioning Committee shall be determining the needs of the citizens of Winchester and the county, collectively, and envisioning ways in which governmental and community resources can be utilized to fill those needs for the future of this community, to better the quality of life for all citizens of this community, and to provide the

greatest benefit to the citizens given the resources of the community and governments.

(Prior Code, § 23.601) (Ord. 2002-28, passed 11-27-2002)

§ 33.102 POWERS.

The joint Community Visioning Committee is hereby empowered with the authority to draft such regulations and bylaws as may be necessary for the establishment or perpetuation of the visioning process. The Committee is further empowered to establish various subcommittees to carry out the goals of the joint Community Visioning Committee.

(Prior Code, § 23.602) (Ord. 2002-28, passed 11-27-2002)

§ 33.103 COMPOSITION.

(A) The initial joint Community Visioning Committee shall consist of no more than 16 individuals, eight of which shall be appointed by the County Judge/Executive, and eight of which shall be appointed by the Mayor to serve staggered terms. Of the initial eight appointees, by each participating governmental body, their terms shall be as follows:

- (1) Three appointees: one-year terms beginning December 1, 2002;
- (2) Three appointees: two-year terms beginning December 1, 2002; and
- (3) Two appointees: three-year terms beginning December 1, 2002.

(B) The initial joint Committee shall consist of the Mayor of Winchester (GS) - three years; the County Judge/Executive (GS) - three years; and such other persons as the Mayor and County Judge/Executive may select.

(Prior Code, § 23.603) (Ord. 2002-28, passed 11-27-2002)

ANIMAL SHELTER

§ 33.115 ESTABLISHMENT.

There is hereby established the County Animal Shelter.

(Prior Code, § 23.700) (Ord. 2001-13, passed 11-14-2001; Ord. 2002-14, passed 5-29-2002; Ord. 2002-21, passed 10-16-2002)

§ 33.116 PERSONNEL; DUTIES.

(A) *Generally.* The County Animal Shelter shall have three full-time employees.

(B) *Animal Shelter Director.* As a full-time supervisor, the duties of the Animal Shelter Director shall include, but not be limited to:

- (1) Scheduling of personnel and payroll;
- (2) Collection and disbursement of revenue generated;
- (3) Maintenance and cleanliness of building and grounds;
- (4) Assisting in yearly budget preparation;
- (5) Serving as liaison with the County Humane Society;
- (6) Ensuring compliance with the County Personnel Policy;
- (7) Maintenance and accuracy of operations logs and records;
- (8) Ensuring compliance with all applicable laws pertaining to the regulations of dog/canine and criminal citations;
- (9) Responding to all calls for animal control (canine) assistance within the county;
- (10) Ensuring compliance with standard operating procedures adopted by the Fiscal Court; and
- (11) Any other functions requested by the County Judge/Executive.

(C) *Dog Warden.* The duties of the Dog Warden shall include, but not be limited to:

- (1) Collection of revenue and reporting to supervisor;
- (2) Maintenance of buildings and grounds;
- (3) Compliance with County Personnel Policy;
- (4) Compliance with standard operating procedures adopted by the Fiscal Court;
- (5) Maintenance and accuracy of operations logs and records;
- (6) Ensuring compliance with all applicable laws pertaining to the regulation of dog/canine and criminal citations;

- (7) Responding to all calls for animal control (canine) assistance within the county; and
- (8) Any other functions requested by the County Judge/Executive.

(D) *Shelter Attendant.* The duties of the Shelter Attendant shall include, but not be limited to:

- (1) Maintenance and cleanliness of buildings and grounds;
- (2) Compliance with County Personnel Policy;
- (3) Ensuring compliance with all applicable laws pertaining to the regulation of dog/canine and criminal citations;
- (4) Responding to all calls for animal control (canine) assistance within the county;
- (5) Compliance with standard operating procedures adopted by the Fiscal Court;
- (6) Collection of revenue and reporting to supervisor; and
- (7) Any other functions requested by the County Judge/Executive.

(Prior Code, § 23.701) (Ord. 2001-13, passed 11-14-2001; Ord. 2002-14, passed 5-29-2002; Ord. 2002-21, passed 10-16-2002)

§ 33.117 OPERATIONS.

(A) *Hours.* The hours of operation for the County Animal Shelter shall be 8:00 a.m. to 4:30 p.m. Tuesday through Saturday. The shelter will be open to the public between the hours of 10:00 a.m. and 4:00 p.m. Tuesday through Saturday. The shelter will be closed Sundays, Mondays and scheduled holidays.

(B) *Uniforms.* All Animal Shelter employees shall wear issued uniform shirts during scheduled working hours and during after-hours calls.

(C) *Visitors.* Visitors in the kennel area should be accompanied by an employee at all times.

(D) *After-hours calls.* The animal control officer may be called after hours for the following emergency situations:

- (1) Loose vicious canine;
- (2) Bite case involving a person;
- (3) Dog or cat injured and alive; injury should be considered life-threatening;
- (4) Dog or cat in emergency situation (e.g., dog caught in drainpipe, cat in house fire, and the like);
- (5) Dog or cat abandoned due to:
 - (a) Owner arrested; no responsible party available; or
 - (b) Automobile accident; no one to provide care.
- (6) On order of the County Judge/Executive.

(E) *Activities relegated to regular hours.*

- (1) Strays;
- (2) Nuisance calls; barking dogs, and the like;
- (3) Cruelty cases when not life-threatening; and
- (4) Pick-up of dogs and cats.

(F) *Carriion.* The closest available county or city officer should handle dead animals on the roadway.

(G) *Paging.* All employees will be on-call on a weekly rotating schedule established by the Supervisor. Wardens on-call are required to carry a pager at all times and respond when paged.

(1) The Central Communications Unit will page the Warden on-call. The Warden on-call will contact the Communications Dispatcher within ten minutes to ascertain the location of the call and the complainant. Once the Warden determines the nature of the call, it shall be at his or her discretion as to disposition on the call if it is a non-emergency situation. The Warden shall then notify the Communications Dispatcher of his or her determination and disposition of the call. The Warden shall maintain a log of all pages including source, time, date, and disposition of call. Warden will be compensated two hours minimum time if called back after duty hours.

(2) If the Warden on-call does not contact the Communications Unit within ten minutes of the time of the page, he or she may be required to show cause for the delay and may be subject to disciplinary action as outlined by the county personnel policy.

(3) The Communications Dispatcher shall not give the Warden's home telephone or pager number out to the general public at any time. The Communications Dispatcher shall maintain a log of all requests for the Dog Warden, nature of the

call, time of the page, time the call was dispatched, and disposition of the call. If the Warden on-call does not respond, the Dispatcher will contact the complainant and will continue to page the Warden until a response is made.

(H) *Canine housing and detention.*

(1) The Warden shall maintain a log and card file for each canine that is picked up and detained in the shelter. The log shall indicate the location of the pick-up, date, sex of animal, description, Warden's name and corresponding identification number. It is the responsibility of the Warden who picks up the canine to search the canine for a collar and/or identification, Kentucky dog tag, rabies tag, or tattoos. If no identification exists, the Warden shall inoculate the canine with the parvo vaccine and other required serum. This introduction process will be placed on the log for reference. If an identification exists, then Warden shall wait the required seven days before proceeding with inoculation program.

(2) If owner of canines subject to KRS 258.215 can provide compliance with KRS 258.015, then said owner shall have the dog returned after paying the pick-up fee.

(3) Any canine delivered to the Animal Shelter by the Dog Warden will be detained a minimum of seven days before becoming eligible for adoption.

(4) Any animal surrendered to the Animal Shelter is eligible for adoption as soon as possible.

(5) The maximum time an animal is kept in shelter should be 30 days with the exception of spayed or neutered animals.

(6) All adoptable animals shall be spayed or neutered before final adoption from the shelter.

(7) Euthanasia is to be performed in the utility room of the shelter behind closed doors. All dogs shall be put down by intravenous injection with the exception of puppies, which are too immature for that procedure. If a veterinarian/technician is not present to assist in the euthanasia process, then the Warden on duty shall hold dogs for intravenous injection. No animals are to be put down in the kennel area.

(8) Any Warden who allows these euthanasia procedures to be violated shall be subject to disciplinary action.

(9) When a canine is noticeably sick or injured, the Warden on duty shall transport the animal to the veterinarian immediately and appropriate action shall be taken as determined by the veterinarian after his or her examination of the animal.

(10) When any animal is put down, the log will reflect the date, Warden, and veterinarian involved in the process. It is the responsibility of the attending Warden to dispose of the remains through waste management.

(I) *Cruelty cases.* The employees of the Animal Shelter shall refer all reported cruelty cases to an officer of the Humane Society and the law enforcement agency who has jurisdiction for investigation. In the investigation of violation of local dog ordinances, the Warden may contact a law enforcement officer for assistance under whose jurisdiction the violation occurs.

(Prior Code, § 23.702) (Ord. 2001-13, passed 11-14-2001; Ord. 2002-14, passed 5-29-2002; Ord. 2002-21, passed 10-16-2002)

§ 33.118 SERVICES; FEES.

The following services, with their associated fees or charges, will be provided by the County Animal Shelter.

Service	Fee
Service	Fee
Boarding of quarantined dogs	\$6/day
Cat adoption fee	\$40
Dog adoption fee	\$50
Parvo distemper booster vaccination if eligible at time of adoption	\$5 each
Parvo distemper vaccination	Included in adoption fee
Pick-up or receipt of privately-owned dogs for re-adoption or euthanasia Per litter	Donations Donations
Pick-up stray dogs	No charge
Recommended adoption fees	Not to exceed \$100
Return dog to owner First time Second time Third time and thereafter	\$30 \$30 \$30

CLARK COUNTY-WINCHESTER HERITAGE COMMISSION

§ 33.130 COMMISSION ESTABLISHED.

The Heritage Commission shall continue to be known as the "Clark County-Winchester Heritage Commission".

(Ord. 2006-6, passed 5-24-2006)

§ 33.131 MEMBERSHIP.

(A) *Members.* The said Commission shall consist of 12 voting members and three non-voting ex-officio members; the voting membership shall be made up, equally, of county and city residents. Such voting members shall include one member of the Fiscal Court and one member of the City Commission. The other voting members shall be selected for their knowledge of the historic traditions of the county and the city and their interest in the preservation of historic buildings, sites, and other properties in the county and the city. County members shall be appointed by the County Judge/Executive with the consent of the Fiscal Court. City members shall be appointed by the Mayor with the consent of the City Commission. In addition, the Director of Tourism, the President of the Bluegrass Heritage Museum, and the Chairperson of the Winchester Preservation Commission shall serve as ex-officio members of the Commission.

(B) *Term of office.* The term of office of each elected public official shall be the same as his or her official tenure in office. The term of office of other voting members shall be four years, ending on December 31 of the designated year, and the terms of office of such voting members shall be staggered so that the terms of office of two of them expire each year, with later appointments or re- appointments continuing the staggered pattern.

(C) *Commission actions.* Commission actions shall be approved by a majority of the members voting on such action, provided that a majority of the voting membership is in attendance at the meeting.

(D) *Officers.* The Commission shall elect annually from its voting members a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer.

(Ord. 2006-6, passed 5-24-2006)

§ 33.132 PURPOSE.

The purposes and objectives of this Commission shall be:

(A) To head up, administer, and promote the preservation and/or public acquisition of historical buildings, sites, and other historic property, both real and personal, located in the county and Winchester, and assist private owners of historic structures and sites in the registration and preservation thereof;

(B) To make such historic property available to the public; and

(C) To perpetuate the history of such historic property and make such history known to the public.

(Ord. 2006-6, passed 5-24-2006)

§ 33.133 DUTIES.

The Commission shall perform the following duties.

(A) *Surveillance of historic structures and sites.* The Commission shall maintain a surveillance of historic sites and structures, especially those not in historic districts, to prevent such structures and sites from being destroyed with no advance warning and to submit its recommendations to the level of government having jurisdiction in matters relating to the preservation, conservation, and enhancement of such structures and sites. The Commission shall also cause a list of priorities to be made as among the various historic structures and sites, said list to be used in connection with the recommendations of the Commission and with the appropriation of Commission funds.

(B) *Records.* The Commission shall maintain files, notebooks, and atlases of historic properties which it may cause to be made and those which it may from time to time acquire.

(C) *Maintenance of historic property.* The Commission shall maintain and make available to the public that historic property which it has acquired, within limits of funds available to it.

(D) *Grants.* The Commission shall expedite the use of, be informed about, apply for, and encourage other agencies to apply for federal, state, and local grants for historic preservation.

(E) *Gifts.* The Commission shall encourage and may accept gifts and property donations to provide a base for the preservation and administration of local historic structures and sites.

(F) *Record of disbursements of funds.* The Commission shall maintain a current record of the disbursement of its funds and said record shall be available for public inspection upon ten days' written notice to the Commission.

(G) *Programs.* The Commission may undertake programs and projects to promote interest in historic preservation.

(H) *Assistance of other organizations.* The Commission shall offer assistance to individuals and private groups concerned with historic preservation.

(I) *Liaison with local government.* The Commission shall maintain a liaison with the Fiscal Court and the City Commission and keep it aware of the historic property within the county and the city and also keep the local legislative bodies aware of the activities of the Commission and of its needs.

(J) *Executive Secretary.* The Commission may retain an Executive Secretary and other staff as needed.

(K) *Committees.* The Commission may establish committees to perform specific duties.

(L) *Meetings.* The Commission shall meet monthly and at such other times as may be designated by the Chairperson or a majority of the voting members.

(M) *Office.* The Commission may establish and maintain office facilities to house an Executive Secretary, staff, records, and property of the Commission, which office facilities shall be open to the public.

(Ord. 2006-6, passed 5-24-2006)

§ 33.134 IMPLEMENTATION OF DUTIES.

The Commission may expend any and all funds appropriated by the county and the city and may apply for, receive, and disburse funds and may contract with any state, federal, or public or private agency for the purpose of carrying out the duties as set forth herein. The Commission may receive, accept, purchase, or acquire and hold in any lawful manner real and personal property, and it may dispose of same by gift or in any other lawful manner, for the benefit of the Commission and any other cause of a historic nature.

(Ord. 2006-6, passed 5-24-2006)

§ 33.135 FUNDS.

(A) *Financial support.* The funds of the Commission shall be derived from grants and contributions supplemented by such contributions from the Fiscal Court and the City Commission as appear to be in the public interest.

(B) *Reimbursement of expenses.* All members shall be reimbursed for any authorized expenditures.

(Ord. 2006-6, passed 5-24-2006)

COUNTY CEMETERY BOARD

§ 33.150 BOARD ESTABLISHED.

There is hereby established the Clark County Cemetery Board.

(Ord. 2005-16, passed 8-10-2005)

§ 33.151 MEETINGS.

The Clark County Cemetery Board will be known as "the County Cemetery Board" and shall meet three times annually in space provided by the Fiscal Court.

(Ord. 2005-16, passed 8-10-2005)

§ 33.152 COMPOSITION OF BOARD.

The County Cemetery Board shall be comprised of five volunteer members, appointed by the County Fiscal Court to serve a term of two years. However, initially, two member positions shall be for an initial term of one year, one position shall have an initial term of two years, one position shall have an initial term of three years, and the remaining position shall have an initial term of four years. Vacancies shall be filled by appointment of the County Judge/Executive, subject to approval of the Fiscal Court. As required by statute, all members shall have lived in the county for at least one year prior to appointment, shall have demonstrated an interest in county preservation, genealogy, local history, or a related area, and be of good character in the community.

(Ord. 2005-16, passed 8-10-2005)

§ 33.153 ADMINISTRATION OF FUNDS.

All grant monies sought by the County Cemetery Board shall be administered under the direction and authority of the County Fiscal Court. The County Treasurer shall have sole authority to disperse said funds only by direction of the County Fiscal Court acting upon recommendations of the County Cemetery Board.

(Ord. 2005-16, passed 8-10-2005)

§ 33.154 QUALIFICATIONS FOR ASSISTANCE.

The County Cemetery Board, in reviewing request for assistance and in making recommendations to the County Fiscal

Court, shall be restricted by state law and, specifically, may only consider for assistance those cemeteries that meet the following qualifications:

- (A) Are owned and controlled by lot owners;
- (B) Operated on a non profit basis with no individual benefit;
- (C) Have no employees other than maintenance workers;
- (D) Do not sell any other than the right of interment in designated grave spaces; and
- (E) Do not receive nor qualify for perpetual care funds present the KRS 367.952.

(Ord. 2005-16, passed 8-10-2005)

WINCHESTER-CLARK COUNTY 911 ADDRESSING COMMITTEE

§ 33.165 COMMITTEE ESTABLISHED.

A joint Property Addressing Committee is hereby created, which hereafter will be known as the "Winchester-Clark County 911 Addressing Committee".

(Ord. 2005-17, passed 8-10-2005)

§ 33.166 PURPOSE OF COMMITTEE.

Said Winchester-Clark County 911 Addressing Committee shall have, as its function, the task of determining policies and procedures for addressing property in Winchester and the county, collectively, and to envision ways in which local policies and procedures, as they relate to property numbering, can be utilized to fill the main purposes of each, to better the quality of service and safety for all citizens of this community, and to provide the greatest benefit to the citizens given the resources of the community and governments.

(Ord. 2005-17, passed 8-10-2005)

§ 33.167 AUTHORITY AND POWERS.

The Winchester-Clark County 911 Addressing Committee is hereby empowered with the authority to draft such regulations and bylaws as may be necessary for the establishment or perpetuation of the property addressing process. The Winchester-Clark County 911 Addressing Committee is further empowered to make all necessary changes to existing property numbers as necessary to carry out the goals of the Winchester-Clark County 911 Addressing Committee.

(Ord. 2005-17, passed 8-10-2005)

§ 33.168 MEMBERSHIP.

The initial Winchester-Clark County 911 Addressing Committee shall consist of individuals appointed or nominated from various county and city agencies, by each participating governmental body, their membership shall be as follows:

- (A) One appointee: Winchester City Commission;
- (B) One appointee: County Fiscal Court;
- (C) One appointee: Winchester-Clark County Planning and Zoning;
- (D) One appointee: County Property Valuation Administration;
- (E) One appointee: County Sheriff;
- (F) One appointee: County Fire Department;
- (G) One appointee: Winchester Fire-EMS;
- (H) One appointee: Winchester Police Department; and
- (I) One appointee: United States Postal Service.

(Ord. 2005-17, passed 8-10-2005)

§ 33.169 INITIAL REPRESENTATIVES.

The initial Committee shall consist of the representatives of the above agencies with the appointing authority for the City Commission representative being the Mayor and for the Fiscal Court, the County Judge/Executive. Appointees serve at the pleasure of the appointing authority and until any successor is appointed. All appointees serve without compensation.

(Ord. 2005-17, passed 8-10-2005)

ADMINISTRATIVE HEARING BOARD

§ 33.180 TITLE.

The subchapter shall be known and may be cited as "The Administrative Hearing Board Ordinance".

(Ord. 2010-11, passed 5-12-2010)

§ 33.181 PURPOSE.

This subchapter is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare, and to provide enforcement provisions for violations of ordinances for the benefit of the citizens of City of Winchester and the county.

(Ord. 2011-7, passed 7-27-2011; Ord. 2020-08, passed 11-12-2020)

§ 33.182 DEFINITIONS.

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

ADMINISTRATIVE HEARING BOARD. An administrative body created and acting under the authority of the KRS 65.8801 to 65.8839.

CODE OFFICIAL. As used in the International Property Maintenance Code, shall be deemed to be the City Building Inspector, Engineering Technician, City Fire Marshal, if applicable, the Code Enforcement Officer (or their duly authorized representatives), Winchester Municipal Utilities officials, and sworn officers and all shall be charged with the administration and enforcement of this code.

REMEDY. The action taken to abate any nuisance to bring property in violation of the code into compliance with the requirements of this chapter.

THE CODE. Any ordinances adopted by the city pursuant to KRS 65.8801 or subsequently adopted.

(Ord. 2011-7, passed 7-27-2011)

§ 33.183 CREATION AND MEMBERSHIP.

There is hereby created an Administrative Hearing Board pursuant to KRS 65.8801 to 65.8839. The City of Winchester, hereafter referred to as the city, and County Fiscal Court, hereafter referred to as the county, does hereby amend an ordinance that established an Administrative Hearing Board. The Administrative Hearing Board shall be composed of five member(s), all of whom shall be residents and registered voters of the city and county for a period of at least one year prior to the creation of the Board, and shall reside there throughout their term in office.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011; Ord. 2020-08, passed 11-12-2020)

§ 33.184 POWERS.

(A) The Code Official shall have the power to issue citations for violations of the code. Such citations shall be a final determination unless contested pursuant to the hearing procedures provided under §§ 33.193 and 33.194.

(B) The Administrative Hearing Board, hereafter referred to as the Board, shall have the power to conduct hearings, issue remedial orders, and impose fines and file encumbrance liens as a final determination. These powers may be exercised as a method of enforcing the code for violations of the nuisance code; or other code violations authorized by this subchapter, which have been determined by the Code Official; or when a contest to the Board has been initiated.

(C) The Board shall have the authority to conduct hearings and make determinations regarding all nuisance code violations or other code violations authorized by this subchapter.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-3, passed 3-23-2011; Ord. 2020-08, passed 11-12-2020)

§ 33.185 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE.

(A) The city and county shall have representation on the Board; neither the city nor the county shall have more than three members on the Board at all times.

(B) The Mayor shall appoint the two city members and the County Judge/Executive shall appoint the two county members with approval of their respective legislative bodies. The fifth and final Board member position will be a joint appointment by the Mayor and County Judge.

(C) Members of the Administrative Hearing Board shall be residents and registered voters of the county for a period of at least one year prior to joining the Board and shall reside there throughout their term in office. The initial appointment to a five member Administrative Hearing Board shall be as follows:

- (1) One member appointed to a one-year term (the fifth member of the Board);
- (2) Two members appointed to a two-year term (one city and one county member); and
- (3) Two members appointed to a three-year term (one city and one county member).

(D) All subsequent appointments shall be for a term of three years. A city member may be reappointed by the Mayor,

subject to approval by the Winchester City Commission. A county member may be reappointed by the County Judge/Executive subject to approval by the County Fiscal Court.

(E) The Mayor and County Judge/Executive in a joint decision may appoint, subject to the approval of the Winchester City Commission and County Fiscal Court, one alternate member to serve on the Board in the absence of regular member. The alternate member shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Administrative Hearing Board.

(F) Any vacancy on the Board shall be filled by the Mayor or County Judge/Executive within 30 days of the vacancy. If the vacancy is not filled within that time period, the Winchester City Commission or the County Magistrates shall fill the vacancy.

(G) (1) A Board member may be removed from office by the Mayor and County Judge/Executive for misconduct, inefficiency, or willful neglect of duty.

(2) The Mayor and County Judge/Executive must submit a written statement to the member and the Winchester City Commission and County Fiscal Court setting forth the reasons for removal.

(3) To remove a member from the Board, both the Mayor and County Judge/Executive must give approval.

(H) All appointments and replacements of city or county Board positions will be at the discretion of their respective legislative bodies.

(Ord. 2010-11, passed 5-12-2010)

§ 33.186 ORGANIZATION OF BOARD; MEETINGS; QUORUM; AND ALTERNATE BOARD MEMBERS.

(A) If the Board consists of five members, it shall annually elect a chair from among its members. The Chairperson shall be the presiding officer and a full voting member of the Board.

(B) Regular meetings of the Board shall be held monthly on a date to be set by the Board. Meetings other than those regularly scheduled shall be special meetings held in accordance with the requirements of the state's Open Meetings Act being KRS 61.800 et seq., and the Board may adopt a procedure for special meetings, if necessary.

(C) All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 65.8801 et seq., Robert's Rules of Order, the state's Open Meetings Act being KRS 61.800 et seq., and the state's Open Records Act being KRS 61.870 et seq.

(D) Any action of any Board member in his or her role as hearing officer shall be deemed to be the action of the Board.

(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.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011)

§ 33.187 COMPENSATION OF MEMBERS.

For each official Board meeting attended, each Board member shall be paid a sum of \$50.

(Ord. 2010-11, passed 5-12-2010)

§ 33.188 AUTHORITY TO RECEIVE, HOLD, AND DISBURSE FUNDS; EQUALIZATION OF EXPENSES.

The Board shall have the right to receive, hold, and disburse funds which it may legally receive from any and every source.

(Ord. 2010-11, passed 5-12-2010)

§ 33.189 CONFLICT 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 discussion of or voting on the matter in which he or she has an interest and shall not be counted for purposes of establishing a quorum.

(Ord. 2010-11, passed 5-12-2010)

§ 33.190 JURISDICTION.

The Code Official and the Board shall have jurisdiction to enforce and shall enforce those city/county ordinances and code provisions which specifically provide for Board enforcement. In the enforcement of this subchapter, a Code Official, and his or her duly authorized agents, assistants, employees, or contractors, may enter upon private or public property to ensure compliance with the provisions of this subchapter.

(Ord. 2010-11, passed 5-12-2010)

§ 33.191 POWERS OF THE BOARD.

The Board shall have the following powers and duties over all matters contained within this subchapter:

- (A) To adopt rules and regulations to govern its operations and the conduct of its hearings;
- (B) To subpoena witnesses;
- (C) To conduct hearings to determine if there has been a violation of the code or such other code provisions as may be delegated herein;
- (D) To take testimony under oath. The Chairperson shall have the authority to administer oaths for the purpose of taking testimony;
- (E) To make findings of fact and issue orders necessary to remedy any violation of the code or code provision which the Board is authorized to enforce;
- (F) To impose fines, as authorized, on any person found to have violated the code;
- (G) To order liens to be filed for the collection of fines, charges, costs, penalties, and fees, including attorney's fees;
- (H) To order demolition of dangerous and structurally unsafe buildings; and
- (I) To order tenants to vacate premises of unsafe buildings and structures.

(Ord. 2010-11, passed 5-12-2010)

§ 33.192 ENFORCEMENT HEARING.

The following requirements shall govern all enforcement hearings before the Board.

- (A) If the alleged violator desires to contest the citation, he or she may initiate a hearing before the Board after a citation is issued by a Code Official.
- (B) Except as provided in division (C) below, if a Code Official believes, based on his or her personal observation or investigation, that a person has violated the code, he or she shall issue a notice of violation to the offender allowing the offender three days to remedy the violation without fine. The offender will be allowed a reasonable extension of time to remedy the violation without fine at the discretion of the Code Official. The notice of violation shall be reasonably calculated to inform the offender of the nature of the violation, and may be in the form of a door hanger for properties with dwelling or structures or in the form of a posted sign for vacant lots.
- (C) If the offender fails or refuses to remedy the violation within the time allotted by the Code Official, the Code Official is authorized to issue a citation. The citation shall represent a determination by the Code Official that a violation has been committed, and that determination shall be final unless contested by the alleged violator and taken before the Board.
- (D) Nothing in this subchapter shall prohibit the city or county from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.
- (E) The citation issued by the Code Official shall contain the following information:
 - (1) The date and time of issuance;
 - (2) The name and address of the person to whom the citation is issued;
 - (3) The date and time the offense was committed;
 - (4) The facts constituting the offense;
 - (5) The section of the code or the number of the ordinance violated;
 - (6) The name of the Code Official;
 - (7) The fine that will be imposed for the violation if the person does not contest the citation;
 - (8) The maximum fine that may be imposed if the person elects to contest the citation;
 - (9) The procedure for the person to follow in order to pay the fine or to contest the citation;
 - (10) A statement that if the person fails to pay the fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the Board to contest the citation and that the determination that the violation was committed shall be final; and
 - (11) Notice that a lien may be filed or foreclosure proceedings initiated to collect fines, charges, costs, penalties, and fees, including attorney's fees.

(F) Upon receipt of a citation, the offender shall respond to the citation within five days of the date of receipt by either paying the fine or requesting, in writing, a hearing before the Board to contest the citation. If the offender responds by paying the fine, the offender shall still be required to remedy the violation and will be given a reasonable time to remedy. If the offender fails to remedy the violation, another notice of violation may be issued, in accordance with division (B) above, for another violation of the code. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final.

(G) If the offender does not contest the citation within the time prescribed, the Administrative Hearing Board shall enter a final order determining that the violation was committed, no contest was initiated, and then cause the nuisance to be abated and/or impose the fine set forth in the citation. If the offender does not remedy in the time provided, another notice of violation may be issued, in accordance with division (B) above, for another violation of the code. A copy of the final order shall be served on the offender.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011)

§ 33.193 HEARING; NOTICE; AND FINAL ORDER.

(A) When a hearing has been requested, the Board shall schedule a hearing. The Board shall hold hearings once a month.

(B) Not less than seven 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, 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 to contest the citation and a determination that a violation was committed shall be entered and become final. The Board shall enter a final order determining the violation was committed and shall cause the nuisance to be abated and/or impose the fine set forth in the citation. The final order shall provide the offender a reasonable time to remedy the violation. If the offender does not remedy in the time provided, another notice of violation may be issued for another violation of the code. A copy of the final order shall be served upon the offender.

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

(E) The Board shall, based on the evidence, determine whether a violation was committed. In making its determination, the Board shall uphold the citation unless the issuance of the citation was clearly erroneous. If clearly erroneous, an order dismissing the citation shall be entered. If pictorial or photographic evidence is provided or if no such evidence is provided and the Board still determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized by this subchapter or other ordinance or requiring the offender to remedy a continuing violation, or both. The final order shall provide the offender a reasonable time, not to exceed ten days, to remedy the violation. If the offender does not remedy in the time provided in the final order, another notice of violation may be issued for another violation of the code.

(F) Every final order of the Board shall be reduced to writing, which 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 is issued, the order shall be delivered in accordance with the procedures set forth in division (B) above.

(G) The Code Official, at his or her discretion, may remedy the violation to bring the property into compliance with the code if the citation is not contested or if a final order upholding the citation is entered by the Board.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011)

§ 33.194 APPEALS; FINAL JUDGMENT.

(A) An appeal from any final written order of the Board may be made to the County District Court within seven 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 final order in the same manner as any civil action under the state's Rules of Civil Procedure.

(B) The action before the District Court shall be de novo. If the Court finds that a violation occurred, the offender shall be ordered to remedy the violation and pay to the city or county all fines, charges, fees, including attorney's fees, and penalties occurring as of the date of the judgment. The District Court Judge shall provide the offender a reasonable time to remedy the violation. If the offender does not remedy in the time provided, another notice of violation may be issued for another violation of the code.

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

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011)

§ 33.195 FINE SCHEDULE.

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

(A) If a citation for a violation of the cited code is not contested by the person charged with the violation, the penalties set forth in this division (A) may apply per day, per violation.

Violation	1st Offense	2nd Offense	All Others
Abandoned vehicles and appliances	\$100	\$250	\$500
Litter	\$100	\$250	\$500
Other nuisances	\$100	\$250	\$500
Property maintenance	\$100	\$250	\$500
Solid waste	\$100	\$250	\$500

(B) If the citation is contested and a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board per day, per violation.

Violation	1st Offense	2nd Offense	All Others
Abandoned vehicles and appliances	\$200	\$500	\$1,000
Litter	\$200	\$500	\$1,000
Other nuisances	\$200	\$500	\$1,000
Property maintenance	\$200	\$500	\$1,000
Solid waste	\$200	\$500	\$1,000

(Ord. 2010-11, passed 5-12-2010)

§ 33.196 LIEN; FINES, CHARGES, AND FEES.

(A) The city and county shall possess a lien on property owned by the person found by a final, nonappealable order issued based upon an uncontested citation; by a final, nonappealable order of the Board; or by a final judgment of the court of competent jurisdiction, to have committed a violation of an ordinance that the Board is authorized to adjudicate, for all fines assessed for the violation and for all charges, costs, penalties, and fees, including attorney's fees, incurred by the city and county in connection with the enforcement of this subchapter.

(B) The lien shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest, at the rate of 4% interest, until paid.

(C) Pursuant to KRS 65.8835, the lien shall take precedence over all other liens on the property, except state, county, school board, and city taxes, and may be enforced by judicial proceedings or, to the extent permitted by law, Administrative Hearing Board enforcement proceedings.

(Ord. 2010-11, passed 5-12-2010; Ord. 2011-7, passed 7-27-2011; Ord. 2020-08, passed 11-12-2020)

§ 33.197 ORDINANCES ENACTED AS THE NUISANCE CODE.

The sections in this subchapter are enacted pursuant to KRS 65.8840 as part of the nuisance code.

(Ord. 2010-11, passed 5-12-2010)

§ 33.198 MAINTENANCE PERMIT REQUIRED.

A property maintenance permit shall be required for the abatement of violations under any of the provision of this code.

(Ord. 2010-11, passed 5-12-2010)

§ 33.199 DANGEROUS AND STRUCTURALLY UNSAFE BUILDINGS.

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

DANGEROUS BUILDING. Any building structure, or portion thereof, which threatens the life, health, safety, or property of the public or its occupants by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, infestation, or abandonment shall be deemed a **DANGEROUS BUILDING**. The conditions which may cause a structure to be classified as a **DANGEROUS BUILDING** include, but are not limited to, the following conditions:

(1) The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as not to provide a safe and adequate means of exit in case of fire or panic;

(2) Any portion, member, or appurtenance of the building or structure which has been damaged by fire, earthquake, wind, flood, or by any other cause, to such extent that it is likely to partially or completely collapse, fail, detach, or dislodge;

(3) The building or structure, or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse;

(4) The building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or a harbor for transients, vagrants, or criminals;

(5) The building or structure, used or intended to be used for dwelling purposes, is unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities or other cause;

(6) The building or structure creates a fire hazard by virtue of its obsolescence, dilapidated condition, deterioration, damage, inadequate exiting, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause;

(7) The building or structure constitutes a public nuisance as defined by law;

(8) Any portion of the building, including the foundation and slab or grade, or structure, remains on a site after the demolition or destruction of the building or structure;

(9) The exits of the building or means of exiting do not conform with the applicable city ordinances regarding the number of exits, their width, or any other features which may cause a hazard to the life or safety of the occupants or general public;

(10) Defective or overloaded electrical systems, faulty or leaking fuel piping systems, or deteriorated fuel combustion equipment or combustion product vents; and/or

(11) The existing use or occupancy violates the fire, health, or building regulations of applicable city ordinances.

STRUCTURALLY UNSAFE STRUCTURE. Any structure, building, or portion thereof is deemed **STRUCTURALLY UNSAFE** if it has any one of the following conditions:

(1) Structural components which cannot withstand 100% of the vertical design loads for the actual use of the building; provided, however, if a building complies with the vertical load carrying capacity requirements that were in effect when the building was built, the building shall not be considered structurally unsafe because of failure to comply with current requirements. In lieu of engineering analysis, the load carrying capacity for flexural floor or roof members may be demonstrated by a load test, provided the amount of load and procedure used are first approved by the Code Official;

(2) Structural components which cannot withstand 25% of the wind or earthquake forces; or

(3) Parapet walls or other building appendages which are not capable of resisting the wind or earthquake forces specified by the applicable city ordinance.

(Ord. 2010-11, passed 5-12-2010)

§ 33.200 REPAIR, VACATION, AND DEMOLITION.

(A) *Standards.* The Board shall follow these standards in ordering the repair, vacation, or demolition of any structurally unsafe or dangerous structure.

(1) Any building declared structurally unsafe or dangerous under this subchapter shall be repaired in accordance with the most recent Building Code. Any building designated as historical shall not be demolished pursuant to this section. The owner must ensure that his or her historical building complies with all applicable state and local regulations and ordinances.

(2) The owner of the property, in cooperation with the Code Official, shall assist in the relocation of any tenants which are displaced as a result of this abatement process.

(B) *Posting of signs.*

(1) When the Code Official orders the vacation of tenants and when the building is secured, signs shall be posted at or near each entrance of the building and shall be in substantially the following form:

DO NOT ENTER UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice. City Ordinance Code Official City of Winchester

(2) The notice to vacate shall also be posted and it shall recite the conditions in the notice issued by the Code Official.

(C) *Trespass.* No person shall remain in or enter any building which has been so posted, except that entry may be made to repair or demolish such building under proper permit.

(D) *Defacement.* No person shall remove or deface any such sign or notice after it is posted until the required repairs have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code or until demolition is finished and all debris removed pursuant to the demolition permit.

(Ord. 2010-11, passed 5-12-2010) Penalty, see §10.99

§ 33.201 ENFORCE DELINQUENCIES.

Pursuant to KRS 65.8801 to 65.8839 and other applicable law, the Board may, in accordance with the provisions of this subchapter, determine and enforce delinquencies of the Transient Room Tax, §§ 38.15 through 38.17; occupational license fees, §§ 110.02 through 110.09, 110.21, 110.35 through 110.38; Board penalties, §§ 38.99, 110.99; erosion prevention and sediment control plan requirements, § 153.131; and foreclose upon other authorized liens of record.

(Ord. 2020-08, passed 11-12-2020)

§ 33.202 FINAL ACTION BY PLANNING COMMISSION OR BOARD OF ADJUSTMENT.

Upon final action by the Planning Commission or Board of Adjustment, or if an appeal is taken pursuant to KRS 100.347, upon final adjudication by a court of competent jurisdiction, when no penalty for violation of the final action or judgment has been imposed, the matter may be referred by the Planning Commission or Board of Adjustment to the Administrative Hearing Board pursuant to § 33.184(A) for issuance of a citation, and further proceedings in accordance with § 33.184(B).

(Ord. 2020-08, passed 11-12-2020)

HEARING BOARD CONCERNING NUISANCES

§ 33.215 DEFINITION.

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

PUBLIC NUISANCE. Any premises or place where law enforcement officers have, on more than three occasions in one calendar year, criminally cited or arrested a person for violation of the laws governing assault sexual offenses, prostitution, weapons, gambling on the premises, any felony or executed a court-issued search warrant for violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises, or any felony. Instances in which the occupant is the victim of the crime and had no control over the criminal act shall not be considered in the number of occasions including domestic violence calls for service.

(Ord. 2018-06, passed 4-11-2018)

§ 33.216 PROHIBITION.

No owner of property located within the city/county shall allow his or her property to be used as the site for any public nuisance after having received notice pursuant to § 33.218 that the property has been used for the commission of a public nuisance. This prohibition shall apply to both rental and owner-occupied property. A legal or equitable owner of the property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this code section.

(Ord. 2018-06, passed 4-11-2018) Penalty, see § 10.99

§ 33.217 ENFORCEMENT.

Any "Code Official" shall be responsible for enforcement of this subchapter relating to public nuisances, including the Chief of Police or his or her designated representative. Enforcement of this code section shall be initiated by the filing of a uniform citation issued by a sworn law enforcement officer.

(Ord. 2018-06, passed 4-11-2018)

§ 33.218 ABATEMENT PROCEDURE.

(A) *Duty to notify owner.* Whenever the Code Official receives information that a public nuisance exists or may come to exist in or upon the property, he or she shall notify the owner of the property, and any representative designated by the owner pursuant to division (D) below, that the property is being used in a manner which has or may come to constitute a public nuisance and that the public nuisance is subject to be abated.

(B) *Notice to abate.* It shall be the duty of the Code Official to serve or cause to be served a notice upon the owner of any premises upon which there is kept or maintained a public nuisance in violation of § 33.215. Such notice shall describe the nuisance so maintained and shall demand abatement of such nuisance. Notice to abate shall be personally served upon the owner or shall be mailed to the last known address of the owner of the property as it appears on the current tax assessment roll. If the owner of the property cannot be ascertained from the tax rolls in the exercise of reasonable diligence, the Code Official shall make an affidavit to that effect; and the serving of such notice upon such owners may be made by publication in a newspaper of general circulation for two consecutive days. If notice is made by publication, a copy of such notice shall be posted in a conspicuous place on the premises affected by the notice. The notice shall include a citation and a statement to the effect that civil penalties of not less than \$500 nor more than \$5,000 may be imposed if the public nuisance is not abated and shall state the procedure and time frame established by § 33.225 for appealing the notice to abate or the imposition of civil penalties, when applicable.

(C) *Order to close and vacate.* Should the public nuisance not be abated by or before the date stated in the notice to abate, the Code Official shall be authorized at any time thereafter to issue an order closing and vacating the premises to the extent necessary to abate the public nuisance. Such closing and vacating shall be for such period of time as the Code Official reasonably may direct, but in no event shall the closing and vacating persist for a period longer than the next scheduled enforcement hearing of the Administrative Hearing Board, if the cited person files a notice of appeal. An order to close and vacate issued pursuant to this section is not an act of possession, ownership, or control by the city/county

government. An order to close and vacate shall be rescinded within 14 days of an abatement unless the premises is the site of repeated orders to close and vacate.

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

(E) *Lien.* The city/county shall have a lien against the property for any civil penalties, charges, and fees imposed for the reasonable value of the labor and materials to abate a public nuisance if necessary. This lien shall be evidenced by notice of lien claim filed in the County Court Clerk's office, which notice shall include the affidavit of the Code Official, setting forth the property in question, the amount of the city/county government's cost and date of abatement, if any, the amount of the civil penalty, if any, and shall recite that the notice provisions of this section complied with before abatement or assessment of civil penalty. The Code Official shall bill the property owner of such premises at least once and no notice of lien claim shall be filed against the property until 14 days have elapsed since the bill is sent. If the property is the subject of litigation, then the lien may be filed immediately upon the mailing of the bill. A copy of the notice of the lien claim shall be mailed to the owner of the premises, or published in a newspaper of general circulation, as required by statute, where the owner of the property cannot be ascertained. However, the failure of the Clerk to record such notice of lien claim or the failure to mail to the owner a copy of such notice or publish same, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in division (F) below.

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

(Ord. 2018-06, passed 4-11-2018)

§ 33.219 ACTION ON FAILURE TO COMPLY.

If any person fails to comply with the notice to abate a public nuisance or to close and vacate issued pursuant to this subchapter, the Code Official may:

- (A) Issue a notice of violation (citation) assessing civil penalties of not less than \$500 nor more than \$5,000, with notice of the assessment of a civil penalty for violation to be made in the manner specified herein;
- (B) Revoke the certificate of occupancy of the premises; or
- (C) Use any other legal remedy available under the laws of the state.

(Ord. 2018-06, passed 4-11-2018)

§ 33.220 DESTROYING AND THE LIKE; NOTICE; DISOBEYING ORDER.

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

(Ord. 2018-06, passed 4-11-2018) Penalty, see §10.99

§ 33.221 MULTIPLE UNIT DWELLINGS.

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

(Ord. 2018-06, passed 4-11-2018)

§ 33.222 DEFENSE TO VIOLATION.

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

(Ord. 2018-06, passed 4-11-2018)

§ 33.223 HEARING.

(A) Any person affected by notice to abate, order to close and vacate, or civil penalty assessment which has been issued in connection with the enforcement of sections of this subchapter shall have the right to request and shall have granted a hearing on the matter, provided that such person shall file with the Administrative Hearing Board, as established by § 33.225, or its designee, a written request for such hearing and the grounds therefor within seven days. The Code Official shall make available, upon request, a preprinted appeal form. The seven-day period provided for in this section shall be deemed to commence as follows:

- (1) Where notice personally served, on the day following service;
- (2) Where notice is served by certified mail, on the third day following mailing; and
- (3) Where notice is by publication, on the third day following the initial day of publication.

(B) Failure to appeal a notice to abate, an order to close and vacate, or the assessment of a civil penalty for violations of § 33.218(B) and (C) shall represent a determination that the violation has been committed and that determination shall be final, unless an appeal is timely taken to the Administrative Hearing Board established by §§ 33.180 to 33.200.

(C) Pursuant to KRS 65.8831, an appeal from the Board's determination may be made to the Clark District Court within seven days of the Board's determination.

(Ord. 2018-06, passed 4-11-2018)

§ 33.224 NOTICE OF HEARING; CONDUCT OF HEARING.

A member of the Administrative Hearing Board or its designee shall give notice of a hearing to the parties not less than ten days in advance of the day set for the hearing. The hearing shall be conducted in the form and manner provided by § 33.192.

(Ord. 2018-06, passed 4-11-2018)

§ 33.225 WRITTEN ORDER OF HEARING OFFICER; APPEAL.

Within a reasonable time after the conclusion of the hearing, the Board shall issue a written order in the form and manner provided in § 33.192. An appeal from any final order issued by the Administrative Hearing Board may be made to the Clark District Court within 30 days of the date the order was issued pursuant to KRS 65.8828(5). There shall be no appeals from such orders to the Board.

(Ord. 2018-06, passed 4-11-2018)

WINCHESTER-CLARK COUNTY ACTIVE TRANSPORTATION COMMITTEE

§ 33.240 CREATED.

A joint active transportation committee is hereby created, which hereafter will be known as the "Winchester-Clark County Active Transportation Committee".

(Ord. 2019-04, passed 7-10-2019)

§ 33.241 FUNCTION.

The Winchester-Clark County Active Transportation Committee shall have as its function the task of identifying policies and procedures for improving access to sidewalks, paths, and community locations in Winchester and The county, collectively, and to envision ways in which local policies and procedures, as they relate to active transportation, can be utilized to fill the main purposes of each, to better the quality of life and safety for all citizens of this community, and to provide the greatest benefit to the citizens given the resources of the community and governments.

(Ord. 2019-04, passed 7-10-2019)

§ 33.242 PURPOSES.

The Winchester-Clark County Active Transportation Committee shall collect and record input from the general public, with the assistance of Bluegrass Rails to Trails Foundation, Inc., and other community groups for the purposes of prioritizing active transportation policies and projects, and updating the Winchester-Clark County Active Transportation Plan and the Winchester-Clark County Comprehensive Plan.

(Ord. 2019-04, passed 7-10-2019)

§ 33.243 RESPONSIBLE FOR ORGANIZING AN ANNUAL CONFERENCE OF STAKEHOLDERS.

The Winchester-Clark County Active Transportation Advisory Committee is hereby responsible for organizing, no less than annually, a conference of stakeholders to evaluate and report on the progress of the Winchester-Clark County Active Transportation Plan. These stakeholders include, but are not limited to: the Clark County Activity Coalition, Winchester-Clark County Parks and Recreation, Clark County Public Schools, Winchester-Clark County Chamber of Commerce, Winchester-Clark County Tourism Commission, the Greater Clark Foundation, the Clark County Community Foundation, and the Bluegrass Cycling Club.

(Ord. 2019-04, passed 7-10-2019)

§ 33.244 POWERS.

The Winchester-Clark County Active Transportation Advisory Committee is hereby empowered with the authority to recommend such regulations and policies as may be necessary for the establishment or perpetuation of the active transportation network. Regulation and policy recommendations shall be forwarded to the appropriate organization or jurisdiction for consideration. The Winchester-Clark County Active Transportation Advisory Committee is further empowered to recommend necessary changes to the existing Winchester-Clark County Active Transportation Plan as necessary to carry out the goals of the Winchester-Clark County Active Transportation Advisory Committee.

(Ord. 2019-04, passed 7-10-2019)

§ 33.245 MEMBERSHIP.

The Winchester-Clark County Active Transportation Advisory Committee shall consist of members, approved by the City Commission and the County Fiscal Court as follows:

- (A) One appointee from the City Commission;
- (B) One appointee from the County Fiscal Court;
- (C) One member from the County Health Department, nominated by the County Board of Health and approved by County Fiscal Court;
- (D) Two additional at-large citizen members, nominated by Bluegrass Rails to Trails Foundation, Inc.:
 - (1) One representative approved by the City Commission;
 - (2) One representative approved by the County Fiscal Court.

(Ord. 2019-04, passed 7-10-2019)

§ 33.246 TERM.

The Committee shall be appointed by the City Commission, the County Fiscal Court, the County Board of Health, and Bluegrass Rails to Trails Foundation, Inc. for terms of three years.

(Ord. 2019-04, passed 7-10-2019)

§ 33.247 APPOINTING AUTHORITIES.

The initial Committee shall consist of the representatives of the above agencies, with the appointing authority for the City Commission representative being the Mayor, and for the Fiscal Court, the County Judge/Executive. At-large appointees shall be chosen in accordance with the policies and bylaws of the appointing agency, and approved by the County Fiscal Court and City Commission. Appointees serve at the pleasure of the appointing authority and until a successor has been appointed. All appointees serve without compensation. Additional government and non-government agencies may be added by amendment to this subchapter, subject to approval by the City Commission and the County Fiscal Court.

(Ord. 2019-04, passed 7-10-2019)

CHAPTER 34: PERSONNEL ADMINISTRATION

Section

General Provisions

- 34.01 Administration; purpose
- 34.02 Affirmative action
- 34.03 Job classifications
- 34.04 Selection process
- 34.05 Progressive discipline
- 34.06 Other personnel matters

Ethics of County Officials and Employees

- 34.20 Definitions
- 34.21 Fair and equal treatment
- 34.22 Conflicts of interest

GENERAL PROVISIONS

§ 34.01 ADMINISTRATION; PURPOSE.

According to state and constitutional law, the County Judge/Executive serves as a member and presiding officer of the Fiscal Court and acts as the county's chief executive and administrative official (Ky. Const. § 124, KRS 67.040, 67.710). The County Judge/Executive, or his or her designee, shall develop, implement, and administer a personnel or human resource management system which will include, among others, provisions for affirmative action, recruitment, motivation, classification, compensation, training, progressive discipline, benefits, ethics, conflicts of interest; all for the purpose of promoting greater employee involvement and enhancing productivity, quality, and efficiency of the work force at the county level.

(Prior Code, § 24.001) (Ord. passed 6-13-1994)

§ 34.02 AFFIRMATIVE ACTION.

- (A) The County Judge/Executive shall develop and maintain an Affirmative Action Plan consisting of:
 - (1) A statement of policy;
 - (2) Methods for dissemination of the policy;
 - (3) Work force analysis; and
 - (4) Goals and timetables.
- (B) The County Judge/Executive is responsible for the implementation of the county's affirmative action plan.
- (C) The County Judge/Executive shall maintain, in current order, the following documentation:
 - (1) Job classification for each position with minimum requirements based on tasks performed;
 - (2) Work force analysis which shows for each EEO-4 category, the number of persons employed, the pay range, race, sex, and date of last promotion;
 - (3) Roster containing name, position class, department, race, sex, pay range, date employed, and last promotion for each county employee; and
 - (4) Applicant flow chart.
- (D) The County Judge/Executive shall receive progress reports showing personnel actions from each agency and office of the county and shall prepare a consolidated report on equal employment opportunity progress on all county employees for submission to the Fiscal Court as required.

(Prior Code, § 24.002) (Ord. passed 6-13-1994)

§ 34.03 JOB CLASSIFICATIONS.

- (A) Each job classification shall be in writing and include:
 - (1) A concise, descriptive title; and
 - (2) Description of the duties and responsibilities of each position in each classification; and a statement of minimum and/or desirable qualifications for each position.
- (B) All positions in a single class shall be sufficiently alike to permit use of a single title, description, qualifications, and pay range.
- (C) Current job classifications shall be maintained in the current county personnel policies and procedures.

(Prior Code, § 24.003)

§ 34.04 SELECTION PROCESS.

- (A) The public may be notified of any vacancy to be filled by publication in the newspaper of greatest circulation in the county.
- (B) All current county employees shall be notified at work of any vacancy in a conspicuous place at work; positions shall be filled by promotion of such employees whenever practicable.
- (C) Each applicant shall fill out and sign a standard written job application form. Applications shall be kept for as long as specified in the Archives and Records County Retention Schedule.
- (D) Each qualified applicant shall be interviewed by the person who is to be the immediate supervisor of such employee.
- (E) The County Judge/Executive shall make the selection, subject to approval of the Fiscal Court when required, and notify the applicant and supervisor, in writing, of the selection.
- (F) EEO information shall be obtained from the applicant on a separate form and on a voluntary basis. It shall not be used

to exclude any person from employment.

(Prior Code, § 24.004) (Ord. passed 6-13-1994)

§ 34.05 PROGRESSIVE DISCIPLINE.

(A) The County Judge/Executive shall discipline county employees through a system of progressive discipline, which includes verbal warning, written reprimand, suspension, or discharge.

(B) Procedures for disciplining employees, for notice of disciplinary action, and for appeals from such action shall follow the progressive discipline provisions of the county's personnel policies and procedures.

(Prior Code, § 24.005) (Ord. passed 6-13-1994)

§ 34.06 OTHER PERSONNEL MATTERS.

Other personnel matters including, but not limited to, fringe benefits, employees' records, and official travel shall be governed by the County Personnel Policies and Procedures.

(Prior Code, § 24.006) (Ord. passed 6-13-1994)

ETHICS OF COUNTY OFFICIALS AND EMPLOYEES

§ 34.20 DEFINITIONS.

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

FINANCIAL INTEREST. Any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for services to the county) to the official or employee or to any person employing or retaining the services of the official or employee. Interest in a corporation, partnership, or firm of less than 5% of ownership or benefits is not considered an **INTEREST**.

OFFICIAL or **EMPLOYEE**. A member of the Fiscal Court, its appointees, elected county officials, and their deputies, whether paid or unpaid, and whether part-time or full-time.

PUBLIC BODY. Any agency, board, body, committee, or department of the county appointed by the County Judge/Executive with the approval of the Fiscal Court and any office headed by an independent elected official.

(Prior Code, § 24.100) (Ord. passed 6-13-1994)

§ 34.21 FAIR AND EQUAL TREATMENT.

(A) Every official and employee shall make available the same services, treatment, and consideration to every member of the public.

(B) No official or employee shall request, use, or permit the use of any publicly-owned or publicly-supported property, vehicle, equipment, material, or service for the personal convenience or the private advantage of self or any other person unless such use has been formally authorized by a resolution of Fiscal Court.

(Prior Code, § 24.101) (Ord. passed 6-13-1994)

§ 34.22 CONFLICTS OF INTEREST.

(A) No county official or employee shall commit or participate in any action which constitutes a conflict of interest with the public trust of a county official or employment.

(B) The following actions constitute a conflict of interest with the public trust of a county office or employment:

(1) Participation in negotiations with the county;

(2) Acquiring or maintaining an interest in any contract upon which he or she may be called to vote or receipt of anything of value to influence his or her vote;

(3) Contracting with the county except through public bid;

(4) Acquiring or maintaining an interest in or receiving benefits from any contract by Fiscal Court for work to be done, services to be rendered, or material to be furnished for public improvements;

(5) Receipt of compensation or anything of value other than authorized salary for services in any cause or matter before a county agency;

(6) Conduct of any governmental business with self or any firm, corporation, or partnership in which he or she has a financial interest; and

(7) Use of confidential information concerning any governmental official, employee, property, or action to advance the financial or personal interest of one's self or any other person.

(C) When an official or employee is called upon to deliberate and vote on any matter involving his or her financial or personal interest, he or she shall publicly disclose the nature and extent of such interest and disqualify himself or herself from participation in the deliberations and in the voting.

(D) No official or employee shall engage in private employment with, or render services for, any private person, firm, partnership, or corporation who has business transactions with any public body unless he or she shall first make full public disclosure of the nature and extent of such employment or services.

(E) No official or employee shall accept from any person or corporation any gift or thing of value which would not be offered or given if he or she were not an official or employee.

(F) No official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose any confidential information concerning any official, employee, person, property, or governmental action.

(G) No elected official shall appoint or vote for the appointment of any person related to him or her by blood or marriage to any office, clerkship, employment, duty, or other position when any compensation is to be paid from public funds for such position.

(Prior Code, § 24.102) (Ord. passed 6-13-1994) Penalty, see §10.99

CHAPTER 35: CODE OF ETHICS

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35.01 Purpose; authority

35.02 Definitions

35.03 Conflicts of interest

Financial Disclosure

35.15 Who must file

35.16 Contents of the financial interest statement

35.17 Noncompliance with filing requirement

35.18 Where to file statements

Nepotism

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County Ethics Commission

35.45 Membership; compensation

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35.51 Appeals

35.99 Penalty

Cross-reference:

County Policies, see Ch. 36

Government Organization, see Ch. 30

Personnel Administration, see Ch. 34

GENERAL PROVISIONS

§ 35.01 PURPOSE; AUTHORITY.

(A) Pursuant to the authority granted by KRS Chapter 65, the county hereby establishes a code of ethics to guide the conduct of elected and appointed county officers and employees, including members of the Fiscal Court, Sheriff, County Attorney, County Clerk, Jailer, Coroner, Surveyor, and Constable.

(B) It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct for local government officers and employees shall be clear, consistent, and uniform in their application, and to provide local officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

(Prior Code, § 25.001) (Ord. 94-9, passed 11-9-1994)

§ 35.02 DEFINITIONS.

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

BUSINESS ASSOCIATE. Includes the following:

- (1) A private employer;
- (2) A general or limited partnership, or a general or limited partner within the partnership;
- (3) A corporation that is family-owned or in which all shares of stock are closely-held, and the shareholders, owners, and officers of such a corporation; and
- (4) A corporation, business association, or other business entity in which the county government officer or employee serves as a compensated agent or representative.

BUSINESS ORGANIZATION. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional services corporation, or any legal entity through which business is conducted for profit.

CANDIDATE. An individual who seeks nomination or election to a county government office. An individual is a **CANDIDATE** when the individual:

- (1) Files a notification and declaration for nomination for office with a County Clerk or the Secretary; or
- (2) Is nominated for office by a political party under KRS 118.105, 118.115, 118.325, or 118.760.

COUNTY GOVERNMENT AGENCY. Any board, commission, authority, non-stock corporation, or other entity formed by the county government or a combination of local governments.

COUNTY GOVERNMENT EMPLOYEE. Any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government, or county government agency who is not a county government officer, but shall not mean any employee of a school district or school board.

COUNTY GOVERNMENT OFFICER. Any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or non-taxing district.

FAMILY MEMBER. Any relative who is first cousin or closer in relationship, by blood or marriage.

MEMBER OF IMMEDIATE FAMILY. A spouse, an unemancipated child residing in an individual's household, or a person claimed by the individual or individual's spouse as a dependent for tax purposes.

(Prior Code, § 25.002) (Ord. 94-9, passed 11-9-1994)

§ 35.03 CONFLICTS OF INTEREST.

(A) No county government officer or employee or member of his or her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of his or her duties in the public interest.

(B) No county government officer or employee shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself or herself.

(C) No county government officer shall act in his or her official capacity in any matter where he or she, a member of his or her immediate family, or a business organization in which he or she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment.

(D) No county government officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.

(E) No county government officer or employee shall be prohibited from giving or receiving any award publicly presented in recognition of public service, reasonable commercial loans made in the ordinary course of the lender's business, or

reasonable hosting, including travel and expenses, entertainment, meals, or refreshments furnished in connection with public events, appearances, ceremonies, or fact finding trips related to official county government business.

(F) No county government officer shall be prohibited from accepting gratuity for solemnizing a marriage.

(G) No county government officer or employee shall use, or allow to be used, in his or her public office or employment, or any information not generally available to the members of the public, which he or she receives or acquires in the course of and by reason of his or her office or employment, for the purpose of securing financial gain for himself or herself, or any member of his or her immediate family.

(H) No county government officer or employee or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application, or other matter pending before any agency in the local government in which he or she serves.

(I) No county government officer shall be deemed in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution, or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him or her as a member of any business, profession, occupation, or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation, or group.

(J) No elected county government officer shall be prohibited from making an inquiry for information or providing assistance on behalf of a constituent, if no fee, reward, or other thing of value is promised to, given to, or accepted by the officer or a member of his or her immediate family, whether directly or indirectly, in return therefor.

(K) Nothing shall prohibit any county government officer or employee, or members of his or her immediate family, from representing himself or herself, or themselves, in negotiations for proceedings concerning his, her, or their own interests.

(Prior Code, § 25.100) (Ord. 94-9, passed 11-9-1994) Penalty, see §35.99

FINANCIAL DISCLOSURE

§ 35.15 WHO MUST FILE.

The following individuals shall be required to file a financial disclosure statement:

- (A) Elected officers;
- (B) Candidates for elected office;
- (C) Management personnel such as chief deputies, department heads; and
- (D) Officer and employees with procurement authority exceeding \$500 per purchase.

(Prior Code, § 25.200) (Ord. 94-9, passed 11-9-1994)

§ 35.16 CONTENTS OF THE FINANCIAL INTEREST STATEMENT.

(A) The financial disclosure statement shall include the following information:

- (1) Name of filer;
- (2) Current business address, telephone number, and home address of filer;
- (3) Title of filer's public office or office sought;
- (4) Occupation of filer;

(5) Positions held by the filer in any business organization or nonprofit entity from which the filer received compensation in excess of \$5,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;

(6) Name and address of each source of income of the filer from within the state which exceeds \$5,000 during the preceding calendar year;

(7) Name and address of each business organization located within the state in which the filer had an interest of \$10,000 at the fair market value;

(8) The location and type (commercial, residential, agricultural) of all real property within the county in which the filer had an interest of \$10,000 at the fair market value;

(9) Any officer or employee of the county government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government shall disclose such private interest to the Fiscal Court;

(10) Any County Judge/Executive, Magistrate, or Commissioner, sheriff, jailer, coroner, constable, surveyor, County Attorney, County Clerk, or a member of his or her immediate family, who has a private interest in any matter pending before the court shall disclose such private interest on the records of the court and shall disqualify himself or herself from participating in any decision or vote relating thereto; and

(11) Any officer or employee of an independent agency or special district to which this Code of Ethics applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such independent agency or special district shall disclose such private interest to the governing body of such agency or district.

(B) Each statement shall be signed and dated by the individual filing the statement of financial interest. Knowingly signing a fraudulent statement shall be a Class A misdemeanor.

(Prior Code, § 25.201) (Ord. 94-9, passed 11-9-1994; Ord. 95-1, passed 2-8-1995)

§ 35.17 NONCOMPLIANCE WITH FILING REQUIREMENT.

All pay and benefits shall be withheld until a non-complying officer or employee is in compliance with the filing requirements.

(Prior Code, § 25.202) (Ord. 94-9, passed 11-9-1994)

§ 35.18 WHERE TO FILE STATEMENTS.

The financial disclosure statements shall be filed with the County Clerk.

(Prior Code, § 25.203) (Ord. 94-9, passed 11-9-1994) Penalty, see §35.99

NEPOTISM

§ 35.30 NEPOTISM PROHIBITED.

(A) No officer or employee of the county or government agency shall advocate, recommend, or cause the employment, appointment, promotion, transfer, or advancement of a family member to an office or position of employment with the county or government agency.

(B) No officer or employee of the county or government agency shall supervise or manage the work of a family member.

(C) No officer or employee shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(D) The provisions of this section shall not apply to a public officer's family member who was employed on or before January 1, 1995, in the same governmental agency in which the public officer serves. This exception is applicable only as long as the current officer is in office or the employee remains employed by the governmental agency.

(Prior Code, § 25.300) (Ord. 94-9, passed 11-9-1994)

COUNTY ETHICS COMMISSION

§ 35.45 MEMBERSHIP; COMPENSATION.

(A) *Membership.* The County Ethics Commission shall consist of seven members; not more than one member may be a public official. The Commission member selected as Chairperson shall be a citizen member.

(B) *Compensation.* Members shall receive no compensation but may be reimbursed all necessary expenses.

(Prior Code, § 25.400) (Ord. 94-9, passed 11-9-1994)

§ 35.46 TERM; APPOINTMENT.

(A) *Term.* Terms of the members shall be staggered, but no member shall serve longer than four years on this Commission.

(B) *Appointment.*

(1) Members shall be appointed by the County Judge/Executive with the approval of the Fiscal Court.

(2) All appointments shall be made no later than 60 days after the adoption of this subchapter.

(Prior Code, § 25.401) (Ord. 94-9, passed 11-9-1994)

§ 35.47 VACANCIES.

(A) Vacancies on the County Ethics Commission shall be filled within 60 days by the County Judge/Executive subject to the approval of the Fiscal Court.

(B) If a vacancy is not filled by the County Judge/Executive within 60 days, the remaining members of the County Ethics Commission shall fill the vacancy.

(C) All vacancies shall be filled for the remainder of the unexpired term.

(Prior Code, § 25.402) (Ord. 94-9, passed 11-9-1994)

§ 35.48 POWERS; DUTIES.

- (A) The Commission shall have jurisdiction over the administration of this code.
- (B) The Commission may receive complaints; initiate investigations on its own motion; and conduct investigations, inquiries, and hearings concerning any matter covered by this code.
- (C) The Commission may render advisory opinions whether or not a given set of facts and circumstances constitute a violation of any provision of this code.
- (D) The Commission shall prescribe and provide forms for reports, statements, notices, and other documents required by this code.
- (E) The Commission shall determine whether the required statements and reports have been filed and, if filed, whether they conform with the requirements of this code. The Commission shall promptly give notice to the filer to correct or explain any omission or deficiency.
- (F) The Commission may retain private counsel at the expense of the county if the County Attorney has an actual or potential conflict. Any counsel must be preapproved by the Fiscal Court.

(Prior Code, § 25.403) (Ord. 94-9, passed 11-9-1994)

§ 35.49 COMPLAINT PROCEDURE; PRELIMINARY INVESTIGATIONS.

- (A) (1) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the Commission shall investigate any alleged violation of this code.
- (2) No later than ten days after the Commission receives the complaint, the Commission shall initiate a preliminary inquiry into any alleged violation of this code.
- (3) Within 30 days of the commencement of the inquiry, the Commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.
- (B) All Commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the Commission, except the Commission may turnover to the Commonwealth's Attorney or County Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings.
- (C) The complainant or alleged violator shall not publicly disclose the existence of a preliminary investigation. The Commission shall not publicly confirm the existence of the inquiry nor make public any documents which were issued to either party.
- (D) The Commission shall afford a person who is the subject of a preliminary investigation an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard, and to offer evidence in response to the allegations in the complaint.
- (E) Any person who knowingly files with the Commission a false complaint of misconduct on the part of any elected or appointed official or other person shall be guilty of a Class A misdemeanor.

(Prior Code, § 25.404) (Ord. 94-9, passed 11-9-1994)

§ 35.50 ACTION BY COMMISSION.

If the Commission concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this code, the Commission may:

- (A) Issue an order requiring the violator to cease and desist the violation;
- (B) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body (if different than the executive authority) of the county or county agency with which the violator serves;
- (C) In writing, recommend to the executive authority and the governing body (if different than the executive authority) that the violator be sanctioned as recommended by the Commission which may include a recommendation for discipline or dismissal;
- (D) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000; or
- (E) Refer evidence of criminal violations of this code or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

(Prior Code, § 25.405) (Ord. 94-9, passed 11-9-1994)

§ 35.51 APPEALS.

Any person found by the Commission to have committed a violation of this code may appeal the action to the County Circuit Court. The appeal shall be initiated within 30 days after the date of the final action of the Commission by filing a petition with the Court against the Commission. The Commission shall transmit to the Clerk of the Court all evidence by the Commission at the public hearing. The Court shall hear the appeal upon the record as certified by the Commission.

(Prior Code, § 25.406) (Ord. 94-9, passed 11-9-1994)

§ 35.99 PENALTY.

Candidates and nominees who fail to comply with the filing requirements pursuant to §35.18 shall be fined \$50 for each day they are in non-compliance.

(Prior Code, § 25.999)

CHAPTER 36: COUNTY POLICIES

Section

Personnel Policies and Procedures

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General Policies

- 36.085 Addressing system for 911 emergency response system
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- 36.088 Electioneering prohibited near polling locations
- 36.089 Court costs

Cross-reference:

Financial Administration, see Ch. 32

Government Organization, see Ch. 30

Personnel Administration, see Ch. 34

PERSONNEL POLICIES AND PROCEDURES

§ 36.001 PERSONNEL POLICIES ADOPTED BY REFERENCE.

The County Personnel Policies and Procedures, as amended, are hereby adopted by reference and made a part of this code as if fully set forth herein.

(Prior Code, § 26.001) (Ord. 2000-22, passed 11-8-2000; Ord. 2002-3, passed - -; Ord. 2002-4, passed - -; Ord. 2002-5, passed 2-27-2002; Ord. 2002-6, passed 2-27-2002; Ord. 2002-7, passed - -; Ord. 2002-8, passed - -; Ord. 2002-9, passed - -; 2004-21, passed 10-27-2004; Ord. 2007-10, passed 3-28-2007; Ord. 2007-17, passed 5-23-2007; Ord. 2007-18, passed 5-9-2007; Ord. 2007-20, passed 8-8-2007; Ord. 2007-24, passed 9-12-2007; Ord. 2008-7, passed 3-26-2008; Ord. 2008-14, passed 6-25-2008; Ord. 2008-16, passed 9-10-2008; Ord. 2008-18, passed 9-24-2008; Ord. 2008-20, passed 11-12-2008; Ord. 2009-3, passed 3-11-2009; Ord. 2009-10, passed 7-8-2009; Ord. 2009-19, passed 10-28-2009; Ord. 2009-21, passed 11-24-2009; Ord. 2009-22, passed 11-24-2009; Ord. 2009-23, passed 11-24-2009; Ord. 2010-1, passed 1-27-2010; Ord. 2010-2, passed 1-27-2010; Ord. 2010-19, passed 8-11-2010; Ord. 2010-12, passed 5-12-2010; Ord. 2010-24, passed 1-12-2010; Ord. 2011-5, passed 4-27-2011; Ord. 2011-14, passed 10-25-2011; Ord. 2011-17, passed 11-9-2011; Ord. 2011-18, passed 11-9-2011; Ord. 2012-2, passed 2-22-2012; Ord. 2012-6, passed 5-23-2012; Ord. 2012-7, passed - -2012; Ord. 2012-9, passed 8-23-2012; Ord. 2012-10, passed 10-10-2012; Ord. 2012-11, passed 10-10-2012; Ord. 2013-5, passed 6-12-2013; Ord. 2013-6, passed 7-10-2013; Ord. 2013-7, passed 7-24-2013; Ord. 2014-3, passed 4-23-2014; Ord. 2014-9, passed 6-25-2014; Ord. 2014-10, passed 6-25-2014; Ord. 2014-14, passed 9-10-2014; Ord. 2014-15, passed 9-10-2014; Ord. 2015-09, passed 1-13-2016; Ord. 2015-10, passed 1-13-2016; Ord. 2016-01, passed 1-27-2016; Ord. 2016-03, passed 3-23-2016; Ord. 2016-8, passed 5-25-2016; Ord. 2016-10, passed 7-13-2016; Ord. 2016-18, passed 1-11-2017; Ord. 2017-31, passed 8-9-2017; Ord. 2017-34, passed 9-13-2017; Ord. 2018-01, passed 1-24-2018; Ord. 2018-04, passed 2-28-2018; Ord. 2018-08, passed 5-9-2018; Ord. 2018-14, passed 8-8-2018; Ord. 2018-21, passed 9-26-2018)

§ 36.002 DETENTION CENTER EMPLOYEE POLICY AND PROCEDURE MANUAL.

The County Detention Center Employee Policy and Procedure Manual, copies of which are available in the office of the County Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. 2004-8, passed 5-12-2004; Ord. 2007-28, passed 11-28-2007; Ord. 2008-3, passed 2-27-2008; Ord. 2008-6, passed 3-12-2008; Ord. 2008-10, passed 5-14-2008; Ord. 2009-4, passed 4-8-2009; Ord. 2009-9, passed 6-10-2009; Ord. 2009-14, passed 8-26-2009; Ord. 2009-17, passed 9-23-2009; Ord. 2010-9, passed 4-28-2010; Ord. 2010-10, passed 4-28-2010; Ord. 2010-21, passed 9-22-2010; Ord. 2011-16, passed 11-9-2011)

§ 36.003 PROTECTION OF PERSONAL INFORMATION.

The Security and Incident Investigation Procedures and Practices for Local Governmental Units, copies of which are available in the office of the County Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. 2017-22, passed 4-10-2017)

OPEN MEETINGS

§ 36.015 COMPLIANCE WITH STATE'S OPEN MEETINGS ACT.

(A) A current list of county committees which constitute decision making bodies that conduct meetings regarding the development of policies and procedures related to county business is available in the office of the County Clerk.

(B) The list includes the designated chairperson or presiding officer of each committee. The list may be revised from time to time by the office of the County Judge/Executive to incorporate and include new established committees.

(C) The list further reflects the regularly scheduled meeting for each committee. The agenda for each regularly scheduled meeting shall be developed by the chairperson of that committee and be available to the public or media no later than five days prior to the regularly scheduled meeting. Discussion of topics shall be limited to those listed in the agenda.

(D) In compliance with KRS 61.823, in situations that require emergency meetings, the chairperson of the meeting of the committee shall ensure compliance with the statute as it relates to notification to the media of the date, time, place, and agenda of the special meeting and the notice shall be provided to the media no later 24 hours prior to the scheduling of the meeting except for those emergency meetings that qualify under KRS 61.823(5). In those situations, compliance with that subsection shall be responsibility of the chairperson.

(E) A copy of this section shall be provided to the *Winchester Sun* and to any other media organization which files a written request pursuant to statute.

(Prior Code, § 26.100) (Ord. 2000-3, passed 2-23-2000)

MAINTENANCE OF STORM WATER DRAINAGE FACILITIES

§ 36.030 PURPOSE.

The purpose of this subchapter is to develop a coherent policy concerning the required maintenance and upkeep for storm water drainage facilities located within the county.

(Prior Code, § 26.200) (Ord. 96-24, passed - -1996)

§ 36.031 DEFINITION.

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

SURFACE WATER DRAINAGE FACILITY. Includes all natural and human-made facilities, structures, and systems intended to convey, carry, or contain surface water which shall include, but not be limited to: open ditches, drains, creeks, retention basins, underground pipes, culverts, and headwalls.

(Prior Code, § 26.201) (Ord. 96-24, passed - -1996)

§ 36.032 MAINTENANCE.

(A) The county shall not be responsible for the maintenance, repair, or replacement of any surface water drainage facility or any portion thereof, except:

- (1) When the system or portion thereof lies wholly within a county maintained public road right-of-way, and:
 - (a) Was constructed by the county as a public project; or
 - (b) Was constructed with the written permission of the County Fiscal Court to county specifications, dedicated to the county for public purposes and formally accepted by the county for public use; provided, however, that culverts or bridges over open surface water drains providing driveway or walkway access to private property shall be the responsibility of the property owner.
- (2) When the system or portion is enclosed in a pipeline or culvert location upon private property, and:
 - (a) Was constructed by the county as a public project; or
 - (b) Was constructed to county specifications upon easements granted to the county for that purpose, and was dedicated to the county for a public purpose and formally accepted into the county for public use.

(B) Prior to the county repairing, maintaining, or replacing any surface water drainage facility, proof must be shown that the facility was constructed by the county, dedicated to the county, and/or accepted by the county for maintenance purposes. The owner must grant the county a construction easement and/or an indemnification releasing and holding the county harmless from all claims arising out of the design, construction, use, existence, and future maintenance of the facility. The construction easement shall specify that the county will have no ongoing maintenance responsibility for the improvement constructed.

(Prior Code, § 26.202) (Ord. 96-24, passed - -1996)

§ 36.033 COST SHARING ON PRIVATE PROPERTY.

The county may, on a shared cost basis with the owners, undertake the construction of a facility or the repair or reconstruction of an existing facility located on privately owned property, only if:

- (A) The county determines that a public purpose will be served by such construction or repair; and
- (B) The owner must grant to the county a construction easement and a release of indemnification releasing and holding the county harmless from all claims arising out of the design, construction, use, existence, and future maintenance of the facility. The construction easement shall specify that the county will have no ongoing maintenance responsibility for the improvement constructed.

(Prior Code, § 26.203) (Ord. 96-24, passed - -1996)

§ 36.034 OPEN SURFACE WATER DRAINS.

Open facilities such as, but not limited to, ditches, creeks, and other waterways, located on private property shall not be publicly maintained. Maintenance of such drains shall be the sole responsibility of the owners of the land upon which they are located; provided, however, that if the county finds a sufficient public purpose, work on such drains may be undertaken as provided herein. Open swales, located in the public rights-of-way shall be the maintenance responsibility of the private property owner and the property owner may not alter or enclose the open swales without permission from the county.

(Prior Code, § 26.204) (Ord. 96-24, passed - -1996)

§ 36.035 ACCEPTANCE.

Prior to final acceptance by the Fiscal Court for maintenance purposes of a facility, the Fiscal Court may cause the facility to be inspected by a registered professional civil engineer to determine if the facility conforms to county specifications. The party who initiates the request for acceptance shall pay all the costs of the certification and acceptance.

(Prior Code, § 26.205) (Ord. 96-24, passed - -1996)

§ 36.036 BLOCKAGE OF SURFACE WATER DRAINAGE.

It shall be a public nuisance to stop, impede, or permit any stoppage or impediment in the flow of water through any facility or to divert the flow of natural drainage through natural drains, whether through open drainage ditches or enclosed drains. Examples of such nuisances shall include, but not be limited to, unauthorized modification, blockage, erosion, and dumping yard waste or grass clippings into the facility. It shall be the responsibility of all property owners in the county to keep the facilities on or passing through their property open and in proper operation to prevent stoppage or interference with proper flow.

(Prior Code, § 26.206) (Ord. 96-24, passed - -1996) Penalty, see §36.999

§ 36.037 ENCLOSURE/ALTERATION OF ANY NATURAL OR HUMAN-MADE SEWERS OR DRAINS.

No person may enclose or in any way alter or construct any improvement on or over any facility without the express written permission of the Fiscal Court, which shall require certification of design from a registered professional civil engineer prior to approval that the design is sufficient to provide drainage for the entire upstream watershed when fully developed. The party requesting the change must pay all costs associated with the certification.

(Prior Code, § 26.207) (Ord. 96-24, passed - -1996) Penalty, see §36.999

§ 36.038 RETENTION BASINS.

Maintenance of retention basins shall be the responsibility of the developer or the owners of the property on which the retention basin is located. The basin may not be altered in any fashion from the plan approved by the public agency or public official which originally required the basin without the public agency's or public official's express permission.

(Prior Code, § 26.208) (Ord. 96-24, passed - -1996) Penalty, see §36.999

§ 36.039 ENFORCEMENT.

Violations of this subchapter shall be deemed to be a public nuisance and enforcement shall occur pursuant to the state statutes.

(Prior Code, § 26.209) (Ord. 96-24, passed - -1996)

§ 36.040 APPEALS.

Any person affected by decision or notice to correct or abate a violation of this subchapter shall have the right to appeal to the County Fiscal Court, provided that a written application for appeal is filed with the County District Court, within 20 days of the notice.

(Prior Code, § 26.210) (Ord. 96-24, passed - -1996)

DRUG AND ALCOHOL POLICY

§ 36.055 SHORT TITLE.

The current County Substance Abuse Policy and Guidelines Manual is replaced in its entirety by a new manual referred to as the "Clark County Fiscal Court Drug/Alcohol Substance Abuse Policy Manual".

(Ord. 2015-8, passed 11-11-2015)

§ 36.056 ADOPTED BY REFERENCE.

The new County Fiscal Court Drug/Alcohol Substance Abuse Policy Manual is hereby incorporated by reference herein and is adopted as presented.

(Ord. 2015-8, passed 11-11-2015)

§ 36.057 APPLICATION; MODIFICATION.

The new County Fiscal Court Drug/Alcohol Substance Abuse Policy Manual shall remain in full force and effect as presented until such time as it is changed, modified, altered, and/or amended by further ordinances of the County Fiscal Court.

(Ord. 2015-8, passed 11-11-2015)

GRIEVANCE PROCEDURES FOR COMPLAINTS RELATING TO DISCRIMINATION BASED ON DISABILITY STATUS

§ 36.070 PURPOSE.

(A) Any person who believes he or she has been subjected to discrimination as prohibited by § 504 of the Rehabilitation Act of 1973, being 29 U.S.C. §§ 701 et seq. may personally, or by a representative, file a complaint with the office of the County Judge/Executive.

(B) A person who has not personally been subject to discrimination may also file a complaint when any person believes he or she has been adversely affected by an act or decision of the County Fiscal Court and that such act or decision was based on disability status, and shall have the right to process a complaint or grievance in accordance with the procedures set forth in § 36.071.

(Prior Code, § 26.500) (Ord. 2000-15, passed 9-13-2000)

§ 36.071 GRIEVANCE PROCEDURES IMPLEMENTED.

(A) *Step one.* An aggrieved person must submit a written statement to the Judge/Executive setting forth the nature of the discrimination alleged and facts upon which the allegation is based. If an individual requires assistance in preparing a written statement, he or she may contact the county's Section 504/ADA Coordinator (Judge/Executive) at (859) 745-0200 or TDD at (800) 648-6056.

(B) *Step two.*

(1) The Judge/Executive shall contact the complainant no later than 15 days after receiving the written statement to establish an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than five days, and not more than 45 days after receiving the statement.

(2) There shall be prepared a written documentary of the discussions at the informal meeting, which shall be preserved in the records of the County Fiscal Court.

(C) *Step three.* Within 15 days of the informal meeting, if no decision has been made by the Judge/Executive or the decision of the Judge/Executive does not satisfy the complainant, he or she may request a hearing with the County Fiscal Court by submitting a written request to the County Clerk.

(D) *Step four.*

(1) In discussing the grievance, the complainant may designate any person of his or her choice to appear with him or her and participate in the discussion. The County Fiscal Court shall require the Judge/Executive to participate in the discussion of the grievance, when it is brought before the Fiscal Court. The Fiscal Court shall issue a written decision on the matter within 15 days, and the decision shall be the final procedure for the complainant at the local level.

(2) There shall be prepared a written documentary of the discussions at the informal meeting, which shall be preserved in the records of the County Fiscal Court.

(Prior Code, § 26.501) (Ord. 2000-15, passed 9-13-2000)

GENERAL POLICIES

§ 36.085 ADDRESSING SYSTEM FOR 911 EMERGENCY RESPONSE SYSTEM.

The Winchester-Clark County Planning Commission, with assistance from the Winchester-Clark County 911 Addressing Committee on existing roadways, shall solely be authorized to assign or cause to be assigned a property number, site number, and/or a building number where appropriate so as to ensure no duplication of numbers or street names. The Winchester-Clark County Planning Commission, City Clerk, and County Clerk shall maintain a street index file containing the official list of valid street names.

(Ord. 2008-9, passed 4-16-2008)

§ 36.086 NUMBERING AND NAMING PROPERTIES.

(A) *Numbering property, buildings, and display of numbers.* All principal buildings and leaseable/salable portions of said buildings which have separate and direct outside entrances shall have the site number permanently and prominently displayed, at the expense of the owners or occupants thereof, so as to be clearly visible and identifiable at all times during daylight hours to persons in vehicles traveling in both directions of the street upon which the structure is located. Structures that have access and outside entrances via alternate roads, alleyways, or other access drives shall have the site number permanently and prominently displayed at the alternative outside entrance as well.

(B) *Renumbering and renaming.*

(1) With respect to properties located within the county, including the corporate limits of Winchester, Kentucky, the Winchester Clark County 911 Addressing Committee shall make the final decision with regard to renumbering properties.

(2) With respect to properties located within the corporate limits of Winchester, Kentucky, the Board of Commissioners shall make the final decision with regard to renaming streets. The County Fiscal Court shall have sole authority to rename streets in the unincorporated areas of the county. Whenever it is necessary and advisable to rename streets, the Winchester-Clark County 911 Addressing Committee staff shall forward said recommendation to the Board of

Commissioners of Fiscal Court for review and consideration.

(3) Nothing in this section shall prohibit either the Board of Commissioners of the Fiscal Court from renumbering properties or naming/renaming streets should either body deem it in the public interest to do so, independent.

(Ord. 2011-20, passed 1-11-2012)

§ 36.087 NO SMOKING IN GOVERNMENT BUILDINGS.

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

BUILDING. All space between a floor and a ceiling that is bordered on four sides by doors, walls, or windows, whether open or closed, the combination of which extend from the floor to the ceiling. A wall includes any physical barrier, whether temporary or permanent, solid or permeable.

CITIZEN. Any person other than an employee.

EMPLOYEE. A person who works in consideration for wages or profit, or who volunteers his or her services for the County Fiscal Court.

PLACE OF EMPLOYMENT. An area under the control of the County Fiscal Court that the employee is present during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeteria, hallways, and work vehicles.

SMOKING. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or other combustible tobacco product.

(B) *Application.* This section shall apply to all buildings owned by the County Fiscal Court or titled in the name of the county.

(C) *Prohibition of smoking.*

(1) Smoking shall be prohibited in all enclosed county government buildings, including, but not limited to the following places: County Courthouse; James Clark Judicial Annex; County Detention Center; all office space of the County Road Department; all office space of the County Animal Shelter; and all office and living space of the County Fire Department and all its affiliated stations.

(2) Smoking is expressly not prohibited in breeze ways, garages, bays, or other open areas on property owned by the County Fiscal Court or titled in the name of the county.

(D) *Reasonable distance.* Smoking is prohibited within a minimum distance of ten feet from the outside entrance to or open window of any area in which smoking is prohibited by this section and from the air intake of a ventilation system serving an enclosed area where smoking is prohibited, in order to ensure tobacco smoke does not enter that enclosed area through entrances, windows, ventilation systems or other means.

(E) *Posting of signs.*

(1) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every building and facility owned by the County Fiscal Court and public area and place of employment where smoking is prohibited by this section.

(2) A conspicuous sign clearly stating that smoking is prohibited shall be posted at each entrance utilized by the public entering and exiting said buildings and facilities within which smoking is prohibited by this section. A conspicuous sign clearly stating that smoking is prohibited shall be posted at each entrance utilized by employees entering and exiting places of employment within which smoking is prohibited by this section.

(3) All ashtrays shall be removed from areas within government buildings to which this section applies.

(F) *Enforcement.*

(1) Enforcement of this section will be the responsibility of any and all sworn law enforcement officers who may work within Winchester or the county. Enforcement may be done on a complaint basis but can be done at any time witnessed by a law enforcement official.

(2) Any citizen who desires to register a complaint under this section may initiate enforcement with law enforcement or by filing a complaint with the County Attorney's office.

(G) *Exception.* This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws

(Ord. 2009-11, passed 7-8-2009) Penalty, see §36.999

§ 36.088 ELECTIONEERING PROHIBITED NEAR POLLING LOCATIONS.

(A) (1) 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 invasion of privacy; from harassment, real, threatened, or implied; from hindrance or delay all done under the guise of electioneering, an electioneering free zone is established within 300 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 300 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 invade the right of privacy of any person on his or her way to vote. No person shall loiter, or congregate in, or hinder or delay a voter, or solicit, or attempt to solicit, or attempt to influence any voter in casting his or her vote within this 300-foot campaign free zone.

(2) **ELECTIONEERING** shall include the display 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 question 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 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 and does not emit any sound and is not audio-visual or mechanical and 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 300 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, buildings, sidewalks, and parking lots at all polling locations are designated non-public forums for the election day.

(Ord. 2004-15, passed 8-11-2004) Penalty, see §36.999

§ 36.089 COURT COSTS.

(A) In addition to those fees and costs already imposed by law, the following fees and costs shall be assessed and hereafter delivered to the County Treasurer in civil and criminal cases in County Circuit and District Courts:

- (1) A fee of \$25 is added to the filing fees in civil cases in Circuit Court;
- (2) A cost \$25 is added to the court costs in criminal cases in Circuit Court;
- (3) A fee of \$25 is added to the filing fees in civil cases appealed from Circuit Court to the Court of Appeals;
- (4) In all traffic cases, a fee of \$10 shall be added to the court costs;
- (5) In misdemeanor cases, a cost of \$20 shall be added to the court costs;
- (6) In District Court civil cases, a fee of \$10 shall be added to all filing fees, excluding probate and small claim cases.

(B) In addition to those charges already allowed by law, fees for the service of a subpoena and for the service of a civil summons collected by the Sheriff shall be charged, as follows:

- (1) For the service of a subpoena, a fee of \$10 shall be added to the service charge;
- (2) For the service of a civil summons, a fee of \$10 shall be added to the service charge.

(C) All funds collected as additional fees and/or costs pursuant to this section shall be expended for the purpose of paying for expenses for courthouses, bonds related to them, and administration expenses of the County District and Circuit Courts, pursuant to the authority of KRS 23A.220, 24.185, and 64.091.

(Ord. 2012-3, passed 2-22-2012; Ord. 2019-05, passed 7-10-2019)

§ 36.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person who smokes in an area where smoking is prohibited by the provisions of §36.087 shall be guilty of a violation, punishable by:

- (a) A fine not exceeding \$100 for a first violation;
- (b) A fine not exceeding \$250 for a second violation within one year from a previous offense date; and
- (c) A fine not exceeding \$500 for a third violation and each additional violation within one year from a previous offense date.

(2) Violation of § 36.087 is declared to be a public nuisance, which may be abated by the County Fiscal Court, or its designated agents, by restraining order, preliminary and permanent injunction, or other means provided for by law. The County Fiscal Court, or its designated agents may recover the reasonable cost of any court enforcement action seeking abatement of this nuisance.

(3) Each day on which a violation of § 36.087 occurs shall be considered a separate and distinct violation. Multiple violations witnessed in a single observance shall also be considered separate and distinct violations.

(C) Any person who violates any provision of §36.088 after he or she has been duly notified of such provisions by the sheriff of the election precinct shall, for each offense, be fined not more than \$500 or be imprisoned for a term not to exceed 12 months, or both so fined and so imprisoned.

(Ord. 2004-15, passed 8-11-2004; Ord. 2009-11, passed 7-8-2009)

CHAPTER 37: AFFIRMATIVE ACTION

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Opportunities for Training and Employment

37.01 Purpose

37.02 Affirmative action steps

Employment Practices

37.15 Statement of policy

37.16 Dissemination of policy

37.17 Personnel actions

37.18 Workforce utilization; goals and timetables

37.19 Responsibility for implementation

37.20 Evaluation and reports

37.21 Implementation plan for Title VI of the Civil Rights Act of 1964 adopted by reference

OPPORTUNITIES FOR TRAINING AND EMPLOYMENT

§ 37.01 PURPOSE.

The Fiscal Court hereby implements the specific affirmative action steps provided in §37.02 which are directed at increasing opportunities for training and employment for lower income residents of the county, and increasing the utilization of business concerns located within the Section 3 area residents.

(Prior Code, § 26.300) (Ord. 2000-16, passed 9-13-2000)

§ 37.02 AFFIRMATIVE ACTION STEPS.

Affirmative action steps include the following:

(A) To identify projected workforce needs for all phases of the program by occupation, trade, skill level, and number of positions, and to develop utilization goals for the employment of lower income project area residents for each;

(B) To attempt to recruit from within the county the requisite number of project area residents through local advertising media, posted signs and community organizations, and public and private institutions operating within or serving the project area;

(C) To identify eligible business concerns for Community Development Block Grant (CDBG) assisted contracts through the Chamber of Commerce, Community Services, Vision 2000, local advertising media including public signage; project area committees, citizen advisory boards; lists available through CDBG program officials; regional planning agencies; and all other appropriate referral sources;

(D) To maintain a list of eligible business concerns for utilization in CDBG funded procurements, to ensure that all appropriate project area business concerns are notified of pending contractual opportunities, and to make available this list for general county procurement needs;

(E) To require bidders on contracts to submit a written Section 3 plan including utilization goals and the specific steps planned to accomplish these goals;

(F) To insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area;

(G) To maintain records, including copies of correspondence, memoranda, and the like, which document that all of the above affirmative actions steps have been taken; and

(H) To appoint or recruit an executive official of the county as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

(Prior Code, § 26.301) (Ord. 2000-16, passed 9-13-2000)

EMPLOYMENT PRACTICES

§ 37.15 STATEMENT OF POLICY.

The affirmative action policy of the county is to promote equal employment opportunity; to prohibit discrimination in employment on account of race, color, religion, national origin, sex, age, or disability status; and to bring about a fair representation and utilization of females and minorities on all levels of county employment.

(Prior Code, § 26.350) (Ord. 2000-17, passed 9-13-2000)

§ 37.16 DISSEMINATION OF POLICY.

The county will advise all employees and applicants for employment of this policy and will post it in a conspicuous place. The county will make known to the public that employment opportunities are available on the basis of individual ability and will encourage all persons who are employed by the county to strive for advancement on that basis.

(Prior Code, § 26.351) (Ord. 2000-17, passed 9-13-2000)

§ 37.17 PERSONNEL ACTIONS.

The county will actively recruit qualified or qualifiable persons among females and minorities on a nondiscriminatory basis for all available job openings at every level; and the county will ensure every employee equal treatment in respect to terms and conditions of employment, job assignments, compensation, access to training, and promotions.

(Prior Code, § 26.352) (Ord. 2000-17, passed 9-13-2000)

§ 37.18 WORKFORCE UTILIZATION; GOALS AND TIMETABLES.

The county will analyze the utilization of females and minorities in its workforce and compare it with the utilization by all employees in the county according to the latest official census. The goal of the county is to bring about comparable utilization in all categories within the next five years.

(Prior Code, § 26.353) (Ord. 2000-17, passed 9-13-2000)

§ 37.19 RESPONSIBILITY FOR IMPLEMENTATION.

The Judge/Executive shall be responsible for implementation of this Affirmative Action Plan, including maintenance of the Workforce Analysis and Job Roster and hearing complaints of discrimination by any employees or prospective employees of the county, with a final appeal to the County Fiscal Court.

(Prior Code, § 26.354) (Ord. 2000-17, passed 9-13-2000)

§ 37.20 EVALUATION AND REPORTS.

The Judge/Executive shall periodically examine the operation of the Affirmative Action Plan and shall report the progress being made, together with recommendations for improvements in the plan, to the Fiscal Court at least once every year.

(Prior Code, § 26.355) (Ord. 2000-17, passed 9-13-2000)

§ 37.21 IMPLEMENTATION PLAN FOR TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 ADOPTED BY REFERENCE.

The Fiscal Court names the Judge/Executive the "responsible official" for administering compliance of Title VI of the Civil Rights Act of 1964 being 42 U.S.C. §§ 2000d et seq., and the state's Department for Local Government, Title VI Implementation Plan, as revised June 2000, is hereby adopted by reference as the Title VI Implementation Plan of Clark County. A copy shall be maintained at the office of the Judge/Executive.

(Prior Code, § 26.356) (Ord. 2000-21, passed - -)

CHAPTER 38: TAXATION

Section

Ad Valorem Taxation

38.01 Adoption of tax assessments

38.02 Date due; discount

Transient Room Tax

38.15 Imposition of tax

38.16 Tax due; exceptions

38.17 Delinquency

Financial Institution Franchise and Local Deposit Tax

38.30 Definitions

38.31 Imposition of tax

38.32 Rate of franchise tax

38.33 Administration

38.34 Due date; delinquency

38.35 Lien

38.36 Records

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AD VALOREM TAXATION

§ 38.01 ADOPTION OF TAX ASSESSMENTS.

The county adopts the equalized assessments by the Department for Local Government on the different classes of property and the total property assessment pursuant to and hereby levies ad valorem taxes on all real property, personal property, motor vehicles, and bank shares within the county, as well as tax rates of the Winchester-Clark County Library Board and County Health Department.

(Prior Code, § 27.001) (Ord. 93-7, passed 9-8-1993)

§ 38.02 DATE DUE; DISCOUNT.

The taxpayers shall be granted a 2% discount on all tax bills resulting from the levies herein imposed that are paid on or before November 1. Those bills which are not paid on or before December 31, shall be subject to the penalties prescribed by § 38.99.

(Prior Code, § 27.002) (Ord. 93-7, passed 9-8-1993; Ord. 94-10, passed 11-9-1994; Ord. 95-16, passed 9-28-1995; Ord. 96-13, passed 9-26-1996; Ord. 98-7, passed 8-27-1998)

TRANSIENT ROOM TAX

§ 38.15 IMPOSITION OF TAX.

For the purpose of the operation of the Winchester-Clark County Recreational, Tourist, and Convention Commission, and to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, there is hereby imposed and levied a transient room tax of 3%.

(Prior Code, § 27.100) (Ord. 92-9, passed 8-12-1992)

§ 38.16 TAX DUE; EXCEPTIONS.

(A) Every person, group, or association doing business as a motor court, motel, hotel, inn, or like or similar accommodation in the city and county shall pay monthly into the city treasury for periods ending on the last day of each month, the transient room tax of 3% of the gross rent for each occupancy of each suite or room charged and collected during such monthly periods.

(B) The tax shall be due and payable on or before the last day of the month next following the last day of each such monthly period, together with a return on a form furnished by or obtained from the City Treasurer setting forth an aggregate amount of gross rentals charged and collected during the preceding month for every occupancy to which the transient room tax applies, together with such other pertinent information as the City Treasurer may require.

(C) The tax imposed by this section shall not apply to rentals paid on occupancies of 90 consecutive days or longer.

(D) The tax imposed by this section shall be in addition to other general taxes and the occupational or business license tax.

(Prior Code, § 27.101) (Ord. 92-9, passed 8-12-1992; Ord. 2001-1, passed 1-24-2001)

§ 38.17 DELINQUENCY.

Any tax imposed pursuant to the provisions of §38.16 which shall remain unpaid after it becomes due shall be subject to the penalties set forth in § 38.99.

(Prior Code, § 27.102) (Ord. 92-9, passed 8-12-1992)

FINANCIAL INSTITUTION FRANCHISE AND LOCAL DEPOSIT TAX

§ 38.30 DEFINITIONS.

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

DEPOSITS. All demand and time deposits, excluding deposits of the United States government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks.

FINANCIAL INSTITUTION.

(1) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. §§ 21 et seq., in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, or a national bank organized after December 31, 1995, that meets the requirements of the National Bank Act in effect on December 31, 1995;

(2) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

(3) Any corporation organized under the provisions of 12 U.S.C. §§ 611 to 631, in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1995, that meets the requirements of 12 U.S.C. §§ 611 to 631, in effect on December 31, 1995; or

(4) Any agency or branch of a foreign depository as defined in 12 U.S.C. § 3101, in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1995, that meets the requirements of 12 U.S.C. § 3101, in effect on December 31, 1995.

(Prior Code, § 27.200) (Ord. 96-22, passed 12-17-1996)

§ 38.31 IMPOSITION OF TAX.

Pursuant to KRS Chapter 136, there is hereby imposed on each financial institution, as defined in §38.30, located within the jurisdiction of the county, a franchise tax measured by the deposits in such institutions. All monies collected pursuant to these sections shall be paid into the General Fund of the county to be used for the payment of proper expenditures as determined by the Fiscal Court.

(Prior Code, § 27.201) (Ord. 96-22, passed 12-17-1996)

§ 38.32 RATE OF FRANCHISE TAX.

(A) The rate of the franchise tax imposed on financial institutions shall be twenty-five thousandths of one percent (0.00025%) of the deposits located in the jurisdiction of the county.

(B) The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation.

(C) The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as had been utilized in prior periods.

(Prior Code, § 27.202) (Ord. 96-22, passed 12-17-1996)

§ 38.33 ADMINISTRATION.

(A) The state's Revenue Cabinet shall certify to the local jurisdiction the amount of deposits within the jurisdiction and amount of the tax due.

(B) The county shall issue bills to the financial institution by December 1 of each year.

(C) In the transition year of 1996, the tax bills shall be issued to financial institutions no later than May 1, 1997.

(Prior Code, § 27.203) (Ord. 96-22, passed 12-17-1996)

§ 38.34 DUE DATE; DELINQUENCY.

(A) The tax bill shall be due January 31 of the next year after it has been issued; thereafter, the bill shall be delinquent and subject to the penalty set forth in § 38.99.

(B) The financial institution shall be allowed a 2% discount if the tax bill is paid by December 31 of the same year as the

tax bill is issued.

(C) The 2% discount shall be allowed on bills paid by May 31, 1997, for the transitional year. All other bills during this year shall be due June 1, 1997; thereafter, the bill shall be delinquent and subject to the penalty set forth in § 38.99.

(Prior Code, § 27.204) (Ord. 96-22, passed 12-17-1996)

§ 38.35 LIEN.

The county shall have a lien for taxes upon any and all property subject to the tax imposed by this subchapter, which lien shall be superior to all encumbrances prior or subsequent.

(Prior Code, § 27.205) (Ord. 96-22, passed 12-17-1996)

§ 38.36 RECORDS.

It shall be the duty of the Sheriff to collect and account for the franchise taxes imposed by this subchapter. The Sheriff shall keep records of the amount received from each financial institution and the date of receipt. The Revenue Cabinet shall be notified of the tax rate imposed upon adoption of this subchapter and of any subsequent rate changes.

(Prior Code, § 27.206) (Ord. 96-22, passed 12-17-1996)

§ 38.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any tax bill that is not paid when due, pursuant to the provisions of §38.02, shall bear interest and shall incur penalties as provided by state statutes.

(C) (1) Any person who shall knowingly file a false or fraudulent return required by §38.16 shall, upon conviction, be fined not more than \$100 or imprisoned for not more than 30 days, or both such fine and imprisonment.

(2) Any tax which shall remain unpaid after it becomes due, pursuant to the provisions of §38.17, shall have added to it a penalty of 10%, together with interest at the rate of 0.5% for each month of delinquency, or fraction thereof, until paid.

(D) Any tax bill not paid pursuant to the provisions of §38.34 shall be delinquent and subject to a penalty of 2% and interest of 12% per annum.

(Prior Code, § 27.999) (Ord. 92-9, passed 8-11-1992; Ord. 93-7, passed 9-8-1993; Ord. 94-10, passed 11-9-1994; Ord. 95-16, passed 9-28-1995; Ord. 96-13, passed 9-26-1996; Ord. 96-22, passed 12-17-1996)

CHAPTER 39: EMERGENCY TELEPHONE SERVICE

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39.31 Addressing

39.32 Renumbering; renaming

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39.99 Penalty

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Government Organization, see Ch. 30

GENERAL PROVISIONS

§ 39.01 ESTABLISHED.

There is hereby established a safety answering service to provide a single telephone number for emergency services within the local area, which service shall be known as "911".

(Prior Code, § 28.001) (Ord. 89-3, passed 4-26-1989)

§ 39.02 DEFINITIONS.

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

LOCAL AREA. The City of Winchester and Clark County, Kentucky.

PHONE COMPANY. South Central Bell Telephone Company, a Georgia corporation. This shall include all providers of local phone service.

(Prior Code, § 28.002) (Ord. 89-3, passed 4-26-1989; Ord. 2000-18, passed 11-22-2000)

§ 39.03 AGREEMENT.

(A) The county, by and through the County Judge/Executive, is authorized to enter into an agreement with the phone company to provide for the construction, implementation, and ongoing maintenance of 911 within the local area. The agreement shall be for a period of one year after its execution and shall be automatically renewable upon the same terms and conditions unless, prior to 30 days of the close of the 12-month period, either party notifies the other of its intention to modify and/or terminate the agreement.

(B) The agreement shall reflect the installation costs and the current tariffed recurring charges for enhanced 911 service charged during the contract period.

(Prior Code, § 28.003) (Ord. 89-3, passed 4-26-1989)

§ 39.04 911 FEE.

(A) There is hereby established a 911 fee of \$3 per month for each exchange telephone subscriber which is levied as a special tax, license, and/or fee to be paid by each exchange telephone subscriber in the local area on an individual exchange line basis limited to a maximum of 25 exchange lines per account, by June 1, 2008, and each month thereafter. Phone company shall collect the 911 fee from the subscriber and remit said fee to the county according to the terms of the agreement.

(B) The County Judge/Executive be and is hereby authorized and directed to execute any and all documents and contracts that may be necessary for the implementation of the enhanced 911 telephone service and the increased rate of \$3 per month for each exchange telephone subscriber.

(Prior Code, § 28.004) (Ord. 89-3, passed 4-26-1989; Ord. 95-15, passed 8-24-1995; Ord. 2008-13, passed 5-28-2008)

911 ADVISORY BOARD

§ 39.15 ESTABLISHED; COMPOSITION; APPOINTMENT.

(A) There is hereby established the County 911 Advisory Board, which shall be comprised of the following individuals:

- (1) County representative appointed by the County Judge/Executive;
- (2) City representative appointed by the Mayor of the City of Winchester;
- (3) County Sheriff;
- (4) Winchester Police Chief;
- (5) Representative from the State Police;
- (6) Representative from the County Hospital;
- (7) Representative from the Winchester-Clark County Ambulance Service;
- (8) County Fire Chief;
- (9) Winchester Fire Chief; and
- (10) A citizen knowledgeable of communication systems appointed by the County Judge/Executive.

(B) Appointed representatives serve at the pleasure of the appointing authority.

(Prior Code, § 28.100) (Ord. 89-3, passed 4-26-1989)

§ 39.16 MEETINGS.

The Board shall meet quarterly and the Chairperson may call special meetings upon written notice delivered to the members at least seven days prior to any special meeting.

(Prior Code, § 28.101) (Ord. 89-3, passed 4-26-1989)

§ 39.17 DUTIES.

The Board shall continuously monitor the procedures established for the operation of the 911 system and make recommendations to the County Fiscal Court for effective implementation of the emergency telephone system.

(Prior Code, § 28.102) (Ord. 89-3, passed 4-26-1989)

PROPERTY ADDRESSES

§ 39.30 NUMBERING PROPERTY AND BUILDINGS; DISPLAY OF NUMBERS.

(A) All properties within the county shall be numbered for the purposes of public safety, taxation, and provision of services.

(B) All principal buildings and leasable/salable portions of the buildings which have separate and direct outside entrances shall have the site number permanently and prominently displayed, at the expense of the owners or occupants thereof, so as to be clearly visible and identifiable at all times during daylight hours to persons in vehicles traveling in both directions of the street upon which the structure is located.

(C) The property number shall be a minimum of three inches in height and shall be affixed to the structure at a point at least three feet above ground level. If the structure is not visible from the public or private right-of-way upon which the structure is located, the site number may also be displayed in such a manner that satisfies the visibility requirements in division (B) above. Notwithstanding the above, where more than one principal building is located upon a property and where the site number is clearly displayed at the street entrance to the property, each principal building shall not be required to display the site number so long as each building is clearly identified by a building number or letter.

(D) Structures with multiple units shall have each major doorway labeled with a range of numbers, letters, or other authorized unit designations when the doorway leads to more than one leasable/salable unit of a building. The designations shall be used to distinguish individual suites, units, rooms, or apartments within the same building or structure and served by single door. No more than five characters may be used in the unit designations. The designations shall contain only letters or numbers. If abbreviations are used, they must follow the United States Postal Service's Standards for Secondary Address Unit Designators.

(E) The Winchester-Clark County Planning Commission, with assistance from the United States Postal Service pertaining to existing roadways, shall solely be authorized to assign or cause to be assigned a property number, site number, and/or a building number where appropriate so as to ensure no duplication of numbers or street names. The Winchester-Clark County Planning Commission, City Clerk, and County Clerk shall maintain a street index file containing the official list of valid street names.

(F) No private access easement shall be named without the prior approval of the Winchester-Clark County Planning Commission. All private access easements that are named with the approval of the Winchester-Clark County Planning Commission shall have a regulation street sign, purchased and erected at the expense of the owners, placed at each intersection of the named easement and any other named easement or street.

(Prior Code, § 28.200) (Ord. 96-5, passed 2-29-1996)

§ 39.31 ADDRESSING.

(A) All addresses must contain a number. No number may contain more than five digits. Only whole numbers may be used in addresses. All addresses on a street shall have sequential numbers.

(B) All addresses must contain a street name. The names may contain a maximum of 20 letters, however, such names shall not contain fewer than two letters. The following are prohibited in new street names:

- (1) Numerical digits or numerical names;
- (2) Leading single letter phrases;
- (3) Confusing, obscene, or irregularly spelled words;
- (4) Duplicate or closely approximate names of other streets; and
- (5) Use of the words "service", "street", "drive", or "avenue".

(C) An address shall not contain a duplication of the type of street within its name (i.e., Veterans Park PK). When an address contains the names of two types of streets, the first type becomes part of the street name and second type must be abbreviated.

(D) Streets having the same name, but designated as different types of streets, are acceptable only when the streets are contiguous and have unique number sequences.

(E) Structures must have frontage or an entrance to the street on which their address is assigned.

(F) Separate streets which are capable of ultimate connection shall have the same name until it is determined that their connection will not likely occur. Once the roadways are deemed unconnectable, the addresses shall be changed to assign unique street names for all affected segments.

(Prior Code, § 28.201) (Ord. 96-5, passed 2-29-1996)

§ 39.32 RENUMBERING; RENAMING.

Whenever, in the opinion of the Winchester Board of Commissioners and the County Fiscal Court, it shall become necessary or advisable to renumber or rename any or all properties and/or sites on a street, the E-911 Committee or Winchester-Clark County Planning Commission shall designate the numbers/names for all such properties or sites, and thereupon notify the owners and/or occupants, if the owner be a nonresident thereof, to have the designated number/street name changed and properly displayed on such property or site.

(Prior Code, § 28.202) (Ord. 96-5, passed 2-29-1996)

§ 39.33 MAINTENANCE OF NUMBER DISPLAY; DEFACEMENT; NON-COMPLIANCE.

(A) The Codes or Law Enforcement personnel for the city and county governments shall have the power to require the owner or occupant of any business or residential structure within the county to affix and maintain building, site, and/or property numbers as required in this subchapter.

(B) Any person who unlawfully defaces, moves, removes, or causes to be moved or removed any building, site, or property number affixed upon a structure or other device such as a street sign in such a way that it is not clearly visible and identifiable at all time during daylight hours, shall be subject to the penalty provided in § 39.99.

(C) Any person who places or causes to be placed any sign bearing a name not approved by the Winchester-Clark County Planning Commission upon any private access easement shall be subject to the penalty provided in § 39.99.

(Prior Code, § 28.203) (Ord. 96-5, passed 2-29-1996)

§ 39.99 PENALTY.

(A) Any owner or occupant of a business or residential structure who violates the provisions of §39.33(A), upon being notified by the Code Enforcement personnel of the city and county governments to affix a number upon a structure or other device, shall fail to do so within five days of notification, shall be subject to a fine of \$10 for each day thereafter until he or she complies with the order of the Code Enforcement personnel.

(B) Any person who violates the provisions of §39.33(B) shall be subject to a fine of \$25 for each offense.

(C) Any person who violates the provisions of §39.33(C) shall be subject to a fine of \$50 plus a fine of \$50 for each day the sign remains after being given notice by the Code Enforcement personnel for the city and county governments to remove the sign.

(Prior Code, § 28.999) (Ord. 96-5, passed 2-29-1996)

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE MANAGEMENT

51. SEWERS

CHAPTER 50: SOLID WASTE MANAGEMENT

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GENERAL PROVISIONS

§ 50.001 PURPOSE; AUTHORITY; TITLE.

(A) Pursuant to KRS Chapters 224 and 109, and related administrative regulations, the county, including Winchester, has been designated as a solid waste management area, based upon a Solid Waste Management Plan approved by the Natural Resources and Environmental Protection Cabinet, hereinafter referred to as "the Cabinet", of the state. In addition, the county is acting under powers in KRS 67.083(3)(O) which provides the authority to manage solid waste by ordinance.

(B) This chapter shall be known as "the Solid Waste Management Chapter".

(Prior Code, § 30.001) (Ord. 91-4, passed 5-22-1991)

§ 50.002 DEFINITIONS.

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

AGRICULTURAL USE. Operations for the production of agricultural or horticultural crops, including, but not limited to, livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on their tract.

AGRICULTURAL WASTE. Any non-hazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, prunings, and crop residues.

APPROVED INCINERATOR. An incinerator which complies with all current regulations of the responsible local, state, and federal air pollution control agencies.

BULKY WASTE. Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles.

CABINET. The Natural Resources and Environmental Protection Cabinet.

CLOSURE. The time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses.

COLLECTION. Removal of solid waste from the designated pick-up location to the transfer vehicle. Acceptable collection practices shall consist of the following:

- (1) Door-to-door household collection; and/or
- (2) Direct access to a staffed convenience center or transfer facility.

COLLECTION BOX. An unstaffed receptacle utilized to collect municipal solid waste.

COMMERCIAL SOLID WASTE. All types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding households and industrial solid waste.

COMPOST. Solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar use.

COMPOSTING. The process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions and which can easily and safely be stored, handled, and used in an environmentally acceptable manner.

- (1) **COMPOSTING** may include a process which creates an anaerobic zone within the composting material.
- (2) **COMPOSTING** does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay.

CONSTRUCTION AND DEMOLITION DEBRIS. Materials resulting from the construction or destruction of residential, industrial, or commercial structures.

CONVENIENCE CENTERS. A facility that is staffed during operating hours for the collection of municipal solid waste.

COUNTY. The County of Clark, Kentucky.

DIRECTOR. The director of the Solid Waste Management Program of the county shall be the Clark County Judge/Executive. The **DIRECTOR**, as used in this chapter, shall refer to the Solid Waste Coordinator of Clark County.

DISPOSABLE SOLID WASTE CONTAINER. Disposable plastic or paper sacks with a capacity of ten to 35 gallons specifically designed for storage of solid waste.

DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air, or be discharged into any water, including ground waters.

DWELLING UNIT. Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking, and eating.

GENERATOR. Any person, or site, whose act or process produces wastes.

GOVERNING BODY. A county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act being KRS 65.210 et seq., a taxing district created pursuant to the provisions of KRS 65.180 through 65.192, a special district created pursuant to the provisions of KRS 65.160 through 65.176, or counties acting under contract pursuant to KRS 109.082.

HAZARDOUS WASTE. Any waste or combination of wastes which are determined by the Cabinet because of their quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

HOUSEHOLD SOLID WASTE. Solid waste, including garbage and trash generated by single- and multiple-family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds.

INDUSTRIAL SOLID WASTE. Solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment.

KEY PERSONNEL. An officer, partner, director, manager, or shareholder of 5% or more of stock or financial interest in a corporation, partnership, or association, or parent, subsidiary, or affiliate corporation, and its officers, directors, and shareholders of 5% or more of stock or financial interest.

MATERIALS RECOVERY FACILITY. A solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials.

MUCK. Animal waste, manure, animal urine, straw, grass, hay, legumes of any sort, paper or paper products, sawdust, and any and all other material commonly used or that might be used for bedding of horses or any other animals, or used for any other purpose in the keeping of livestock and farm animals on farms or any other place where the same might be used for the keeping of animals.

MULTI-FAMILY RESIDENTIAL UNIT. A housing facility containing more than one dwelling unit under one roof.

MUNICIPAL SOLID WASTE DISPOSAL FACILITY. Any type of waste site or facility where the final decomposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resources Conservation and Recovery Act of 1976, being 42 U.S.C. §§ 6941 et seq., as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the Cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the state.

MUNICIPAL SOLID WASTE REDUCTION. Source reduction, waste minimization, reuse, recycling, composting, and materials recovery.

OCCUPANT. Any person who, alone or jointly, or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as an owner or as a tenant.

OPEN BURNING. Burning of any matter in such manner that the combustion resulting from burning is remitted directly into the outdoor atmosphere without passing through a stack or chimney.

OPEN DUMP. Any facility on site for the disposal of solid waste which does not have a valid permit issued by the Cabinet or does not meet the environmental performance standards established under regulations promulgated by the Cabinet.

PERSON. An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the state, or any interstate body.

PROCESSING. Incinerating, composting, baling, shredding, salvaging, compacting, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

PUBLIC NUISANCE. Illegal waste disposal practices that include, but are not limited to, open burning, open dumps, or littering.

RECOVERED MATERIAL. Those materials, including, but not limited to, compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to the percentage of that received on a daily basis at the processing facility and processed into RDF; but not to exceed 15% of the total amount of the municipal solid waste received at the processing facility on a daily basis.

RECOVERED MATERIAL PROCESSING FACILITY. A facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224, and administrative regulations adopted by the Cabinet.

RECYCLING. Any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the Cabinet, but does not include the incineration or combustion of materials for the recovery of energy.

REFUSE-DERIVED FUEL. A sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of non-processables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product.

RESIDENTIAL DWELLING UNIT. A building or portion thereof, providing complete housekeeping facilities for one person or one family.

RESIDENTIAL SOLID WASTE. Solid waste resulting from the maintenance of dwelling units.

SANITARY LANDFILL. A permitted facility for the disposal of solid waste which complies with the environmental performance standards specified in 401 KAR 47:030.

SLUDGE. Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

SOLID WASTE. Any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, construction, and demolition operations, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), and agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or stored for return to the soil as fertilizers, or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act being 33 U.S.C. § 1342, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 being 42 U.S.C. §§ 2011 et seq., as amended (68 Stat. 923).

SOLID WASTE MANAGEMENT. The administration of solid waste activities: collection; storage; transportation; transfer; processing; treatment; and disposal, which shall be in accordance with a Cabinet approved county or multi-county solid waste management plan.

SOLID WASTE MANAGEMENT AREA OR AREAS. Any geographical areas established or designated by the Cabinet in accordance with the provisions of Senate Bill 2.

SOLID WASTE MANAGEMENT FACILITY. Any facility for collection, storage, transportation, transfer, processing,

treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to Senate Bill 2 for control of environmental impacts and to prevent any public nuisance.

SOLID WASTE MANAGEMENT PLAN. The document submitted by waste management districts, counties, or any combination thereof as required under KRS 224.43-340 and approved by the Cabinet.

SOLID WASTE SITE OR FACILITY. Any place at which solid waste is managed, stored, treated, processed, or disposed.

SOLID WASTE STORAGE/CONTAINER. Receptacle used by any person to store solid waste during the interval between solid waste generation and collection. A **SOLID WASTE CONTAINER** is made out of plastic, vinyl, or metal, ranging in size from about ten gallons to 42 cubic yards in size.

STORAGE. The containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

TRANSFER. The placement of solid waste from smaller collection vehicles into larger vehicles for transportation to intermediate or final disposal facilities.

TRANSFER FACILITY. Any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course or transportation.

TRANSPORTATION. Any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto.

TREATMENT. Any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

UNIVERSAL COLLECTION. A municipal solid waste collection system which is established by ordinance and approved by the Cabinet and requires access for each household or solid waste generator in a county.

WASTE MANAGEMENT DISTRICT. Any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with § 4006, Resource Conservation and Recovery Act of 1976 being 42 U.S.C. § 6946, as amended (Pub. Law No. 94-580).

WASTE SITE OR FACILITY. Any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility or the combustion of processed waste in a utility boiler.

YARD WASTES. Grass clippings, leaves, and tree trimmings.

(Prior Code, § 30.002) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996)

§ 50.003 ADMINISTRATIVE MANAGEMENT.

The Clark County Judge/Executive shall be responsible for the administrative management of this chapter and the promulgation of rules and regulations authorized in §§ 50.100 and 50.101.

(Prior Code, § 30.003) (Ord. 91-4, passed 5-22-1991)

§ 50.004 BONDS.

Bonds are suggested for permits to collect and transport solid waste and to operate processing or disposal facilities. The amounts and types shall be determined by the county. Types of bonds which should be considered are performance bonds and payment bonds.

(Prior Code, § 30.004) (Ord. 91-4, passed 5-22-1991)

STORAGE OF SOLID WASTE

§ 50.015 STORAGE CONTAINERS REQUIRED.

The occupant or owner of every residential dwelling unit, agricultural, commercial, or institutional and industrial establishment producing solid waste within the county shall provide sufficient and adequate containers for the storage of all solid waste except bulky waste, and construction and demolition debris to serve each dwelling unit and/or establishment; and to maintain such solid waste containers in good repair at all times.

(Prior Code, § 30.100) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996)

§ 50.016 SOLID WASTE TO BE STORED IN A MANNER PRESCRIBED BY ORDINANCE.

The occupant or owner of every residential dwelling unit, agricultural, commercial, business, institutional, and industrial establishment shall place all solid waste to be collected in proper solid waste containers, and shall maintain such solid waste containers and the area surrounding them in a clean, neat, and sanitary condition at all times. Solid waste shall be stored in a manner that will be kept free from insect and rodent infestation and will not create a fire hazard.

(Prior Code, § 30.101) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.017 STANDARDS FOR RESIDENTIAL STORAGE CONTAINERS.

Residential solid waste shall be stored in storage containers of not less than ten gallons nor more than 35 gallons in nominal capacity. Storage containers shall be leakproof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times, except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails, or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of light weight and sturdy construction. The weight of any individual storage containers and contents shall not exceed 75 pounds. Galvanized metal containers, or rubber, fiberglass, plastic, or vinyl containers, which do not become brittle in cold weather may be used. Disposable solid waste containers within suitable frames, wire bag holders, or other storage containers may also be used for storage of residential solid waste, subject to approval by the Director.

(Prior Code, § 30.102) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.018 STANDARDS FOR RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, AND INDUSTRIAL USE STORAGE CONTAINERS.

All uses which generate more than a volume of two cubic yards (i.e., approximately equivalent to 500 pounds or one-quarter ton or 400 gallons) of solid waste per week shall be required to provide bulk containers for storage as approved by the Director. The containers shall be waterproof, leakproof, and shall be covered at all times except when depositing waste therein or removing the contents thereof, and shall meet all requirements as referenced in §§ 50.100 and 50.101.

(Prior Code, § 30.103) (Ord. 91-4, passed 5-22-1991)

§ 50.019 AIR-TIGHT CONTAINERS.

No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the dwelling or building, in a place accessible particularly to children, any abandoned or unattended white goods (i.e., icebox, refrigerator, or other receptacle that has an airtight door) without first removing the door.

(Prior Code, § 30.104) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.020 YARD WASTES.

Tree limbs less than four inches in diameter, lumber, and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in storage containers. The weight of any individual bundle shall not exceed 75 pounds. Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed 75 pounds.

(Prior Code, § 30.105) (Ord. 91-4, passed 5-22-1991)

COLLECTION OF SOLID WASTE

§ 50.035 COUNTY RESPONSIBILITY DEFINED.

The county shall provide for the collection of solid waste as follows.

(A) The county shall provide for the collection of all solid waste in the county, provided, however, the county may provide the collection service by contracting with a person, county, or other city or a combination thereof, for the entire county or portions thereof as deemed to be in the best interest of the county.

(B) The county may, at its discretion, provide commercial and construction and demolition solid waste collection services.

(Prior Code, § 30.200) (Ord. 91-4, passed 5-22-1991)

§ 50.036 UNIVERSAL COLLECTION.

A municipal solid waste collection system which is established by ordinance and approved by the Cabinet requires access for each household or solid waste generator in a county and all residents and permitted haulers shall have access to convenience centers operated by the county.

(Prior Code, § 30.201) (Ord. 91-4, passed 5-22-1991)

§ 50.037 COLLECTION POINTS.

Tree limbs and yard wastes, as described in § 30.205, shall be placed at the curb, alley, or the rear of the building for collection. Points of collection of solid waste shall be from the roadside or curbside within public rights-of-way or other

locations near buildings, parking lots, and the like on private property. In general, solid waste generated by residential or agricultural uses shall be placed along the roadside or curbside fronting the subject property not more than 12 hours before collection. All reusable storage containers shall be removed from the roadside or curbside by the generator within 12 hours after collection. Residential, agricultural, commercial, institutional, and industrial uses required to provide bulk storage containers shall be located on private property in areas accessible to collection vehicles.

(Prior Code, § 30.202) (Ord. 91-4, passed 5-22-1991)

§ 50.038 BULKY RUBBISH.

The Director shall establish the procedures for collecting bulky rubbish from residential units within the county. Bulky rubbish shall be collected upon request.

(Prior Code, § 30.203) (Ord. 91-4, passed 5-22-1991)

§ 50.039 AUTHORITY FOR COLLECTORS TO ENTER PRIVATE PROPERTY.

Solid waste collectors, employed by the county or a solid waste collection agency operating under contract with the county, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the Director.

(Prior Code, § 30.204) (Ord. 91-4, passed 5-22-1991)

§ 50.040 COLLECTION FREQUENCY.

All solid waste, other than bulky waste, shall be collected at least once weekly. Residential, agricultural, commercial, institutional, and industrial users generating large quantities of solid waste may be required to provide collection at more frequent intervals (i.e., twice weekly or more), upon determination by the Director, as necessary for the protection of public health, safety, and welfare.

(Prior Code, § 30.205) (Ord. 91-4, passed 5-22-1991)

§ 50.041 OWNERSHIP OF SOLID WASTE.

All garbage and refuse placed in authorized storage containers and placed at the point of collection defined in § 50.037, shall become the property of the county or its duly authorized agent with the exception of the prohibited items in § 50.044, and no person shall be allowed to separate, carry off, or dispose of the same without written permission of the Director.

(Prior Code, § 30.206) (Ord. 91-4, passed 5-22-1991) Penalty, see § 50.999

§ 50.042 COLLECTOR'S RESPONSIBILITY DEFINED.

Solid waste collectors operating within the county shall be responsible for the collection of solid waste from collection points to a transportation vehicle, provided solid waste is stored in compliance with provisions set forth in this chapter. Spillage or blowing litter, caused as a result of the duties of the solid waste collector, shall be collected and placed in the transportation vehicle by the collector.

(Prior Code, § 30.207) (Ord. 91-4, passed 5-22-1991)

§ 50.043 ACCEPTABLE COLLECTION PRACTICES.

Collection practices which are deemed acceptable by the county are as follows.

(A) Door-to-door household collection. Collection service may be provided by the county or by contract, franchise, or permit with the private sector.

(B) Direct access to a staffed convenience center or transfer facility within the county. Residents may transport their waste directly to Cabinet approved staffed convenience centers or transfer facilities within the boundaries of the county which meet the environmental performance standards of 401 KAR 49 et seq.

(Prior Code, § 30.208) (Ord. 91-4, passed 5-22-1991)

§ 50.044 PROHIBITIONS.

(A) The following wastes may not be deposited in solid waste containers or receptacles:

- (1) Hazardous waste;
- (2) Liquid waste;
- (3) Bulky wastes, major appliances, furniture;
- (4) Tires;

- (5) Construction and demolition wastes;
- (6) Dead animals;
- (7) Any burning or smoldering materials or any other materials that would create a fire hazard; or
- (8) Batteries.

(B) No person may remove any item from a solid waste receptacle, climb on or into a container or receptacle, or damage any container.

(Prior Code, § 30.209) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.045 COLLECTION VEHICLE STANDARDS.

- (A) All transportation vehicles shall be maintained in a safe, clean, and sanitary condition, and shall be constructed, maintained, and operated as to prevent spillage of solid waste therefrom.
- (B) All vehicles to be used for transportation of solid waste shall have covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed.
- (C) No solid waste shall be transported in the loading hoppers.
- (D) They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.

(Prior Code, § 30.300) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996) Penalty, see §50.999

DISPOSAL OF SOLID WASTE

§ 50.060 OPEN BURNING.

Open burning of solid waste, muck, hazardous waste, or bulky waste is prohibited, except agricultural waste generated by agricultural operations, other than muck, may be burned on the site where it was produced and local fire officials must be notified of the intent to burn when conditions warrant.

(Prior Code, § 30.400) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.061 OPEN DUMPING.

Open dumping of solid waste, including bulky waste, on all lands (i.e., roadsides, hollows, rivers, streams, lakes, and the like) by any person is prohibited by KRS 224.40-100 and this chapter.

(Prior Code, § 30.401) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996) Penalty, see §50.999

§ 50.062 DISPOSAL SITES.

All solid waste, including bulky waste, shall be disposed of within a sanitary landfill having a valid permit issued by the Cabinet in compliance with KRS 224.43-010, 224.40-100, and 224.40-310 and this chapter.

(Prior Code, § 30.402) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996)

§ 50.063 HAZARDOUS WASTE.

As defined in § 50.002, hazardous waste will require special handling and shall be disposed of only in a manner authorized by state and/or federal regulations.

(Prior Code, § 30.403) (Ord. 91-4, passed 5-22-1991)

§ 50.064 AGRICULTURAL WASTE.

Agricultural waste that does not contaminate the environment, and was generated by agricultural operations, and does not create an erosion hazard, but enhances the agronomic needs of the soil may be disposed on site.

(Prior Code, § 30.404) (Ord. 91-4, passed 5-22-1991)

PERMITS

§ 50.075 PERMIT REQUIREMENTS.

No person shall engage in the business of collection, transporting, or processing of solid waste within the county without a permit secured from the Director. In the event any one person engages in the collection, transportation, and processing of solid waste, or any combination thereof, there shall be required of the person only one permit hereunder.

(Prior Code, § 30.500) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.076 INSURANCE REQUIREMENTS.

No such permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the Director evidence of a satisfactory public liability insurance policy including uninsured and under-insured motorists, covering all operations of the applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$1,000,000 for any one occurrence and \$2,000,000 aggregate for any bodily injury/property damage. The policy may be written to allow the first \$250 of liability for damage to property to be deductible. Workers's compensation and employee's liability insurance to cover injury or death to any of the employees or workers in an amount not less than the statutory limits is required. Should any such policy be canceled, the Director shall be notified of the cancellation by the insurance carrier, in writing, not less than 30 days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in the policy, which shall also place upon the company writing the policy the duty to give such notice.

(Prior Code, § 30.501) (Ord. 91-4, passed 5-22-1991)

§ 50.077 PERMIT APPLICATION.

Each applicant for any such permit shall state in his or her application the following:

- (A) The nature of the permit desired to collect, process, or transport solid waste or any combination thereof;
- (B) Name and address of the applicant and statement as to whether the business is a sole proprietorship, corporation, or partnership with disclosure of the ownership interests;
- (C) The number of employees and solid waste collection vehicles to be operated thereunder;
- (D) Rates the applicant plans to charge customers;
- (E) Location or locations of solid waste processing or disposal facilities to be used;
- (F) Service routes and boundaries of collection area; and
- (G) Other such information as required by the Director.

(Prior Code, § 30.502) (Ord. 91-4, passed 5-22-1991)

§ 50.078 PERMIT ISSUANCE.

If the application shows that the applicant will collect, transport, and process solid waste without hazard to the public health or damage to the environment in conformity with the laws of the state and this chapter, the Director may issue the permit authorized by this chapter. The Director shall have the authority to limit the number of permits issued to preserve the health, comfort, safety, and welfare of the residents, to promote energy conservation, and to provide for collection and disposal consistent with good solid waste management practices. The permit shall be issued for a period of one year, and each applicant shall pay a fee of \$50. If modifications can be made to the applicant regarding service, equipment, or mode of operation so as to bring the applicant within the intent of this chapter, the Director shall notify the applicant, in writing, setting forth the modification to be made and the time in which it shall be done.

(Prior Code, § 30.503) (Ord. 91-4, passed 5-22-1991)

§ 50.079 APPLICATION DENIAL.

If the applicant does not make the modifications pursuant to the notice in §50.078 within the time limit specified therein or if the application does not clearly show that the collection, processing, or transportation of solid waste will not create a public health hazard or be without harmful effects on the environment, the application shall be denied and the applicant notified by the Director, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply after the rejection of his or her application provided that all aspects of the reapplication comply with the provisions of this chapter. Nothing in this section shall prevent the denial of a permit should the total number of annual permits have already been issued.

(Prior Code, § 30.504) (Ord. 91-4, passed 5-22-1991)

§ 50.080 ANNUAL FEE.

The permit may be renewed upon payment of the fee as required herein if the business has not been modified, the collection vehicles meet the requirements of § 50.045, and the renewal is approved by the Director. If modifications have been made, the applicant shall reapply for a permit as set forth in §§ 50.077 and 50.078. No permits authorized by this chapter shall be transferable from company to company or person to person.

(Prior Code, § 30.505) (Ord. 91-4, passed 5-22-1991)

§ 50.081 PERMIT SUSPENSION.

In all cases, when the corrective measures have not been taken within the time specified, the Director shall suspend or revoke the permit or permits involved in the violations. However, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time

period may be given.

(Prior Code, § 30.506) (Ord. 91-4, passed 5-22-1991)

§ 50.082 INJUNCTIVE RELIEF.

In the event a permit is revoked and the person continues to operate, the Director may request the action of a court of law to enjoin the acts and to enforce compliance with this chapter or any rule or regulation promulgated thereunder.

(Prior Code, § 30.507) (Ord. 91-4, passed 5-22-1991)

§ 50.083 APPEAL.

Any person who feels aggrieved by any notice of violation or order issued pursuant thereto by the Director may, within 60 days of the act for which redress is sought, appeal directly to the county, in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

(Prior Code, § 30.508) (Ord. 91-4, passed 5-22-1991)

§ 50.084 PERMIT DISPLAY.

All motor vehicles operating under any permit required by this chapter shall display the number or numbers on each side in colors which contrast with that of the vehicle, such numbers to be clearly legible and not less than two inches in height. A copy of the permit shall be maintained in the vehicle. Each permit for processing or disposal facilities shall be prominently displayed at the facility.

(Prior Code, § 30.509) (Ord. 91-4, passed 5-22-1991)

§ 50.085 REPORTING REQUIREMENTS.

A permit holder shall provide quarterly reports to the county which update the information contained in the permit application and provide other such information as required by the Director.

(Prior Code, § 30.510) (Ord. 91-4, passed 5-22-1991)

RULES AND REGULATIONS

§ 50.100 PROMULGATION OF RULES AND REGULATIONS.

The Director, with the approval of the Fiscal Court, shall make, amend, and revoke reasonable rules and regulations governing, but not limited to:

- (A) Preparation, drainage, and wrapping of garbage deposited in solid waste containers;
- (B) Specifications for solid waste containers, including the type, composition, equipment, size, and shape thereof;
- (C) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any;
- (D) Weight limitations on the combined weight of solid waste containers and the content thereof and weight and size limitations on bundles of solid waste too large for solid waste containers;
- (E) Storage of solid waste in solid waste containers;
- (F) Sanitation, maintenance, and replacement of solid waste containers;
- (G) Schedules of and routes for collections and transportation of solid waste;
- (H) Collection points of solid waste containers;
- (I) Collection, transportation, processing, and disposal of solid waste;
- (J) Processing facilities and fees for the use thereof;
- (K) Disposal facilities and fees for the use thereof;
- (L) Records of quantity and types of wastes received at processing and/or disposal facilities;
- (M) Handling of special wastes such as sludges, ashes, agriculture, construction, bulky items, tires, oils, greases, and the like; and
- (N) Reporting requirements of permittees.

(Prior Code, § 30.600) (Ord. 91-4, passed 5-22-1991)

§ 50.101 ENFORCEMENT.

The Director shall have the authority to enforce all rules and regulations promulgated under §50.100.

(Prior Code, § 30.601) (Ord. 91-4, passed 5-22-1991)

§ 50.102 PROHIBITED PRACTICES.

It shall be unlawful for any person to:

- (A) Dispose of garbage, refuse, rubbish, or debris by dumping same on any premises in the county with or without the consent of the owner of the premises;
- (B) Dump or permit the dumping of garbage, refuse, rubbish, and debris on any property within the county;
- (C) Deposit solid waste in any solid waste container other than his or her own, without the written consent of the owner of the container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;
- (D) Fail to have solid waste disposed of as provided in this chapter;
- (E) Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the county or those of a solid waste collection agency operating under contract with the county;
- (F) Burn solid waste, muck, hazardous waste, or bulky waste, unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency, or is otherwise exempt by this chapter;
- (G) Dispose of dead animals in any container to be collected by the county;
- (H) Own or operate an open dump;
- (I) Dispose of solid waste at any facility or location which is not approved by the county and permitted by the state's Department for Environmental Protection;
- (J) Engage in the business of collecting, transporting, processing, or disposing of solid waste within the geographic boundaries of the county without a permit, contract, or franchise agreement from the county, operate under an expired permit, or operate after a permit has been suspended or revoked or contract or franchise agreement canceled; or
- (K) Violate any section of this chapter or any other rule or regulation promulgated under the authority of §§ 50.100 and 50.101.

(Prior Code, § 30.700) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

PUBLIC NUISANCES

§ 50.115 NOTIFICATION.

It shall be the duty of the Director to serve an order to abate the nuisance, or cause such order to be served upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of the provisions of this chapter and to demand the abatement of the nuisance in his or her discretion not sooner than ten days but not more than 90 days.

(Prior Code, § 30.800) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996)

§ 50.116 NON-COMPLIANCE.

(A) If the person so served does not abate the nuisance within ten days of service, the county may proceed to abate the nuisance, keeping an account of the expense of the abatement. The expense of the abatement shall be charged to and paid by the owner or occupant.

(B) Whenever a bill for the charges remains unpaid for 30 days after it has been rendered, the county may file a statement of lien claim against the property. The remedies provided to the Director and county in this section and § 50.115 are non-exclusive remedies in addition to the penalties set out in § 50.999, and those penalties may be asserted against any violator whether or not the remedies provided in this section and § 50.115 have been pursued by the Director or the county.

(Prior Code, § 30.801) (Ord. 91-4, passed 5-22-1991; Ord. 96-8, passed 5-23-1996)

§ 50.117 COST RECOVERY.

(A) When the county must clean up and remove an open dump to ensure protection of the public health and safety and when the responsible party can be identified, the Director shall require these persons to reimburse the county for the actual costs incurred.

(B) Recoverable costs include, but are not limited to, costs for site assessment and evaluation, labor, equipment, disposal, and legal fees. Should other means of collection prove ineffective, the county may seek such reimbursement of funds 90 days following the completion of the cleanup.

(C) Such cost recovery should not apply to property owners who are the victim of illegal dumping of solid waste without their knowledge or beyond their reasonable control.

(Prior Code, § 30.802) (Ord. 91-4, passed 5-22-1991)

LITTER CONTROL AND COLLECTION BOXES

§ 50.130 CONTROL OF LITTER.

The county shall regulate litter control in public places, private residences, and property and shall prohibit the following types of littering, including, but not limited to:

- (A) Throwing of litter from vehicles;
- (B) Removal or sorting from litter receptacles; or
- (C) Throwing of litter near litter receptacles.

(Prior Code, § 30.900) (Ord. 91-4, passed 5-22-1991) Penalty, see §50.999

§ 50.131 COLLECTION BOXES.

The county ordains that there shall be no legal or designated dump sites in the county other than those collection boxes as allocated throughout the county.

(Prior Code, § 30.901) (Ord. 91-4, passed 5-22-1991)

INSPECTIONS AND ENFORCEMENT

§ 50.145 AUTHORIZED ENFORCEMENT AGENT.

The Solid Waste Management Coordinator, as a representative of the County Fiscal Court, should be the authorized enforcement agent of this chapter within the limits of the county.

(Prior Code, § 30.950) (Ord. 96-8, passed 5-23-1996)

§ 50.146 INSPECTION; INVESTIGATION.

(A) It shall be the duty of the authorized enforcement agent to investigate all reports or complaints of a violation of this chapter. Any person who violates any provision of this chapter shall be subject to punishment by fines or sanctions as set forth in § 50.999.

(B) If access to property is required, the investigation shall proceed on a voluntary basis. If access is needed to proceed with an investigation but is denied, the authorized enforcement agent may seek any authorization, including a search warrant, to enter the property.

(C) Witness accounts of any acts prohibited herein shall be considered as evidence to identify violators. Any other pertinent evidence may be considered to determine whether a violation of this chapter has occurred.

(Prior Code, § 30.951) (Ord. 96-8, passed 5-23-1996)

§ 50.147 ENFORCEMENT; CLEANUP.

(A) If a condition violating this chapter exists on real property, the authorized enforcement agent shall take the following actions.

(1) Certified notice shall be mailed to the owner(s) of record at their last known mailing address. Owner(s) of record will be allowed 30 days from the day of receipt/refusal of notice to bring the property into compliance or submit an acceptance cleanup plan specifying dates.

(2) If no action is taken by the property owner, the authorized enforcement agent will take the appropriate actions to bring the property into compliance with this chapter, including, referring the matter to the County Attorney for prosecution or declaring a nuisance pursuant to §§ 50.115 to 50.117.

(3) In the case of an emergency, the authorized enforcement agent may take immediate action and mail notice no later than 48 hours following the action. If action to bring compliance is taken, the cost involved may be recorded as set forth in §§ 50.115 to 50.117.

(B) It shall be a violation of this chapter to interfere with any authorized enforcement agent while in the performance of duties hereunder.

(C) The owner of property on which illegal dumping acts have occurred may be included as a party in an enforcement action against a person who committed the violation for the purposes of obtaining access to the land to clean up and properly dispose of the wastes.

(Prior Code, § 30.952) (Ord. 96-8, passed 5-23-1996)

§ 50.999 PENALTY.

(A) Any person violating any of the provisions of this chapter for which no other penalty is specified provided, or any lawful rules or regulations promulgated pursuant thereto, shall be, upon conviction, punished by a fine of not less than \$25 nor more than \$500. Each day the violation continues to exist shall be deemed a separate offense. Violators of this chapter

may be issued a citation by the County Director.

(B) The removal of any litter or garbage from the collection boxes in violation of the provisions of §50.130, thereby causing the same to be placed on the ground around the collection boxes or otherwise depositing litter or garbage on the ground around the collection boxes shall constitute knowingly placing or throwing litter on public or private property and thereby subject the offender to the penalties provided in division (A) above.

(Prior Code, § 30.999) (Ord. 91-4, passed 5-22-1991)

CHAPTER 51: SEWERS

Section

Privilege Fee

- 51.01 Short title
- 51.02 Privilege fee
- 51.03 Commission approval
- 51.04 Calculation of privilege fee
- 51.05 Application of privilege fee
- 51.06 Additional connections
- 51.07 Multiple privilege fees possible
- 51.08 Connection to facilities
- 51.09 Dedication of facilities
- 51.10 Compensation required

PRIVILEGE FEE

§ 51.01 SHORT TITLE.

This subchapter may be referred to as "the Privilege Fee Ordinance".

(Ord. 2009-2, passed 2-17-2009)

§ 51.02 PRIVILEGE FEE.

If WMU or a property owner expends funds on a sanitary sewer facility including, but not limited to, trunk line sewers, sewer pump stations, or other sewer improvements ("project facilities") which will ultimately benefit other properties in or near the sanitary sewer watershed in which the project facilities are located, WMU or such owner may be reimbursed on a pro rata basis for such expenditures in the form of a privilege fee, as supervised by WMU and approved by the WMU Commission.

(Ord. 2009-2, passed 2-17-2009)

§ 51.03 COMMISSION APPROVAL.

(A) The WMU Commission must approve all privilege fee agreements or declarations in an open session meeting with notice to the public. Upon receipt of any application for approval of a privilege fee agreement, the WMU Commission shall notify the chief executive officer of the legislative body governing the land affected by the privilege fee agreement of such application and the times and dates when the agreement will be considered by the WMU Commission, which date shall be at least 30 days after such notice.

(B) Prior to submitting a privilege fee agreement or declaration to the WMU Commission for approval, the person or entity who constructs sewer project facilities pursuant to this section must comply with the following prerequisite requirements.

(1) All plans for the project facilities must be in accord with all applicable laws, regulations, and policies and per existing orders of the federal court and regulations of all regulatory agencies including WMU.

(2) The person or entity constructing the project facilities must:

(a) Provide written notice by U.S. mail, first class postage prepaid, to all benefitted owners (as hereinafter defined in § 51.05) of property offering said benefitted owners the opportunity to participate as participating owners, said written notice to provide a description of the proposed project, the method of financing, and the date of the meeting to be conducted by WMU at which the privilege fee agreement or declaration is to be discussed which date shall be at least 14 days after the notice;

(b) Agree to hold the city, county, and WMU harmless from any liability arising from the failure to collect the privilege

fee at the time the connection is made; and

(c) Said written notice shall illustrate how the estimated costs shall be shared by each property.

(Ord. 2009-2, passed 2-17-2009)

§ 51.04 CALCULATION OF PRIVILEGE FEE.

(A) The shared costs for the construction of the project facilities subject to apportionment pursuant to the privilege fee agreement or declaration provided for herein shall be based upon all costs of construction, including engineering costs, legal fees, survey fees, easement acquisitions, right-of-way costs and accounting costs to determine and manage the privilege fee agreement or declaration. The City of Winchester, through WMU, may institute eminent domain proceedings to obtain necessary easements and all expenses of such proceedings shall be an included project cost. Participating owners will dedicate easements free of charge.

(B) The cost for the construction of the project facilities shall be shared by all owners of property covered by the privilege fee agreement or declaration based upon acreage of each tract of land owned and developed. The shared costs for the construction of the project shall be paid by the participating owners in advance, as approved by WMU. For those land owners who choose not to participate initially ("non-participating owners") who later decide to connect their property to the facility constructed by participating owners, the payment shall be due at the time the non-participating owner dedicates its facilities to WMU. The participating owners shall be reimbursed on a proportionate basis based upon acreage as approved by WMU. Further, after payment is made to WMU, the non- participating owner shall become a participating owner from the date of payment until the end of the privilege fee agreement.

(C) The privilege fee agreement (PFA) or declaration approved by the WMU Commission shall provide that the shared costs shall bear simple interest from the date of dedication of the project facilities to WMU at a fixed rate not to exceed the coupon yield of the 30-year treasury bill as published by the Bloomberg on the date of the approval of the PFA. (hereinafter the "fixed rate"); provided, however, if the project facilities in the PFA are to be funded solely with grant funds, the finance charge to be included in such PFA shall be limited to a one time 0.5% of the project facilities cost as an administrative fee and such PFA obligations of the non-participating owners shall not otherwise bear an ongoing interest obligation and, if a portion of the project facilities are paid for using a low interest loan (such as KIA) or grant funds, the WMUC, in its discretion, may approve a reasonable "blended" rate which is lower than the fixed rate taking into consideration the proportionate part of the project facilities that are being funded by the low interest loan or grant funds in comparison with the total funds expended on the project facilities using the fixed rate as the financing cost of the remainder of the funds. No interest shall accrue on any privilege fee agreement after seven years. All privilege fee agreements or declarations shall extend 50 years.

(Ord. 2009-2, passed 2-17-2009; Ord. 21-2011, passed 12-14-2011)

§ 51.05 APPLICATION OF PRIVILEGE FEE.

WMU shall make a good faith effort to assure that all property owners within the watershed served by the project facilities whose property can be reasonably anticipated to be developed and served by the project facilities within the term of the proposed privilege fee agreement or declaration (herein "benefitted owners") are included in the privilege fee agreement or declaration. Land in the 100-year floodplain shall not be included in the area of a privilege fee agreement. In making a determination whether a particular owner will be benefitted by the project facilities WMU shall consider the land use planning map and the urban planning area specified in the current Winchester-Clark County Comprehensive Plan as a guide. However, no privilege fee agreement or declaration shall be invalid solely for the failure to name all owners which might be benefitted or for a failure to include or reserve capacity for owners whose properties are included in a privilege fee agreement or declaration. All approved privilege fee agreements or declarations shall be recorded at the office of the County Clerk.

(Ord. 2009-2, passed 2-17-2009)

§ 51.06 ADDITIONAL CONNECTIONS.

WMU may, in its sole discretion, allow persons or entities who are not listed on a privilege fee agreement or declaration to connect to project facilities under such terms and conditions as it deems advisable even if the connection of such property owner may diminish the capacity of the project facilities such that a non-participating owner may not be able to connect to the project facilities at a later date.

(Ord. 2009-2, passed 2-17-2009)

§ 51.07 MULTIPLE PRIVILEGE FEES POSSIBLE.

The same parcel of property may be included in more than one privilege fee agreement or declaration and thus require payment of more than one privilege fee. For example, a parcel of property may be part of a privilege fee agreement or declaration to provide for construction of a trunk sewer line, serving a wider area, and may be the subject of another privilege fee agreement or declaration serving a smaller area which pertains to construction of a sewer line to serve the trunk sewer.

(Ord. 2009-2, passed 2-17-2009)

§ 51.08 CONNECTION TO FACILITIES.

No non-participating owner shall be required to pay his or her proportionate share until such time as that owner decides to develop his or her property and connect to project facilities; provided, however, no system capacity created by the project facilities shall be reserved for any non-participating owner until such owner pays the privilege fee provided for in the privilege fee agreement or declaration.

(Ord. 2009-2, passed 2-17-2009)

§ 51.09 DEDICATION OF FACILITIES.

Participating owners shall dedicate the project facilities to WMU. The project facilities, when completed by the participating owners in accord with the applicable laws and policies, shall be accepted for perpetual maintenance and ownership by WMU.

(Ord. 2009-2, passed 2-17-2009)

§ 51.10 COMPENSATION REQUIRED.

WMU shall not allow any person or entity use of the project facilities without the required compensation to WMU and the participating owners.

(Ord. 2009-2, passed 2-17-2009)

TITLE VII: TRAFFIC CODE

Chapter

70. STREETS AND SIDEWALKS

CHAPTER 70: STREETS AND SIDEWALKS

Section

General Provisions

- 70.01 Acceptance of streets and roads into the county road system
- 70.02 Depositing debris onto streets of unincorporated areas prohibited
- 70.03 Obstruction of intersections
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- 70.05 Unauthorized vehicles prohibited
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Excavations

- 70.25 Cutting of public ways subject to regulation
- 70.26 Public liability and property damage insurance
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Roads and Bridges

- 70.40 Public hearing required
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- 70.42 Public may testify; effect of testimony
- 70.43 Hearing to be held prior to construction

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70.99 Penalty

GENERAL PROVISIONS

§ 70.01 ACCEPTANCE OF STREETS AND ROADS INTO THE COUNTY ROAD SYSTEM.

(A) *Prerequisite conditions.* Except as provided hereafter relating to acceptance of certain gravel roads into the county road system, the County Fiscal Court will not accept any street and/or road for maintenance unless and until all of the following are complete.

(1) Prior to the acceptance by the appropriate legislative body of maintenance of any road and/or street, the developer or subdivider has fully and completely reimbursed the Fiscal Court or city for any and all fees and costs paid to the selected engineer or engineering firm charged with construction inspection. It is the intent of these regulations that all costs incurred by the Fiscal Court or the city for the engineering or engineering firm shall be the responsibility of the developer and/or subdivider, and reimbursement shall be a condition for approval of the final plat.

(2) The project engineer and/or developer must furnish to County Fiscal Court and/or the County Road Supervisor a written request for a street or roadway to be accepted into the county road system. Requirements for acceptance are a legal description containing global position satellite coordinates for the centerline of the street or roadway to be accepted at its beginning and ending point, accompanied by the length and width of the street and number of homes, vicinity map for location of street or road, a copy of the final plat, copies of CBR tests and compaction tests, and an independent engineer's certifications that the road is built according to these specifications and all applicable state and local requirements.

(3) Except as provided in division (A)(4) below, the developer shall be responsible for all maintenance and repairs for a period of one year from the date the street or road is accepted into the county road system, and, at the expiration of a year, the County Road Supervisor shall inspect the street or road to determine if it is in need of any repair before the final acceptance. The Fiscal Court may require a secured warranty bond as set forth in division (C) below under terms and conditions as may be appropriate before the acceptance of a street or road until the repairs are completed.

(4) In all instances where water retention or detention has been required, the developer shall be responsible for all maintenance and repairs on all streets and roads protected by retention and/or detention as well as such basins, culverts, pipes, and remedial measures to control erosion and sedimentation as may have been constructed on non-public land to protect streets, roads, and other property owners for a period of five years from the date the street or road is accepted into the county road system, and, at the expiration of five years, the County Road Supervisor shall inspect the street or road and retention/detention measures and then determine if they are in need of any repair before final acceptance. The Fiscal Court may require a separate and distinct secured warranty bond under amounts, terms, and conditions as may be appropriate before the acceptance of a street or road until the repairs are completed.

(5) All streets or roadways shall be constructed in accordance with the construction standards set forth herein.

(B) *Construction standards.*

(1) *Utilities.* All utilities shall be installed prior to the placement of any base material and no cuts shall be permitted for any reason after placement of base materials.

(2) *Street width.* The minimum of all streets and roads to be accepted into the county road system, not including curb and gutter, shall be 24 feet; provided, however, that cluster developments, crossroad communities, and rural transitional lots shall not be required to have curbs, gutters, nor sidewalks, but all other road construction criteria shall apply.

(3) *Street crown.* All roads or streets to be accepted into the county road system shall be crowned such that they have one-quarter inch of crown per each foot of street width from the center of the street to the curb edge. The crown shall be consistent throughout and without swale.

(4) *Application of standards.* All streets or roads constructed in the county for public use are to be constructed in accordance with the specifications set forth herein. These standards are separate from and in addition to the "Subdivision Regulations for Winchester/Clark County". To the extent that these specifications conflict with the subdivision regulations as established by the Winchester-Clark County Joint Planning Commission, these standards shall prevail. To the extent these standards may conflict with standards or guidelines as established by the state's Department of Highways, the state regulations shall prevail.

(5) *Sub-grade preparations.* Prior to placement of rock base materials, all utilities shall be in place and a developer shall provide to the County Road Supervisor written test data indicating the California Bearing Ratio (CBR) value of the prepared sub-grade to be four or greater. Any sub-grade found to be insufficient, unstable, irregular (i.e., not properly compacted, water saturated, or inappropriate in any way), shall be corrected prior to placement of any base material. A CBR value of less than four will require soil stabilization in order to achieve a corrected CBR value of four or greater. Methods for mechanical stabilization of sub-grade soils include the following approaches: controlling sub-grade density-moisture; undercutting poor materials and backfilling with granular materials; proof rolling and re-rolling of the sub-grade; using granular layers; and using granular layers reinforced with geofabrics or geogrid. In addition, the design engineer or geo-engineering firm may recommend an alternative field repair on-site with the approval of the County Road Supervisor. All sub-grades must be proof-rolled with a tandem truck loaded with a minimum of 20 tons of load to be furnished by the

developer. The County Road Supervisor or his or her designee shall witness and inspect the proof-rolling to determine any inferior roadbed preparation. Compaction and placement of base material shall meet the requirements of the engineered plans and shall be placed only upon sub-grade shaped to the required section and thoroughly compacted.

(6) *Aggregate base material.* Base material shall consist of eight inches of limestone material, to be applied in two courses, with the first course being four inches in thickness and consisting of No. 3 limestone, locked with a light coat of No. 57 limestone. The placement of No. 3 limestone shall be rolled into place and witnessed by either a competent inspector designated by the design engineer or the County Road Supervisor. The second lift shall be four inches in thickness and shall consist of pug milled dense grade aggregate (DGO) limestone. All such courses shall be compacted to a density of no less than 84% of solid volume throughout the layers prior to placement of bituminous base for surface. Written test data accumulated by a qualified engineer indicating specified compaction shall be supplied by the developer to the County Road Supervisor prior to the placement of any asphalt binder or base.

(7) *Surfacing.* Minimum bituminous concrete pavement shall consist of one, two and one-half inch course of compacted asphalt base and one, one and one-half inch course of compacted surface asphalt. Placement and compaction shall be performed as specified in the latest design specification of the state's Department of Highways. In the case of traffic levels exceeding 1,500 ADT, the engineer shall submit a design criteria based on a CBR rating of five. Test should be performed on road location every 500 feet or fraction thereof (e.g., for a road section less than 500 feet, one test is required; for a road section at least 500 feet but less than 1,000 feet, two tests are required).

(a) Prior to applying the one and one-half inch surface, the developer, owner, or engineer shall contact the County Road Supervisor, at which time he or she shall inspect the base asphalt for any damage and for cleanliness. A tack coat of SSIH, or equivalent, shall be applied between the binder and the surface courses.

(b) A concrete box curb and gutter shall be the standard requirements for public streets and shall measure 24 inches from the back of the curb to the outer edge of the gutter. The back of the curb shall be a full 12 inches in depth. The curb shall be a full six inches in thickness for its entire width. The gutter shall slope one inch toward the curb. These dimensional standards may be altered, if necessary, to ensure compliance with the Americans with Disabilities Act (ADA), specifically for required ramps and curb cuts. Sub-grade for curb and gutter shall be thoroughly compacted. Compaction shall be either by approved type of self-propelled roller or by approved type of mechanical tamper. Concrete shall meet requirements for Class "A" in the state's Department of Transportation, Bureau of Highways, Standard Specifications, Current Edition.

(c) Concrete curbs shall measure 24 inches from the back of the curb to the outer edge of the curb. The back form shall not be less than ten inches in depth. The outer edge of the curb (next to the street paving) shall be a full seven inches in depth and shall have a one inch slope toward the curb except at street intersections where adjustments may be necessary to alter or eliminate the slope for practical reasons. The form at the edge of the gutter shall be a full seven inches in depth. Concrete shall comply with state's Department of Transportation standards. The concrete shall meet requirements for Class "A" in the state's Department of Transportation, Bureau of Highways, Standard Specifications, Current Edition.

(d) Concrete lip curbs and bituminous curbs are not permitted.

(e) Storm water handling facilities, including, but not limited to, inlet basins, culverts, and pipe and retention areas, shall be designed such that the storm water drainage from the proposed construction to adjacent properties shall not exceed the pre-development storm water discharge rate. The finished construction shall not create any adverse effect, including, but not limited to, erosion and flooding on the adjoining property owners. Design of drainage facilities shall be reviewed by an engineer employed by the Winchester/Clark County Joint Planning Commission during the preliminary stages. Upon completion the County Road Supervisor shall inspect said project. Acceptance is subject to the approval of the County Road Supervisor.

(8) *Street name signs.* All street name signs shall be placed by the developer at the beginning of each street when paving begins. Street name signs shall be provided by the developer, shall be legible, and shall be subject to the approval of the County Road Supervisor.

(9) *Cementitious concrete aggregate surfaces.* Cementitious concrete aggregate surfaces may be accepted into the county road system only under the following circumstances.

(a) Said roadway shall be constructed according to engineering standards deemed sufficient for the traffic load to be endured by the surface and certified to the county by a licensed road engineer.

(b) At all times during construction, the roadway shall be subject to inspection by the County Road Engineer. Any applicant shall immediately correct all deficiencies noted by the County Road Engineer.

(c) Upon completion, and subject to final inspection, said roadway shall be accompanied by a dedicated 50-foot right-of-way to be included within the county maintained road system, however, prior to said acceptance the applicant shall provide a commercial surety bond for a term of not less than 60 months which shall be in an amount equal to 110% of the project cost as certified to the County Road Supervisor by the project engineer, satisfactory to the Fiscal Court, executed by a surety company authorized to do business in the state. Said bond shall be for the use and benefit of the county, to guarantee that all defects, maintenance, and repairs of said roadway be corrected without expense to the county for and during the 60-month period of the surety bond. Certification of the project cost shall be done prior to the final inspection by the County Road Supervisor.

(d) Engineering certifications and drawings required of the developer shall be in sufficient detail to show the entire sub-grade preparation and shall confirm that all sub-grade requirements as set forth in this chapter have been met. Written

test data accumulated by a qualified engineer indicating specified compaction shall be supplied by the developer to the County Road Supervisor prior to the placement of any cement surface. Compaction and placement of base material shall meet the requirements of the state's Department of Transportation and shall be placed only upon sub-grade shaped to the required typical section and thoroughly compacted. All other sub-grade preparations shall be in compliance with this chapter.

(10) *Access roadways.* All access roadways leading to concrete plants, asphalt plants, airports, landfills, and quarries shall be asphalt and designed by a licensed civil engineer using the Pavement or Concrete Design Guide from the state's Department of Transportation. Should a design formulation not be possible using asphalt, then a design for concrete by a licensed civil engineer using the Pavement or Concrete Design Guide from the state's Department of Transportation shall be required.

(C) *Warranty bonds.*

(1) Warranty bonds shall be in a format identical to form in division (F) below, and be in an amount equal to 110% of the cost necessary to complete all of the improvements required of the developer (including measures to control erosion and sedimentation, when applicable).

(2) The bond must be secured, for the duration of its term, in one of the following forms:

(a) A surety bond issued by a commercial insurance company approved by the Fiscal Court and authorized to do business in the state;

(b) Certified check or cash bond;

(c) Negotiable United States Treasury Certificate of the kind approved by law for securing deposits of public money; or

(d) A letter of credit in a form acceptable by the Fiscal Court and from a banking institution chartered to do business in the state.

(3) The bond shall be executed by the developer as principal, and shall reflect the identify and form of the surety. The bond shall be a joint and several obligation of the principal and surety guaranteeing faithful performance of any and all work and the construction and installation of all improvements required of the developer together with all engineering and inspection costs and fees incurred by the city or county, limited only by the gross amount of the bond.

(4) The bond shall contain the further condition that should the developer fail to complete all work and improvements required of him or her within 24 consecutive calendar months of the date of approval of the final plat, or within a mutually agreed upon extension not to exceed 12 consecutive calendar months, the County Fiscal Court and or County Road Supervisor may, at its option, cause all required work to be done and improvements constructed at which time the conditions of the warranty bond shall be deemed breached and demand shall be made on the surety for performance.

(5) The parties executing the bond shall be firmly bound for the payment of all necessary cost therefor. Whenever the developer elects to deposit cash, certified check, or approved negotiable United States Treasury Certificates, the County Fiscal Court shall be authorized, in the event of any default on the part of the developer or the performance of any work or construction of any improvements for which the cash or negotiable bonds have been deposited, to cause the required work to be done and to withdraw that amount required for payment of all costs therefor.

(6) At such time that the developer has completed such improvements, or a substantial portion thereof, as specified in the warranty bond, the developer shall notify the Winchester/Clark County Planning Commission and or County Road Supervisor. An inspection of the improvements shall be made and, if all are in conformance with the requirements, the County Road Supervisor shall notify the Fiscal Court which may then authorize the release of the relevant portion of the bond. However, the Fiscal Court, at its option, may elect to not make a partial release of the bond and may require completion of the project.

(D) *Street name signs.* All street name signs shall be placed by the developer at the beginning of each new section of street when paving begins. Street name signs shall be provided by the developer, shall be legible, and shall be subject to the approval of the County Road Supervisor.

(E) *Bituminous concrete on macadam base.*

(1) The macadam base shall consist of dense graded aggregated limestone compacted to finish depth of not less than eight inches to be laid in two four-inch courses. The aggregate base shall be compaction. Upon this base shall be placed a base finder course and surface course of bituminous concrete Class 1 placed as follows based on CBR (California Bearing Ratio) test results performed at the proposed road location every 500 feet or fraction.

Table 1 - Bituminous Concrete on Macadam Base

Traffic Level

CBR	A	B	C
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Table 1 - Bituminous Concrete on Macadam Base

Traffic Level

CBR	A	B	C
6.5 in. asphalt base	7.5 in. asphalt base	8.5 in. asphalt base	
1.5 in. asphalt surface	1.5 in. asphalt surface	1.5 in. asphalt surface	
Total depth = 16 in.	Total depth = 17 in.	Total depth = 18 in.	
5.5 in. asphalt base	6.5 in. asphalt base	7.5 in. asphalt base	
1.5 in. asphalt surface	1.5 in. asphalt surface	1.5 in. asphalt surface	
Total depth = 15 in.	Total depth = 16 in.	Total depth = 17 in.	
4.5 in. asphalt base	5 in. asphalt base	6.5 in. asphalt base	
1.5 in. asphalt surface	1.5 in. asphalt surface	1.5 in. asphalt surface	
Total depth = 14 in.	Total depth = 14.5 in.	Total depth = 16 in.	
3.5 in. asphalt base	4.5 in. asphalt base	5.5 in. asphalt base	
1.5 in. asphalt surface	1.5 in. asphalt surface	1.5 in. asphalt surface	
Total depth = 13 in.	Total depth = 14 in.	Total depth = 15 in.	
2.5 in. asphalt base	4 in. asphalt base	5 in. asphalt base	
1.5 in. asphalt surface	1.5 in. asphalt surface	1.5 in. asphalt surface	
Total depth = 12 in.	Total depth = 13.5 in.	Total depth = 14.5 in.	

Pavement designs holding DGA thickness constant at eight in.

*All Base depth are rounded up to the nearest one-half inch. Traffic levels; A up to 400 ADT, B up to 700 ADT, C up to 1,500 ADT; where the ADT exceeds 1,500 the engineer shall submit design criteria. Where multiple CBR values are found the lowest value (higher number) shall be used.

(F) *Bond form.*

CLARK COUNTY FISCAL COURT

WARRANTY BOND FOR ROAD ACCEPTANCE

KNOWN ALL MEN BY THESE PRESENTS, That _____ and _____, as Owner/Developer, hereinafter called "Principal",

and _____, a corporation, organized and existing under the laws of the State of _____ and authorized to do business in Kentucky, with principal offices

at _____, as Surety, hereinafter called "Surety", are held and firmly bound unto the Clark County Fiscal Court as Obligee, hereinafter called "Obligee", in the amount of _____

(words)

Dollars (\$_____._____), for the payment of which, well and truly to be made, we hereby (numbers)

jointly and severally bind ourselves, our heirs, executors, administrator, successors and assigns firmly by these presents.

WHEREAS, the Principal has tendered for approval a section of roadway, the legal description of which is fully set forth in Attachment "A", a copy of which has been prepared by _____ under date of _____, and will upon acceptance into the county road system, thereafter maintain and keep in proper repair for a period of one (1) year subsequent to acceptance of said street or roadway, in accordance with the ordinances of the Clark County Fiscal Court.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCHthat, if the Principal shall well and faithfully do and perform all construction and maintenance required by state and local law or by the Clark County Fiscal Court and shall indemnify and save harmless the Obligee against all claims, loss, or damage, and expenses of reconstruction or additional work required by the Clark County Road Department to complete the street to its acceptable condition, notice of which shall be given to the Principal, within a one (1) year from the date of acceptance of such street or road (excepting measures for water retention and detention which shall be five (5) years), then this obligation shall be void. Otherwise, it shall remain in full force and effect until said claims, loss or damage, and expenses of reconstruction or additional work as required above, are completed. The Obligee and surety understand and agree that the bond may extend for an indeterminate period beyond the original term upon notice of required reconstruction or work and terminate only upon completion of the required reconstruction or additional work or resolution of the claims, loss, or damage which have been indemnified by this Agreement.

If this bond is given to secure a warranty on water retention and detention, then it shall be deemed broad enough to indemnify and save harmless the Obligee against all claims, loss, or damage, and reconstruction of such basins, culverts, pipes, and remedial measures to control erosion and sedimentation as originally required upon road or street acceptance, including those remedial measures as may have been constructed on non-public property as required to protect streets, roads, or other property owners.

Should the developer fail to complete all work and improvements required of him or her within six (6) consecutive calendar months of the date of notification of required work or within a mutually agreed upon extension not to exceed 12 consecutive calendar months, the Clark County Fiscal Court and or County Road Supervisor may, at its option, cause all required work to be done and improvements constructed at which time the conditions of the performance bond shall be deemed breached and demand shall be made on the surety for performance.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein, its successors or assigns.

Should any proceedings be necessary to enforce this bond, such sum as the court may determine to be reasonable shall be allowed to Obligee as attorney's fee, in addition to other sums found due.

In the event that any actions or proceedings are initiated with respect to this bond, the parties agree that the venue thereof shall be Clark County, State of Kentucky.

IN TESTIMONY WHEREOF, said Principal has signed this instrument at Winchester, Kentucky, in person or by agent duly authorized, and said surety has caused its name to be hereunto signed by its duly authorized agent.

This _____ day of _____, 20____.

Principal

By _____

Title

Surety

By _____

Attorney-in-Fact

(Prior Code, § 40.001) (Ord. 2002-23, passed 11-8-2002; Ord. 2002-24, passed 11-8-2002; Ord. 2002-31, passed 12-18-2002; Ord. 2003-3, passed 4-9-2003; Ord. 2003-4, passed 4-9-2003; Ord. 2004-10, passed 5-26-2004; Ord. 2004-27, passed 12-15-2004; Ord. 2006-2, passed 1-25-2006; Ord. 2019-09, passed 12-23-2019)

§ 70.02 DEPOSITING DEBRIS ONTO STREETS OF UNINCORPORATED AREAS PROHIBITED.

(A) All dirt, earth, or debris within the unincorporated areas of the county, which are zoned for residential or business uses shall be kept and/or transported in such a manner that it will not wash, drain, be tracked, spilled, or otherwise cause to enter or be deposited upon any road, street, highway, sewers (either sanitary or storm), or other drainage facilities within such areas.

(B) Any person, firm, or corporation who displaces or relocates or causes to be displaced or relocated any dirt, earth, or debris within the unincorporated areas of the county which are zoned for residential or business uses and such displacement or relocation places the dirt, earth, or debris in such a manner that it washes, drains, or is caused to be deposited upon a road, street, highway, sewer (either sanitary or storm), or any other drainage facilities, shall forthwith remove and relocate the same in a safe location and shall clean up or cause to be cleaned up any dirt, earth, or debris that has washed, drained, or entered any road, street, highway, sewer (either storm or sanitary), or other drainage facilities within the unincorporated areas of the county which are zoned for residential or business uses. The provisions of this section apply to property owners, building contractors, developers, or others who direct or permit another person to drive a vehicle onto a building site so as to displace or relocate any dirt, earth, or debris in a manner described in this section.

(C) Whenever any person, as described in division (B) above, fails to forthwith remove and relocate any dirt, earth, or debris and to clean up or cause to be cleaned up the dirt, earth, or debris as required by division (B) above, the county may proceed to remove and relocate and clean up the dirt, earth, and debris, in which event the county may charge the responsible person with the cost of the removal, relocation, and cleanup of the dirt, earth, or debris, which cost shall be in addition to any criminal fines which may be levied under § 70.99.

(D) During any disturbance of a surface of private property lying adjacent to a county street or roadway, appropriate mud and debris barriers shall be constructed to prevent any dirt, earth, or debris from entering onto the public street or roadway.

(E) At no time shall any building materials, portable toilets, or any other items of any type or description be placed on any county street or roadway without prior written approval of the County Road Supervisor.

(Prior Code, § 40.002) (Ord. 88-14, passed 9-14-1988; Ord. 2002-31, passed 12-18-2002; Ord. 2003-3, passed 4-9-2003)
Penalty, see § 70.99

§ 70.03 OBSTRUCTION OF INTERSECTIONS.

It shall be unlawful for any locomotive, railroad car, or train of cars to stop longer than 15 minutes at any one time across any public highway, street, or road within the unincorporated areas of the county and it shall further be unlawful for any gate

in use at such public highway, street, or road crossing within the unincorporated areas of the county to remain closed more than 15 minutes at any one time.

(Prior Code, § 40.003) (Ord. 88-13, passed 9-14-1988) Penalty, see §70.99

§ 70.04 TRANSPORTING CERTAIN MATERIALS.

It shall be unlawful for the owner or operator of any vehicle carrying or transporting garbage, waste, or refuse to operate the vehicle or permit the vehicle to be operated upon or over any highway or public thoroughfare of this county unless the contents in the vehicle are covered with a tarpaulin or other covering which shall prevent the contents from escaping upon the highway or upon private property.

(Prior Code, § 40.004) (Ord. 82-6, passed 7- -1982) Penalty, see §70.99

§ 70.05 UNAUTHORIZED VEHICLES PROHIBITED.

(A) It shall be unlawful to operate any unauthorized vehicle, as defined herein, on streets or roadways previously accepted into the county road system and defined herein as "secondary streets".

(B) Provided, however, that there shall be permitted an exception to the above prohibition such that a resident owner may for not more than one residential construction project per calendar month permit the transport of unauthorized vehicles across secondary streets for the purpose of delivery of construction materials as may be necessary for the completion of said project. Should a resident owner encounter an emergency situation that would require further exceptions beyond the language of this section, application may be made to the County Judge/Executive to declare an emergency exception to permit further transport of unauthorized vehicles beyond that provided by this section.

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

SECONDARY STREETS. Those streets and roadways providing access to residential properties from main thoroughfares, but on which through traffic is not permitted nor intended.

UNAUTHORIZED VEHICLE. Cement mixers or any vehicle having more than two axles or ground contact with other than rubber tires.

(Prior Code, § 40.005) (Ord. 2002-26, passed 11-8-2002) Penalty, see §70.99

§ 70.06 SPEED LIMITS.

(A) An operator of a motor vehicle driving in excess of the maximum speed permitted by this section shall be guilty of a violation as defined by the state's Penal Code and subject to the fines provided therefor.

(B) The maximum speed permitted for vehicular traffic on any county roadway having a pavement width of less than 16 feet shall be 35 mph.

(C) The maximum speed permitted for vehicular traffic on any roadway in a major residential subdivision, as defined by the Winchester-Clark County Subdivision Regulations, shall be 25 mph.

(D) The maximum speed permitted for vehicular traffic on all other roadways for which a specific speed limit is not established shall be 45 mph.

(Prior Code, § 40.006) (Ord. 2002-31, passed 12-18-2002; Ord. 2003-3, passed 4-9-2003)

§ 70.07 VEGETATIVE GROWTH.

No vegetative planting exceeding 24 inches in height or width shall be permitted on any public right-of-way. Any vegetative growth exceeding these maximum dimensions shall be removed by the County Road Department.

(Prior Code, § 40.007) (Ord. 2002-31, passed 12-18-2002; Ord. 2003-3, passed 4-9-2003)

§ 70.08 ENTRANCES.

The following restrictions shall apply to all entrances onto a county maintained roadway, and specifically shall apply to all major and minor subdivisions, (including all residential tracts with 250 feet of frontage), as defined by the subdivision regulations for the county.

(A) All entrance surfaces of any kind shall be constructed such that the entrance surface shall, for a distance not less than 30 inches from the edge of the roadway pavement, be in the same plane as the roadway pavement.

(B) (1) No culverts shall be installed without prior approval of the County Road Supervisor. Written permission shall be obtained by the property owner prior to installation of the culvert.

(2) All culverts installed shall be no less than 15 inches in diameter and 30 feet in length; provided, however, that should a greater flow passage be necessary, the County Road Supervisor shall have the authority to require culverts of greater dimensions.

(C) No mailboxes or receptacles of any kind shall be placed closer than 30 inches from the edge of the existing pavement of any county roadway.

(D) On county roadways where the legal maximum speed for vehicular traffic is 35 mph, no entrance shall be permitted unless there is clear visibility for a minimum distance of 308 feet in either direction from the anticipated entrance.

(E) On county roadways where the legal maximum speed for vehicular traffic is 45 mph, no entrance shall be permitted unless there is clear visibility for a minimum distance of 396 feet in either direction from the anticipated entrance.

(Prior Code, § 40.008) (Ord. 2002-31, passed 12-18-2002; Ord. 2003-3, passed 4-9-2003)

§ 70.09 GRAVEL ROADS.

Gravel roads that were in existence in their present state prior to 1965, and not now a part of the county road system, may be accepted into the county road system for maintenance, by compliance with the following procedure.

(A) *Prerequisite conditions.* No gravel road shall be eligible for acceptance unless the following prerequisite criteria are met.

(1) No gravel roadway that does not serve at least four occupied residences, and abutted by at least four separate property owners, shall be considered for acceptance into the county road system.

(2) The gravel portion of the road bed to be accepted into the county road system shall be a minimum of 16 feet in width. Additionally, if required by the County Road Supervisor, there shall be a minimum of one foot of shoulder on either side of the gravel roadway level with the existing gravel surface.

(3) All property owners abutting the road proposed to be accepted must agree that the roadway be accepted into the county road system for maintenance. A written certification to that effect shall accompany any application proposing acceptance of a gravel roadway.

(4) All abutting property owners must execute a right-of-way easement in a total width of 30 feet, 15 feet on each side of a line constituting the centerline of the existing gravel roadway along the entire length of the proposed road.

(5) There shall be no fences, cattle guards, buildings or other structures, encroachments, or improvements located within the right-of-way to be dedicated.

(6) All fencing along the boundary line of the right-of-way shall be at the cost to the abutting owner. At no time shall any abutting owner graze livestock, cattle, or other domesticated animals without fencing along the right-of-way meeting the legal standard for livestock fencing.

(7) Unless the proposed roadway connects at both ends to an existing public roadway, at the termination point of the proposed roadway a turnaround shall be required of a size approved by the County Road Supervisor after considering the topography and road conditions. The property owner at which point the turnaround is to be located must grant the necessary right-of-way for the turnaround in addition to the right-of-way referred to and required in division (A)(4) above. The property owner shall grant a right-of-way easement of 15 feet from the centerline of the turnaround in all directions. The turnaround shall be constructed at the expense of the property owner.

(B) *Maintenance provisions.* All gravel roadways accepted under this provision into the county road system shall remain in a gravel condition for at least five years after the acceptance before they will be considered for the application of any permanent blacktop or asphalt surface.

(C) *Application.*

(1) Application for acceptance into the county road system of a gravel roadway shall be done by making a written request to the office of the County Judge/Executive. That application shall include the following information:

(a) The name and address of all abutting property owners;

(b) The stated width of the gravel surface and road shoulders;

(c) GPS coordinates of the point of intersection with an existing public roadway and the termination point;

(d) The width and existence of the required turnaround;

(e) A certification that all fences, cattle guards, buildings or other structures, encroachments, or improvements have been removed from the right-of-way to be dedicated; and

(f) The application must bear the signature of all abutting property owners and clearly indicate their agreement that the roadway be accepted into the county road system.

(2) (a) Once the application is received by the County Judge/Executive, it shall be referred to the County Road Supervisor for his or her determination that the proposed roadway meets the requirements set forth herein.

(b) The County Road Supervisor, once satisfied that the requirements have been met, shall certify to the County Judge/Executive that the proposed roadway meets all county requirements. The matter may then be placed upon the agenda for consideration by the County Fiscal Court.

(D) *Applicability of other county ordinances* Any gravel roadway accepted into the county road system under the provisions of this section, shall be subject to any and all other provisions of the code of ordinances as they pertain to county roads.

(Ord. 2004-10, passed 5-26-2004)

§ 70.10 PARKING PROHIBITED IN FIRE LANES OR ADJACENT TO FIRE HYDRANTS.

It shall be unlawful for any person to leave, station, set, or park any vehicle or other object within 15 feet of any fire hydrant or fire hose connection located upon or near the rights-of-way or within any designated fire lane within the county.

(Ord. 2003-2, passed 3-12-2003) Penalty, see §70.99

EXCAVATIONS

§ 70.25 CUTTING OF PUBLIC WAYS SUBJECT TO REGULATION.

It shall be unlawful for any person to dig into, disturb, or excavate any portion of any public road, street, alley, sidewalk, or other public place in the county outside of the city limits of Winchester except in accordance with the provisions of this subchapter.

(Prior Code, § 40.100) (Ord. 78-5, passed 9-13-1978) Penalty, see §70.99

§ 70.26 PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE.

(A) Every person engaged in the business of doing any of the work for which a permit may be issued under the provisions of § 70.22 shall, before engaging in any work or before applying for or securing a permit authorizing the breaking or opening of any of the roads, streets, alleys, sidewalks, or public ways within the unincorporated areas of the county, or before placing any material or other obstruction in, upon, across or over the sidewalks, streets, alleys, or public ways of the unincorporated areas of the county, procure and maintain public liability and property damage insurance in some good and solvent insurance company authorized to do business in the state covering any and all claims or judgements for any injury or damage to either person or property occurring or arising in any way or manner or connected in any way or manner with the placing, leaving, or maintaining of any material or other obstruction, in, upon, across, or over any of the sidewalks, streets, alleys, or public ways of the county. The insurance shall provide:

(1) To pay on behalf of the insured all sums which the insured shall become obligated to pay by reason of the liability imposed upon him or her or it by law for damages, including damages for care and loss of services, because of bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, caused by accident and arising out of the performance of any of the foregoing mentioned work, acts, or obligations; and

(2) To pay on behalf of the insured all sums which the insured shall become obligated to pay by reason of the liability imposed upon him or her or it by law for damages because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the performance of any of the foregoing work, acts, or obligations.

(B) The insurance shall be subject to limits of liability for bodily injury for any one accident in an amount of not less than \$10,000 for any one person and \$20,000 for two or more persons, and shall be subject to limits of liability for property damage for any one accident in an amount of not less than \$5,000 per accident.

(C) Before any permit under the provisions of §70.22 shall be issued, there shall be filed in the office of the County Clerk a certificate signed by the insurance company evidencing the fact the public liability and property damage insurance hereinabove provided for has been issued and paid for by the applicant and is in full force and effect, which certificate shall provide, among other things, that ten days' written notice shall be given to the County Judge/Executive before the insurance may be canceled, altered, or terminated. This cancellation, alteration, or termination of the insurance shall not become effective until ten days after the same shall have been read and recorded in the official minutes of the Fiscal Court.

(Prior Code, § 40.101) (Ord. 78-5, passed 9-13-1978)

§ 70.27 PERMIT REQUIRED; ISSUANCE; FEES; REPAIR.

(A) Any person desiring permission to dig into, disturb, or excavate any public street, alley, sidewalk, or other public place of the unincorporated areas of the county and having reasonable or sufficient cause for so doing shall make application for such permission to the County Road Supervisor on an appropriate printed form to be prepared and furnished by him or her for that purpose, showing the place of the proposed excavation, the purpose thereof, and the time when it is expected to be done.

(B) If in the opinion of the County Road Supervisor, the applicant has a reasonable and sufficient cause for making the excavation, he or she will issue a permit therefor, specifying therein a sum of money to be deposited by the applicant, which shall be sufficient to cover the cost of restoring and repairing the street or other place to be excavated. In lieu of requiring the deposit of a certain sum of money for each cutting, the County Road Supervisor, in his or her discretion, may permit an applicant to post a blanket bond to indemnify the county for the cutting of any street, road, and the like, in lieu of making a cash deposit for each cutting. When a blanket bond is posted, the County Road Supervisor shall encumber the bond each time a permit is secured and, when the cutting is properly restored, the County Road Supervisor shall then release the encumbrance against the blanket bond.

(C) Any excavation of any public street or roadway shall be done in such a manner that the surface cut must extend one foot in all directions beyond the excavated area such that the restored roadway surface will overlap existing, non-disturbed base material and sub-grade area. All surface restoration of excavated areas must consist of six inches of compacted dense grade aggregate, six inches of compacted base asphalt, and two inches of surface asphalt compacted. All seams shall be properly sealed with rubberized hot asphalt. In the alternative, eight inches of Class 1 concrete may be applied as a base with an overlay of two inches of surfaced asphalt compacted. All seams shall be properly sealed with rubberized hot asphalt.

(Prior Code, § 40.102) (Ord. 78-5, passed 9-13-1978; Ord. 2003-3, passed 4-9-2003)

§ 70.28 BARRICADES, LIGHTS, AND THE LIKE; LIABILITY FOR DAMAGES.

(A) It shall be the duty of any person excavating any street or other public place in the unincorporated areas of the county to put sufficient barricades around the work during the day and sufficient red lights or flare torches thereon at night to protect persons and property against danger.

(B) Such person shall be liable for damages which may result to any person or property by reason of such excavation and nothing herein shall be construed as to impute liability to the county for any such damage or to impose upon the county the duty of guarding and protecting persons and property from injury by reason of such excavation.

(Prior Code, § 40.103) (Ord. 78-5, passed 9-13-1978) Penalty, see §70.99

§ 70.29 RESTORATION STANDARDS.

After necessary work has been done, the following standards shall prevail in repairing the road, street, or alley:

(A) A crushed stone backfill of dense grade shall be applied into the repaired portion of the street; and

(B) After which, the pavement shall be replaced with concrete or with bituminous pavement, depending upon the particular street or road involved, of the same type and depth of the existing pavement.

(Prior Code, § 40.104) (Ord. 78-5, passed 9-13-1978)

ROADS AND BRIDGES

§ 70.40 PUBLIC HEARING REQUIRED.

Before the Fiscal Court expends any state-derived tax revenues on a state rural, secondary, county road, or municipal highway, road, street, or county or municipal bridge, it shall first hold a public hearing in accordance with the provisions of KRS 174.100 to take the sense of the public with regard to the priorities for use of tax monies for road and bridge purposes.

(Prior Code, § 40.200) (Ord. 80-20, passed 1-16-1981)

§ 70.41 NOTICE REQUIREMENTS.

Before the contemplated date of expenditure of state-derived tax revenue on a road or bridge by the Fiscal Court, the Court shall give notice in the manner required by KRS Chapter 424 of a public hearing to take the sense of the public with regard to road and bridge matters within the county. The hearing shall be held not less than seven nor more than 21 days after the first publication of the notice and before beginning work on any project covered by this subchapter.

(Prior Code, § 40.201)

Statutory reference:

Related provisions, see KRS 174.100(1)

§ 70.42 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

(A) At the hearing, any person may speak with regard to any proposed project, any project which he or she feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road and bridge projects.

(B) The Fiscal Court shall not be bound by the testimony heard at the hearing, but shall give due consideration to it.

(Prior Code, § 40.202)

Statutory reference:

Related provisions, see KRS 174.100(2), (3)

§ 70.43 HEARING TO BE HELD PRIOR TO CONSTRUCTION.

The Fiscal Court shall not begin construction on a road or bridge project wherein state-derived tax revenues are involved until the hearing as provided in § 70.35 has been held.

(Prior Code, § 40.203)

Statutory reference:

Related provisions, see KRS 174.100(4)

§ 70.44 SEPARATE HEARING FOR EACH PROJECT NOT REQUIRED.

This subchapter shall not be construed to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this subchapter.

(Prior Code, § 40.204)

Statutory reference:

Related provisions, see KRS 174.100(5)

§ 70.99 PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.
- (B) Any person, firm, or corporation who shall violate the provisions of §§70.02 or 70.05 shall be guilty of a misdemeanor and upon conviction fined not less than \$50 nor more than \$500 per offense. Each day the violation continues shall be deemed a separate offense.
- (C) Any person or corporation who shall violate the provisions of §70.03 shall be fined not less than \$100 nor more than \$500 for each violation.
- (D) Any person or operator or owner of any vehicle who violates the provisions of §70.04 shall be fined not less than \$10 nor more than \$100 for each offense.
- (E) Any person or entity, including operators and owners of any vehicle or other object, that violates the provisions of § 70.10 shall be fined not less than \$10 nor more than \$100 for each offense.
- (F) Any person who shall dig into, disturb, or excavate any public street, sidewalk, or other public place of the unincorporated areas of the county without a permit to do so as provided in § 70.22 or who shall fail to place sufficient lights or barricades on any such excavation as provided in § 70.23, or who shall violate any of the other provisions of this chapter, shall be subject to a fine of not less than \$10 nor more than \$100 or imprisonment for not more than 30 days or both fine and imprisonment.

(Prior Code, § 40.999) (Ord. 78-5, passed 9-13-1978; Ord. 82-6, passed 7- -1982; Ord. 88-13, passed 9-14-1988; Ord. 88-14, passed 9-14-1988; Ord. 2002-25, passed 11-8-2002; Ord. 2003-2, passed 3-12-2003)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. NUISANCES**
- 91. AGRICULTURAL PRACTICES**
- 92. ANIMALS**
- 93. PARKS AND RECREATION**
- 94. FAIR HOUSING**

CHAPTER 90: NUISANCES

Section

Litter Control

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LITTER CONTROL

§ 90.01 SHORT TITLE.

This subchapter shall be known and may commonly be referred to as "the Uniform Litter Control Ordinance".

(Prior Code, § 50.001) (Ord. 80-4, passed 3-12-1980)

§ 90.02 PURPOSE.

The purpose of this subchapter is to accomplish litter control in the county. This subchapter is intended to place upon all persons within the county the duty of contributing to the public cleanliness and appearance of the county in order to promote the public health, safety, and welfare and to protect the economic interest of the people of the county against unsanitary and unsightly conditions. It is further the intent of this subchapter to protect the people against the health and safety menace and the expense incident to littering.

(Prior Code, § 50.002) (Ord. 80-4, passed 3-12-1980)

§ 90.03 DEFINITIONS.

(A) All words used in the present tense include the future and past tense; all words in the plural number include the singular number, and all words in the singular number include the plural number.

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

COUNTY. The County of Clark, Kentucky.

DUMPOUTS. Any material emptied from a vehicle or building upon streets, roadsides, or public places other than that emptied in appropriate litter receptacles.

HANDBILL. Any printed or written material excluding newspapers, which advertises for sale any commodity or thing, or which directs attention to any business or other activity or event of any kind.

LITTER BAG. A bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person.

LITTER RECEPTACLE. Those containers meeting the requirements of the Department for Natural Resources and Environmental Protection.

LITTERING. All solid wastes including, but not limited to, containers, packages, wrappings, printed matter, or other material thrown, or deposited as herein prohibited, but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing.

NEWSPAPER. Any newspaper of general circulation as defined by general law.

PARK. A reservation, playground, beach, recreation center, or any other areas in the county denoted to active or passive outdoor recreation.

PERSON. Any individual, industry, public or private corporation, copartnership, association, firm, or other entity, whatsoever.

PRIVATE PROPERTY. Any property not publicly owned or held out for use by the public.

PUBLIC PLACE. Any area that is used or held out for use by the public whether owned or operated by the public or private interests.

SOLID WASTE. All putrescible and nonputrescible solid and semi-solid wastes including garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

STREET. Is synonymous with and includes any highway, road, alley, collector, local, arterial, or freeway within the political subdivision.

SWEEPOUTS. Any collection of debris, resulting from clean-up operations, that is deposited in or around a public place.

VEHICLE. Includes every device capable of being moved upon a public street and in, upon, or by which any person or property is or may be transported or drawn upon a public street, excepting devices moved by human or animal power or used exclusively upon stationary rail or tracks.

WATERCRAFT. Any boat, ship, vessel, barge, or other floating craft.

(Prior Code, § 50.003) (Ord. 80-4, passed 3-12-1980)

§ 90.04 LITTER IN GENERAL.

No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public place, in the county, or upon any private property not owned by him or her, or in any waters within the jurisdiction of the county whether from a vehicle or otherwise except:

- (A) When such property is designated by the state or by any of its agencies or the county for disposal of garbage and refuse, and the person is authorized by the proper public authority to so use the property;
- (B) Into a litter receptacle or other container in such manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the public place or any private property; or
- (C) When the person is the owner or does have control or custody of the property, or has prior consent of the owner or tenant in lawful possession of the property, or unless the act is done under the personal direction of the owner or tenant and provided the litter will not cause a public nuisance or be in violation of any other state or local laws, rules, or regulations.

(Prior Code, § 50.004) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.05 PLACEMENT OF LITTER RECEPTACLES.

(A) Litter receptacles shall be placed in all parks, trailer parks in respect to the service of transient habitation, gasoline service stations, tavern parking lots, shopping centers, grocery store parking lots, marinas, boat launching areas, beaches, bathing areas, and other public places in numbers appropriate to need.

(B) It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this section to procure and place and maintain the litter receptacles at his or her own expense on the premises.

(Prior Code, § 50.005) (Ord. 80-4, passed 3-12-1980)

§ 90.06 USE OF RECEPTACLES.

Litter receptacles placed on sidewalks and other public places shall be used only for such litter material as persons may have for disposal while passing along the street or other public places and in no event shall be used for the disposal of other solid waste accumulated in residences or places of business.

(Prior Code, § 50.006) (Ord. 80-4, passed 3-12-1980)

§ 90.07 DAMAGING RECEPTACLES.

It shall be unlawful for any person to willfully damage or deface any litter receptacle.

(Prior Code, § 50.007) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.08 REMOVAL OF LITTER.

It shall be the responsibility of the local municipality, county, or other agency or person owning or maintaining the same for the removal of litter from litter receptacles placed in parks, beaches, campgrounds, and other public places.

(Prior Code, § 50.008) (Ord. 80-4, passed 3-12-1980)

§ 90.09 SWEEPING LITTER INTO GUTTER PROHIBITED.

No person shall sweep into or deposit in any gutter, street, alley, or other public place the accumulation of litter from any building, lot, or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalks in front of their premises free of litter.

(Prior Code, § 50.009) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.10 THROWING OR DISTRIBUTING HANDBILLS IN PUBLIC PLACES.

No person shall throw or deposit any handbill upon any public place within the county; provided, however, that it shall not be unlawful for any person to hand out, without charge to the receiver thereof, any handbill to any occupant of a vehicle, or to any other person who is willing to accept it.

(Prior Code, § 50.010) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.11 DEPOSITING HANDBILLS ON UNINHABITED OR VACANT PROPERTY.

(A) No person shall throw or deposit any handbill in or upon any uninhabited or vacant property.

(B) The provisions of this section shall not apply to the distribution of mail by the United States nor newspapers, except that newspapers shall be placed on private residences or other private property in such a manner as to prevent their being carried or deposited by the elements upon any public place or upon private property.

(Prior Code, § 50.011) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.12 LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or otherwise deposit litter upon any public place or upon any private property.

(Prior Code, § 50.012) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.13 VEHICLE LOADING.

(A) No vehicle shall be driven or moved on any public street unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, or otherwise escaping therefrom, except that sand or gravel may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway surface in the cleaning or maintaining of the roadway by public authority having jurisdiction for the same or by persons under contract or other authorization by the public authority.

(B) Any person owning or operating a vehicle from which any glass or other objects of its load have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon the public street shall immediately cause the public street to be cleaned of all such glass or other objects and shall pay any cost therefor.

(Prior Code, § 50.013) (Ord. 80-4, passed 3-12-1980) Penalty, see §90.99

§ 90.14 ENFORCEMENT OFFICERS; PROCEDURES.

(A) Enforcement of this subchapter may be by any Deputy of the Sheriff's office. All such enforcement officers are empowered to issue citations and/or arrest without warrant, persons violating the provisions of this subchapter.

(B) The enforcement officers may serve and execute all warrants, citations, and other processes issued by the courts. In addition, mailing by registered mail of the warrant, citation, or other process to the last known place of residence of the offender shall be deemed as personal service upon the person charged.

(Prior Code, § 50.014) (Ord. 80-4, passed 3-12-1980)

§ 90.15 ENFORCEMENT SYSTEM FOR VIOLATIONS.

(A) In arriving at realistic penalties for violations of the provisions of this chapter, the primary objective has been to establish them as part of the simplest enforcement system.

(B) The system has these features:

- (1) A mail-in ticket which:
 - (a) Identifies the violator;
 - (b) Lists and identified violations of the ordinance provisions by section numbers;

- (c) States the prescribed fine beside each violation listed;
- (d) Provides simple instructions on where the ticket is to be mailed with a check or money order in the amount of the stipulated fine; and
- (e) States a simple procedure to follow if the violator elects to appear in court to plead his or her case rather than mail in the fine.

(2) Use of the above ticket by all departments and agency personnel authorized to enforce sections of the chapter; and

(C) Use for particularly flagrant violations (dumpouts, garbage spreading from badly overloaded solid waste containers, debris-strewn property, and the like). This would be in the form of a direct summons to court with penalty ranges substantially above those on the mail-in ticket.

(Prior Code, § 50.015) (Ord. 80-4, passed 3-12-1980)

PROPERTY MAINTENANCE

§ 90.30 APPLICATION.

The following acts and conditions shall constitute a nuisance in any subdivision and on any property that is within a zoning classification of residential, business, and/or industrial in the county. This Code shall also apply to any manufactured housing developments. Nothing in this Property Maintenance Code shall apply to property which is otherwise zoned agricultural and does not meet any of the requirements set forth herein. For the purposes of this Property Maintenance Code, the term **SUBDIVISION** shall be defined as any parcel of land that has been subdivided into two or more parcels of land for residential purposes or for the construction of a residence and which subdivided parcels consist of an area less than one acre in size and/or have less than 250 feet of frontage on any roadway.

(Ord. 2009-15, passed 9-23-2009)

§ 90.31 PROHIBITED CONDUCT.

Whatever is dangerous to human health, whatever renders the ground, water, air, or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, declared nuisances and are prohibited and made unlawful:

- (A) Accumulating putrid or putrescent rubbish, garbage, vegetable, or animal or fowl refuse which emits odors, or is unsightly or a fire hazard, or is otherwise obnoxious to the general public;
- (B) Permitting any private storm sewer or private sanitary sewer to become stopped up, or to be open to the air, or to overflow;
- (C) Permitting storm sewers or drains to flow into the sanitary sewer system;
- (D) Connecting roof or surface drainage with or permitting it to be fed into the sanitary sewer system;
- (E) Collecting and dispensing roof or surface drainage directly onto an adjoining property in a way that may cause damage to that property on which the discharge is directed;
- (F) Stopping, impeding, or permitting any stoppage or impedance in the flow of water through storm sewers or private sanitary sewers, or diverting the flow of natural drainage water through natural drains, whether through open drainage ditches or enclosed drains. It shall be the duty of all property owners in the county to keep storm sewers, private sanitary sewers, and private natural drains on or passing through their property open and in proper operation and to prevent stoppage or interference with proper drainage;
- (G) Maintaining or tolerating open cisterns, pools, ponds, or similar water containers in which the accumulation of water and filth is allowed to stagnate and to become obnoxious or detrimental to the health and welfare of the community or county at large;
- (H) Outside open toilets where water and sewer facilities are available;
- (I) Drainage from outside toilets or cesspools onto the property of other persons, or exposure of such outside toilets to flies and mosquitoes, or permitting the emission of odors which are obnoxious to the contiguous community;
- (J) Materials used to fill vacant or undeveloped land shall consist of dirt, sand, rock, stone, gravel, or similar non-organic matter only; materials prohibited for use as fill shall include, but not be limited to: furniture, solid waste, wood, metal, plastic, glass, rubber or rubber substitute, appliances, debris, and any organic matter whatsoever:
 - (1) All and any dirt, earth, rock, or debris within the county shall be kept and/or transported in such manner that it will not wash, drain, be tracked, spilled, or otherwise caused to enter and be deposited in or upon the streets, sanitary sewers, storm sewers, and/or other drainage facilities in the county;
 - (2) Any person who displaces or relocates or causes to be displaced or relocated any dirt, earth, rock, or debris, and such displacement or relocation places the dirt, earth, or debris in such a manner that it washes, drains, or is caused to enter and be deposited in or upon the streets, sanitary sewers, storm sewers, and/or other drainage facilities in the county, shall forthwith remove and relocate said dirt, earth, rock, or debris to a safe location and shall clean up or cause to be

cleaned up any dirt, earth, rock, or debris that has washed, drained, or entered any street, storm sewer, sanitary sewer, or other drainage facility. The provisions of this section apply also to any person, including property owners, building contractors, or developers, who directs or permits another person to drive a vehicle onto a building site so as to displace or relocate any dirt, earth, rock, or debris in the manner described in this section. Said erosion control shall be carried out by the construction and implementation of a silt fence around such dirt, earth, rock, or debris to prevent such matter from washing, draining, or being deposited onto any street, storm sewer, sanitary sewer, or drainage facility; and

(3) When such person as described in division (J)(2) above fails to forthwith remove and relocate any dirt, earth, rock, or debris and to clean up or cause to be cleaned up the dirt, earth, or debris as required by division (J)(2) above, the county may proceed to remove and relocate and clean up the dirt, earth, rock, or debris. In such case, the county may charge the responsible person with the cost of the removal, relocation, and cleanup of the dirt, earth, or debris.

(K) It shall be unlawful and a nuisance for any person owning, occupying, or having control or management of any land within the county to permit the excessive growth of weeds or grass. For purposes of this section, **EXCESSIVE GROWTH** shall be defined to mean any growth of weeds or grass greater than 12 inches in height;

(L) It shall be unlawful and a nuisance for any person to leave, place, dump, or throw dead leaves, grass, or weeds of any kind on the streets, roads, or other public places of the county;

(M) It shall be unlawful and a nuisance for any person to leave, place, dump, or throw trash, tin cans, garbage, or refuse of any kind on the streets, roads, or other public places of the county;

(N) Storage of any stripped, partially dismantled, wrecked, junked, or abandoned motor vehicle, or any motor vehicle which cannot be safely operated upon the public ways, and of any other vehicles, machinery, or implements, which hereinafter are collectively described as "said personality", which are visible from a public road, visible from a neighboring residence, or outside of a solid walled and securely locked structure of a height sufficient to conceal said personality from public view for a period of 30 days or more (except where permitted in connection with a properly zoned and licensed business) within the county, is hereby declared to be a public nuisance and dangerous to the public health, safety, and welfare. Whenever any of said personality is actively being repaired, the person herein below required to abate the nuisance may, upon written request delivered to the codes enforcement personnel within the first 30 days of the existence of the nuisance, receive an additional 30 days within which to complete the repairs and abate the nuisance. In no event shall such nuisance continue for more than 60 days;

(O) Storage of any equipment, such as, but not limited to, refrigerators, television sets, cooking ranges, other major appliances or major items of furniture, central, window, or thru-the-wall heating or air conditioning units, and other personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, which hereinafter are collectively described as "said personality", which are visible from a public road, visible from a neighboring residence or outside of a solid walled and securely locked structure of a height sufficient to conceal said personality from public view for a period of 30 days or more (except where permitted in connection with a properly zoned and licensed business) within the county, is hereby declared to be a public nuisance and dangerous to the public health, safety, and welfare. Whenever any of said personality is actively being repaired, the person herein below required to abate the nuisance may, upon written request delivered to the codes enforcement personnel within the first 30 days of the existence of the nuisance, receive an additional 30 days within which to complete the repairs and abate the nuisance. In no event shall such nuisance continue for more than 60 days;

(P) It shall be unlawful and declared to be a public nuisance and dangerous to the public health, safety, and welfare for any person in the county to leave, place, dump, or throw any items, such as, but not limited to, motor vehicles, recreational vehicles, machinery (motorized or not), implements, equipment, refrigerators, television sets, cooking ranges, other major appliances or major items of furniture, central, window, or thru-the-wall heating or air conditioning units, any other personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, or to plant trees, shrubs, bushes, or any other vegetation at an intersection of any public roadway in the county, that causes the line of sight for an approaching vehicle to be blocked when the front of the approaching vehicle is ten feet or less from the intersecting line of the two roadways;

(Q) No person, firm, or corporation shall abandon for any length of time nor deposit said personality upon the property of any person, firm, or corporation; and

(R) It shall be unlawful and declared to be a public nuisance and dangerous to the public health, safety, and welfare for any person in the county to leave, place, dump, throw, accumulate, or store more than six tires in an open, outdoor area. This division (R) does not apply to tires that are stored in any building that is enclosed with a roof and four walls or the storage of tires as part of a legitimate business or commercial enterprise.

(Ord. 2009-15, passed 9-23-2009) Penalty, see §90.99

§ 90.32 ABATEMENT OF NUISANCES.

(A) (1) The owner, owners, tenants, lessees, and/or occupants of any lot or tract of ground within the corporate limits of the county upon which storage, abandonment, or deposit is made, and also the owner, owners, and/or lessees of said personality involved in such storage (all of whom are hereinafter referred to collectively as "owners") shall jointly and severally abate said nuisance by the prompt removal or storage in a suitable enclosure of said personality.

(2) If an owner causes the removal of the personality of a tenant/lessee and/or occupant to a location in public view, the owner/lessor or any interested party shall post a 12-inch by 20-inch sign at the location which sets out the date and time and

states in three inch letters, "This property will be removed and discarded within 72 hours". Any person who removes the personality after expiration of said 72-hour period shall not be liable for the loss or destruction of the goods.

(B) When said owners fail to abate said nuisance or whenever the county is unable to ascertain the identity of the owners of said personality or of the real estate upon which it is located, then the county shall remove said personality and dispose of same in the same manner provided in KRS 189.751 for automobiles abandoned upon county roads, and KRS 376.275. Furthermore, the county may abate aforesaid nuisances as provided in KRS 65.8840.

(Ord. 2009-15, passed 9-23-2009)

§ 90.33 APPLICATION; ENFORCEMENT.

(A) The existence of any nuisance prescribed in this subchapter shall be a violation of this subchapter if the nuisance exists or continues within the county.

(B) Any law enforcement officer may, upon probable cause as required by law, procure a search warrant for the purpose of going upon private property to determine if such nuisance as hereinabove described exists; and any law enforcement officer or employee of the city or county and any aggrieved citizen or property owner of the county may, upon proper affidavit as required by law, cause to be issued a warrant of arrest for any said owner who may be in violation hereof.

(Ord. 2009-15, passed 9-23-2009)

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating the provisions of § 90.04 shall be guilty of a misdemeanor and, in addition to or in lieu of any other penalty provided below, such person may, in the sound discretion of the court, be directed by the court to pick up and remove from any public place or any private property, with permission of the owner, or the person in possession of the property, upon which it is established that the person has deposited litter and any and all litter deposited thereof by anyone prior to the date of the execution of the sentence.

(C) (1) The schedule of penalties for violations of this chapter is as follows.

<i>Violation</i>	<i>Amount</i>
<i>Violation</i>	<i>Amount</i>
Depositing commercial solid waste in sidewalk or other pedestrian receptacles	\$50
Depositing household solid waste in sidewalk or other pedestrian litter receptacles	\$25
Dumpouts	\$300
Failure to bundle and tie loose excess household solid waste	\$20
Failure to follow prescribed putout practices	\$25
Failure to provide litter receptacles	\$50
Failure to replace defective commercial containers	\$50
Failure to replace defective household containers	\$25
Improper commercial solid waste containerization	\$50
Improper disposal of household bulk	\$50
Improper household solid waste containerization	\$20
Inability to show proof of proper end disposition of construction/demolition	\$100
Lack of containers at loading/unloading operations	\$25
Litter by pedestrians and motorists	\$20
Litter on private premises	\$50
Litter on sidewalks and strips	\$25
Littering with handbills, leaflets, and the like	\$35
Sweepouts	\$35
Transporting loose materials without adequate covering	\$100
Uncovered commercial containers	\$25
Uncovered household containers	\$10

(2) Each and every day during which a stationary violation continues, except in cases in which a given time has been

allowed for corrective action to be taken, shall be a separate and distinct offense.

(D) Should the owners allow said nuisance (as described in §§90.30 to 90.33) to exist or fail to abate said nuisance or abandon and deposit said personality on the property of another, then each of them, upon conviction thereof, shall be fined not less than \$25 nor more than \$500 for each offense. A separate offense shall be deemed to have been committed on each day such nuisance is permitted to exist, after the initial 30-day period.

(Prior Code, § 50.999) (Ord. 2009-15, passed 9-23-2009)

CHAPTER 91: AGRICULTURAL PRACTICES

Section

Aerial Spraying of Pesticides

- 91.01 Purpose
- 91.02 Aerial application of pesticides; notice required
- 91.03 Exception
- 91.04 Wind conditions

Preservation of Farmer's Rights

- 91.15 Customary agricultural practices

- 91.99 Penalty

AERIAL SPRAYING OF PESTICIDES

§ 91.01 PURPOSE.

This chapter is designed to promote:

- (A) The protection of health and welfare of citizens of the county by ensuring that citizens are informed whenever the aerial spraying of pesticides will be done in their community; and
- (B) The protection of the health and welfare of the citizens of the county, their persons, pets, livestock, and vegetation, by requiring that drift from aerial spraying be confined within the boundary of the property being treated.

(Prior Code, § 51.001) (Ord. 87-10, passed 7-15-1987)

§ 91.02 AERIAL APPLICATION OF PESTICIDES; NOTICE REQUIRED.

- (A) Anyone who has over 40 acres under cultivation who applies pesticides by aerial spraying to any part thereof shall give notice as provided by this section prior to each spraying.
- (B) Notice shall be reasonably calculated to provide actual notice to persons living on or present upon or likely to be present upon property contiguous to the property being sprayed.
- (C) Notice reasonably calculated to provide actual notice means posting of notice on the perimeter of the property to be sprayed in a manner which is visible to the public not less than 24 hours prior to the spraying.
- (D) Posted signs along the perimeter shall be no smaller than eight inches by 11 inches in size and specify the word "Warning" in letters at least one inch in height. All notices shall include the location of the property to be sprayed, the approximate time of the spraying, the pesticides to be used, and the telephone number of the agency to call in case of human or animal exposure to the pesticide.

(Prior Code, § 51.002) (Ord. 87-10, passed 7-15-1987; Ord. 87-12, passed 10-14-1987) Penalty, see §91.99

§ 91.03 EXCEPTION.

Any person who has 40 acres or less shall not have to comply with the notice provisions of §91.02. He or she shall give written or verbal notice to adjoining landowners not less than 24 hours prior to the aerial spraying. This notice shall include the name of pesticides used, location of spraying, and the number to call in case of human or animal exposure which is printed on the container.

(Prior Code, § 51.003) (Ord. 87-10, passed 7-15-1987)

§ 91.04 WIND CONDITIONS.

The aerial spraying shall take place in such a fashion and under such wind conditions that there will be no drift onto

adjacent property not owned or leased by the party on whom the spraying is taking place or on a public right-of-way.

(Prior Code, § 51.004) (Ord. 87-10, passed 7-15-1987) Penalty, see §91.99

PRESERVATION OF FARMER'S RIGHTS

§ 91.15 CUSTOMARY AGRICULTURAL PRACTICES.

(A) Customary agricultural practices in and around rural residential developments, such as five acre tracts, in the agricultural zoned areas of the county (A-1) shall not constitute a nuisance as codified in KRS 411.500 et seq.

(B) Customary agricultural practices include, but are not limited to, the following:

(1) Plowing, spraying, mowing, irrigation, growing, and harvesting of crops including grass, legume, hay, grain, tobacco, fruit and truck or vegetable crops, floriculture, horticulture, growing of mushrooms, nursery and forest planting stock orchards, forestry, and the operation of greenhouses;

(2) Keeping, raising, and feeding of livestock and poultry, fowl, swine, beef, and dairy cattle, pony and horse production;

(3) Fur, game, fish, and wildlife farm operation;

(4) Farm buildings used for growing, harvesting, and preparing crop products for market;

(5) Roadside stands and signs pertaining to the sale or use of the premises or products produced thereon;

(6) Farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock and poultry, and preparing livestock and poultry products for market;

(7) Construction on fences, waterways, ponds, and contours; and

(8) Other reasonable agricultural practices which from time to time shall be customary.

(C) The practices specified in division (B) above are expected to result in the detection of odors, noise, and dust on neighboring properties.

(Prior Code, § 51.100) (Ord. 95-12, passed 7-27-1995)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any violation of the provisions of §§ 51.002 or 51.004 shall result in a fine of no less than \$100 and no more than \$1,000.

(Prior Code, § 51.999) (Ord. 87-10, passed 7-15-1987)

CHAPTER 92: ANIMALS

Section

General Provisions

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- 92.02 License fee
- 92.03 Licensing procedure
- 92.04 Rabies vaccination required
- 92.05 Confinement required
- 92.06 Acceptable methods of confinement
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- 92.11 Animal cruelty
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- 92.30 Confinement required
- 92.31 Nuisances prohibited
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- 92.33 Transfer of detained animals
- 92.34 Reclamation by owner or custodian
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Exotic Species

- 92.50 Definition
- 92.51 Keeping of exotic species prohibited; exceptions

Animal Shelter

- 92.65 Operating procedures
- 92.66 Fees

92.99 Penalty

GENERAL PROVISIONS

§ 92.01 CANINE LICENSE REQUIRED.

Any owner of a canine within the limits of the county shall apply to a participating veterinarian or his or her agent for the appropriate license. Proof of current rabies inoculation shall be evident by presentation of a tag or certificate issued by a licensed veterinarian or his or her agent. A county dog license shall be required for all canines over four months of age. Individual dog licenses shall be renewed each year not less than 335 days nor more than 380 days from the previous date of issue. License tags shall be firmly affixed to a harness or collar worn by the canine at all times. If a canine is found not to be wearing its county dog license, the owner may prove that the canine has been licensed by providing a certificate of purchase from the veterinarian or his or her agent. If the owner is unable to locate the license tag, a replacement tag shall be purchased from a participating veterinarian or his or her agent. The replacement tag shall be effective from the date of purchase through the expiration of the original license and shall be affixed to a harness or collar worn by the canine at all times. Canines kept temporarily (less than 30 days) within the county for the purpose of breeding, showing, or any other activity not prohibited by this chapter shall not require a county dog license, but owners shall be required to provide proof of current rabies vaccination by producing a rabies tag or certificate issued by a licensed veterinarian or his or her agent.

(Ord. 2015-11, passed 1-13-2016)

§ 92.02 LICENSE FEE.

The fee for each county dog license shall be \$8. The fee for a replacement license tag of a lost, unexpired license shall be \$3. Owners of animals adopted from the County Animal Shelter are exempt from this fee for 365 days following adoption.

(Ord. 2015-11, passed 1-13-2016; Ord. 2017-28, passed 7-12-2017)

§ 92.03 LICENSING PROCEDURE.

County dog license tags are purchased by the County Fiscal Court on behalf of the County Animal Shelter. The Director of the County Animal Shelter will dispense county dog license tags to licensed veterinarians practicing within the limits of the county. Each canine that is inoculated against rabies and whose owner's primary address lies within the limits of the county shall additionally be issued a county dog license and the owner shall pay the associated fees. A canine whose owner can provide proof that the canine received a rabies inoculation by a licensed veterinarian practicing outside the limits of the

county and whose owner's primary address lies within the limits of the county; a canine that is inoculated or whose owner can provide proof that the canine has been inoculated against rabies and whose owner's primary address does not lie within the limits of the county but the primary residence of the canine lies within the limits of the county shall be issued a county dog license and the owner shall pay the associated fees. Four dollars of the license fee or \$2 of the replacement license fee shall be paid to the County Fiscal Court for the purpose of maintaining the animal shelter, \$1 of the license fee or replacement license fee shall be retained by the issuing veterinarian in exchange for his or her services of collecting this fee and maintaining a record of licenses issued. Veterinarians practicing within the limits of the county shall pay county dog license fees collected for the preceding quarter to the County Fiscal Court on or before October 15, January 15, April 15, and July 15. A statement including the total number of license issued, replacement license issued, and free license issued (if adopted from the County Animal Shelter) should accompany the payment each quarter.

(Ord. 2015-11, passed 1-13-2016)

§ 92.04 RABIES VACCINATION REQUIRED.

The owner of a domesticated animal shall have said animal vaccinated against rabies in compliance with KRS 258.015. If the animal is a canine, the owner is to firmly affix the rabies tag issued by the administering veterinarian to the harness or collar that should be worn by the canine at all times. If a canine is found to be running at large and not wearing a current rabies tag, the canine will be assumed to have not been vaccinated against rabies and will be admitted to the County Animal Shelter under such assumption. The owner of the animal may provide proof at the time of reclamation that the animal has been vaccinated against rabies by providing a certificate issued by the administering veterinarian. If the owner cannot provide proof that the animal has been vaccinated against rabies, the owner, upon reclamation, must purchase a voucher for a rabies vaccination from the County Animal Shelter and agree to redeem the voucher at a participating veterinarian within seven days of issuance.

(Ord. 2015-11, passed 1-13-2016)

§ 92.05 CONFINEMENT REQUIRED.

(A) The owner, or his or her designee, of every canine within the limits of the county shall at all times keep such canine confined on his or her property and be in immediate control of the canine.

(B) A canine may be allowed outside of the property of its owner or his or her designee if the canine is accompanied by and in immediate control of its owner or his or her designee by way of a leash and harness or collar, or if the canine is in a location designated for off leash animals and under voice control of its owner.

(Ord. 2015-11, passed 1-13-2016)

§ 92.06 ACCEPTABLE METHODS OF CONFINEMENT.

(A) A fence constructed of chain link, plastic, wood, or other material that is in good condition and would not be deemed hazardous to the animal;

(B) An invisible fence or underground fence with electrical current;

(C) A chain or tie out that provided that it meets the regulations set forth in §92.14(D).

(Ord. 2015-11, passed 1-13-2016)

§ 92.07 IMPOUNDMENT.

Any canine found running at large within the limits of the county and not confined in the manner prescribed in §§92.05 and 92.06, whether licensed or unlicensed, shall be taken up by any Dog Warden and impounded in the County Animal Shelter and there confined in a humane manner for a period of not less than five days, inclusive of the date of seizure unless sooner claimed by its owner or his or her designee. Thereafter, the canine may be placed for adoption or humanely euthanized. A canine surrendered to the County Animal Shelter by a third party, whose owner is unknown, shall be held at the shelter in the same manner. A canine that is surrendered to the County Animal Shelter by the owner or designee may immediately be placed for adoption or humanely euthanized at the discretion of the Director of the County Animal Shelter. If any animal found running at large, whose owner is unknown and is unable to be immediately located by reasonable means is injured, the animal will be transported to a participating veterinary clinic and may be humanely euthanized prior to the five-day hold period if it is the recommendation of the attending veterinarian for humane reason.

(Ord. 2015-11, passed 1-13-2016)

§ 92.08 TRANSFER OF DETAINED ANIMALS.

The Director of the County Animal Shelter or his or her designee may transfer ownership of any animal held at the shelter provided that the animal has been surrendered by the owner or that the legal detention period set forth in § 92.07 has been met; provided, that the adopter pays the fees set forth by the County Fiscal Court and in compliance with state laws pertaining to rabies inoculation and licensing. All animals adopted from the County Animal Shelter must be surgically sterilized prior to transfer of ownership. If an animal cannot be sterilized at the time of adoption due to a medical reason, the adopter agrees to return the animal at the appropriate time as designated by the veterinarian and provide the County Animal Shelter with proof that the animal has been sterilized.

§ 92.09 RECLAMATION BY OWNER.

The owner of an animal or his or her designee may claim an animal being held at the County Animal Shelter within five days, inclusive of the date of intake, provided that proof of ownership can be produced, as well as proof that the animal has been inoculated against rabies in accordance with KRS 258.015, proof that canines have a valid county dog license, and payment of fees set forth by the County Fiscal Court. If proof of ownership can be provided but proof cannot be provided that the animal has been inoculated against rabies or has a valid county dog license, if a canine, the owner will be required to purchase a voucher for these services that must be redeemed at a participating veterinarian within five days. If an animal found running at large has required medical treatment by a veterinarian, the owner will be required to reimburse the cost of treatment to the County Animal Shelter before the animal is released. After five days, inclusive of the date of intake, an animal can no longer be claimed and must go through the adoption process even if the other requirements of this subchapter are met.

(Ord. 2015-11, passed 1-13-2016)

§ 92.10 QUARANTINE.

Any animal that is reported to have bitten a human may be picked up by a County Dog Warden and impounded in the County Animal Shelter for the applicable quarantine period. In the event an animal is impounded for a quarantine period, the owner shall be responsible for a boarding fee set forth by the County Fiscal Court and any additional fees related to rabies inoculation and county licensing that may apply. If an animal is not claimed by the owner within five days of release from the quarantine period, the animal will be considered abandoned and may be humanely euthanized or adopted as deemed appropriate by the Director of the County Animal Shelter.

(Ord. 2015-11, passed 1-13-2016)

§ 92.11 ANIMAL CRUELTY.

(A) Any animal involved in an alleged violation of KRS 525.125, 525.130, or 525.135 may be confiscated and held at the County Animal Shelter in a humane manner. Upon taking custody of an animal pursuant to KRS 525.125, 525.130, or 525.135, the responding Dog Warden shall give notice of the seized animal by posting a notice at the location the animal was taken into custody or by delivering notice to a person residing at the property.

(B) The notice shall include the date and time the animal was taken into custody, as well as the name and phone number of the County Animal Shelter. The animal shall remain in the custody of the County Animal Shelter until the matter is resolved and the Director of the County Animal Shelter is notified of the outcome in writing by the County Attorney.

(1) Upon a plea or a finding of guilt, the animal shall become the property of the County Fiscal Court and may immediately be offered for adoption or may be humanely euthanized at the discretion of the Director of the County Animal Shelter.

(2) Upon a dismissal of charges or a finding of innocence, the animal shall immediately be made available to the owner. If the animal is not claimed by the owner within five days of the dismissal or acquittal, the animal shall become property of the County Fiscal Court and may be placed for adoption or humanely euthanized as deemed appropriate by the Director of the County Animal Shelter.

(Ord. 2015-11, passed 1-13-2016)

§ 92.12 HARBORING A VICIOUS ANIMAL.

Any animal that has bitten a person when unprovoked may be deemed vicious if:

(A) The person bitten files a criminal complaint for the purpose of having the animal declared vicious;

(B) If an animal bites or attempts to bite a human, the animal shall be impounded at the County Animal Shelter for quarantine period. After an animal has been impounded at the County Animal Shelter three times within a 365-day period for the purpose of quarantine, the Director of the County Animal Shelter may petition to have the animal declared a vicious animal;

(C) It shall be unlawful for any person to keep or harbor within the limits of the county an animal known to be vicious unless it is at all times kept on the owner's or harbinger's property securely confined indoors or in a securely enclosed and locked outdoor pen or shelter suitable to prevent the entry of persons other than the owner of the animal and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet, must have secure sides and must be at least seven feet high, and have a secure top. If it has no concrete, cement, or asphalt bottom, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the animal. A vicious animal shall be transported to or from the indoors and the securely enclosed and locked outdoor pen or shelter only if such animal is muzzled and restrained by a suitable chain or leash not exceeding six feet in length and under the control of a responsible adult. The muzzle must be made in a manner that it will not cause injury to the animal or interfere with its vision or respiration but will prevent the animal from biting any person or animal;

(D) A vicious animal shall be permitted off the owner's or harbinger's property only if such animal is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the control of a responsible adult and

only for the purposes authorized by KRS 258.235. The muzzle must be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but must prevent the animal from biting any person or animal;

(E) When any animal is required by this section to be confined, it shall also be required that a conspicuous notice be posted at the place of confinement of such a nature as to warn the public of the nature of the animal therein confined; or

(F) No person under the age of 18 years shall be permitted to own, harbor, or handle a vicious animal.

(Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

§ 92.13 CARE AND TREATMENT OF ANIMALS.

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

ADEQUATE FOOD. The provision of foodstuff that is uncontaminated, wholesome, palatable, and of sufficient quality and nutritive value to maintain the normal condition and weight of the animal. Food shall be provided at suitable intervals or at least once a day, unless restricted by a veterinarian. The diet shall be appropriate for the animal's species, age, and condition. Food shall be served in a receptacle, dish, or container that is physically clean and absent of agents injurious to the health of the animal.

ADEQUATE SHADE. For dogs, one or more separate outside areas of shade, large enough to contain all dogs at one time and to protect them from the direct rays of the sun. A doghouse shall not constitute **ADEQUATE SHADE**. For all other animals that, as determined by species, require shade, **ADEQUATE SHADE** means one or more outside areas of shade large enough to protect all the animals present from the direct rays of the sun.

ADEQUATE SHELTER. For dogs, an appropriate, durable, enclosed, permanent structure, or a structure manufactured to serve primarily as an outdoor shelter for a dog, with a roof, four sides, and a floor constructed in a manner to protect a dog's feet and legs from injury and with dimensions appropriate for breed and size. The shelter shall provide the dog adequate protection and shelter from heat and cold and from the direct effect of wind, rain, and snow. The shelter shall have a sufficient amount of clean organic bedding material (e.g., straw, hay, or wood shavings) to keep the dog warm and dry. For all other animals, **ADEQUATE SHELTER** means an appropriate structure that provides the animal adequate protection and shelter, as determined by the animal's species, from heat and cold and from the direct effect of wind, rain, and snow.

ADEQUATE WATER. Constant access to a supply of clean, fresh, drinkable water, unless restricted by a veterinarian, which is provided in a sanitary manner.

VETERINARY CARE. An appropriate level of professional medical care and treatment by a licensed veterinarian to maintain the proper health and condition of an animal as determined by its species, breed, and age.

(Ord. 2015-11, passed 1-13-2016)

§ 92.14 PROHIBITED ACTS.

It shall be unlawful:

(A) For any person within the county to unnecessarily or cruelly beat, torture, abuse, or otherwise mistreat any horse or other animal, whether his or her own or that of another, or to subject such an animal to any condition that is likely to result in harm to the animal;

(B) For the owner or harborer of an animal to fail to provide the animal with adequate food, water, shelter, shade, or veterinary care;

(C) For a dog's housing area or enclosure to be excessively muddy or contain standing water, due to a lack of ground cover, or be otherwise unsanitary. A dog's area or enclosure shall be free of objects or contaminants which are likely to cause injury or be detrimental to the health of the dog, including, but not limited to, rusty or jagged metal objects, broken glass, or harmful chemical solvents or agents; and

(D) For the owner or harborer of a dog to use a collar or harness made of wire, flat chain, chain with sharp edges, or chain with rusty or non-uniform links. If attached to a tether, the collar or harness shall be properly fitting and not primarily metal or choke-type. The tether attached to a collar or harness shall be of a weight and material appropriate for the breed and size of the animal; cannot weigh more than five pounds total weight; be no less than 12 feet in length; and have swivels at both ends. A person shall not wrap a tether directly around a dog's neck. An area where a dog is tethered shall be free of objects which could become tangled in the tether. The tether shall be secured to a fixed immobile point that allows freedom of movement while withstanding the force necessary to restrain the dog.

(Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

§ 92.15 POISONING AND THE LIKE.

No person shall unlawfully kill, disfigure, maim, poison, or attempt to administer poison to any animal.

(Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

§ 92.16 ABANDONING DISABLED ANIMAL.

No person shall leave or cause to be left any wounded, diseased, or infirm animal on a street, alley, lot, or commons to die a lingering death

(Ord. 10-99, passed 1-28-1999; Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

§ 92.17 FIGHTS; WAGERING.

Intentionally causing or instigating the fighting of animals or fowl in the county is hereby prohibited.

(Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

§ 92.18 WHEN RESTITUTION REQUIRED FOR IMPOUNDMENT.

Animal control officers may seize and impound any animal or fowl which is the subject of a violation of the provisions of §§ 92.14 to 92.17. In addition to any other penalties provided in this chapter, any person violating the provisions of §§ 92.14 to 92.17 shall be subject to an order of restitution for the actual costs incurred in seizing, impounding, and confining the animal or fowl.

(Ord. 2015-11, passed 1-13-2016)

§ 92.19 NUISANCES CREATED BY ANIMALS.

(A) It shall be unlawful for the owner or harborer of an animal to permit:

- (1) Any animal to attack, chase, or snap at pedestrians or passersby;
- (2) The accumulation of animal excrement so as to cause unsightly litter or fouling of the air by odor and thereby create an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
- (3) Unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.

(B) Any animal which is the subject of any violation of this section may be impounded as set forth in §92.07.

(Ord. 2015-11, passed 1-13-2016) Penalty, see §92.99

RUNNING AT LARGE

§ 92.30 CONFINEMENT REQUIRED.

The owner, custodian, possessor, or harborer of every dog in the county shall at all times keep such dog either:

(A) Confined on his or her own premises;

(B) Firmly secured by means of collar or chain and leash or other device so that it cannot stray from the premises on which it is secured or from its owners custody; or

(C) Be in the immediate control of its owner, custodian, or possessor, and/or engaged in a hunt and under control of its owner, custodian, or possessor.

(Prior Code, § 53.025) (Ord. 2001-13, passed 11-14-2001)

§ 92.31 NUISANCES PROHIBITED.

Any person, firm, or corporation who shall own, keep, have in his or her possession, or harbor any dog which, by frequent or habitual unprovoked howling, yelping, or barking, shall cause a nuisance by creating a serious annoyance or disturbance to a person or persons of ordinary sensibilities in the neighborhood shall be fined not more than \$20 for each offense which occurs at least one day after a warning notice from the police or sheriff. A separate offense shall be deemed committed on each calendar day during or on which a violation occurs or continues after notice from the police or sheriff. After notice is given, no further warning notice need be given for 12 consecutive months.

(Prior Code, § 53.026) (Ord. 2001-13, passed 11-14-2001)

§ 92.32 IMPOUNDMENT.

Any dog found running at large within the county not confined in the manner prescribed in §92.30, whether licensed or unlicensed, shall be taken up by any Dog Warden and impounded in the shelter designated as the County Animal Shelter and there confined in a humane manner for a period of not less than seven days, exclusive of the date of seizure unless sooner claimed by the owner, custodian, or person entitled to possession thereof, and may thereafter be destroyed in a humane manner if not otherwise claimed or sold.

(Prior Code, § 53.027) (Ord. 2001-13, passed 11-14-2001)

§ 92.33 TRANSFER OF DETAINED ANIMALS.

Any Dog Warden may sell and transfer title to any dog held after the legal detention period provided in §92.32 has expired and the animal has not been claimed by its owner, custodian, or other person entitled to possession thereof; provided,

however, that the person to whom title is being transferred licenses such dog according to state law, secures and pays for a rabies inoculation for such dog, pays the pick-up fee payable to the County Dog Warden, and pays the reasonable boarding charges levied by the animal shelter.

(Prior Code, § 53.028) (Ord. 2001-13, passed 11-14-2001)

§ 92.34 RECLAMATION BY OWNER OR CUSTODIAN.

Any owner, custodian, or other person entitled to possession of the dog under §92.33 may claim such dog upon proof that the dog has been or is licensed according to state law; proof that the dog has been inoculated against rabies, payment of board charges levied by the County Animal Shelter, and payment to the County Dog Warden a pick-up fee of \$5.

(Prior Code, § 53.029) (Ord. 2001-13, passed 11-14-2001)

§ 92.35 SHELTER.

The animal shelter operated by the County Dog Warden is hereby designated as the County Animal Shelter for the purposes of this chapter.

(Prior Code, § 53.030) (Ord. 2001-13, passed 11-14-2001)

§ 92.36 DOG WARDENS.

All members of the Police Department and all sheriffs and deputies of the county and the County Dog Warden are hereby designated Dog Wardens for purposes of this chapter, in addition to any full-time City Dog Warden who may be hereafter employed by the city pursuant to ordinance.

(Prior Code, § 53.031) (Ord. 2001-13, passed 11-14-2001)

EXOTIC SPECIES

§ 92.50 DEFINITION.

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

EXOTIC SPECIES. All bears, lions, tigers, cougars, leopards, cheetahs, jaguars, wolverines, and other predacious omnivore or carnivores in excess of 35 pounds, excluding canines, and shall also include all those species as set forth in 301 KAR 2:082, §§ 2 and 3(2)c as presently stated or hereafter admitted to include.

(Prior Code, § 53.100) (Ord. 99-8, passed 6-23-1999)

§ 92.51 KEEPING OF EXOTIC SPECIES PROHIBITED; EXCEPTIONS.

The keeping of exotic species as defined in §92.50 within any area of the county is hereby prohibited and declared to be unlawful. This section shall not apply to any zoological garden accredited by the American Association of Zoological Parks and Aquariums, appropriately licensed theatrical exhibits, carnivals or circuses, any authorized wildlife rehabilitator or licensed veterinary hospital for purposes of treating injured animals, or any federally licensed research institution.

(Prior Code, § 53.101) (Ord. 99-8, passed 6-23-1999) Penalty, see §92.99

ANIMAL SHELTER

§ 92.65 OPERATING PROCEDURES.

The revised operating procedures for the County Animal Shelter, copies of which are on file in the office of the County Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Ord. 2003-10, passed 11-25-2003; Ord. 2005-13, passed 7-28-2005; Ord. 2007-26, passed 11-28-2007; Ord. 2017-29, passed 7-12-2017)

§ 92.66 FEES.

(A) Standard claim fee:

- (1) First time: \$40;
- (2) Second time: \$80; and
- (3) Third or subsequent time: \$150.

(B) Any call outside of normal business hours requires that a county animal shelter designee take possession of an animal. An additional \$25 fee may be applied at the time of claim.

(C) Microchip at claim (optional): add \$15.

(D) If owner cannot provide proof of current rabies: add \$10.

(E) If animal is over six months of age and intact (not spayed or neutered): add \$25.

(F) If animal is a female, visibly in heat: add \$50.

(G) If an animal is claimed for a second time and the owner has failed to comply with vaccination and licensing ordinances, all fees are doubled and another voucher must be purchased before the animal can be claimed.

(H) Rabies voucher: Owners must provide proof of current rabies vaccination and county license. If the animal does not have a valid rabies vaccination and/or county license, the owner must purchase a voucher for these services at the time of claim. The voucher must be redeemed within seven days at the Boonesboro Animal Clinic. The price of the voucher is set by the veterinary clinic in accordance with their standard pricing. When a voucher is redeemed, the county animal shelter will be billed for that service.

(I) Quarantine services: If an animal is to be quarantined at the county animal shelter, the owner must pay a \$10 housing fee per day for the ten-day quarantine. Additionally, the owner must pay \$10 per day the animal remains at the shelter past the quarantine period, up to five days. If the dog remains at the shelter more than five days past the quarantine period, the animal is considered abandoned and becomes property of the county animal shelter.

(Ord. passed - -)

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating the provisions of § 92.01 shall, upon conviction, be punished by a fine not to exceed \$100. Each day's continuance of any such violation shall be a separate offense.

(C) Any owner, custodian, possessor, or harborer of any dog who violates § 92.05 shall, upon conviction, be fined not less than \$5 nor more than \$25 for each offense.

(D) Any person who violates § 92.14 shall be fined not less than \$100 nor more than \$500 or be imprisoned for a term not to exceed 12 months, or both, for each act, which shall constitute a separate offense.

(E) Any person who violates § 92.19 shall be punished by a fine of not less than \$25 nor more than \$500 for a first offense; not less than \$50 nor more than \$500 for a second offense in a 12-month period; not less than \$100 nor more than \$500 for a third offense in a 12-month period; and not less than \$200 nor more than \$500 for a fourth and each subsequent offense in a 12-month period. Each day's continuance of any such violation shall be a separate offense.

(F) Any person who violates the provisions of § 92.51 shall be fined not less than \$50, nor more than \$200 for the first offense; not less than \$100, nor more than \$300 for the second offense; and not less than \$300, nor more than \$500 for the third or any subsequent offense. Each day a violation continues shall be deemed a separate offense.

(G) If any person in the county shall unlawfully kill, disfigure, maim, poison, or attempt to administer poison to any animal, whether his or her own or that of another, he or she shall be fined not less than \$100 nor more than \$500 or imprisonment for a term not to exceed 12 months, or both, for each act which shall be a separate offense.

(H) Any person who shall leave or cause to be left any wounded, diseased, or infirm animal on a street, alley, lot, or commons to die a lingering death shall be subject to a fine of not less than \$100 nor more than \$500 or imprisonment for a term not to exceed 12 months, or both, for each act which shall be a separate offense.

(I) Any person who shall be present at and abet or encourage any such fights and any person who shall bet any money or other thing of value upon the results of any such fight shall, upon conviction, be subject to a fine of not less than \$100 nor more than \$500 or imprisonment for a term not to exceed 12 months, or both, for each act which shall be a separate offense.

(Prior Code, § 53.999) (Ord. 97-10, passed 7-23-1997; Ord. 10-99, passed 1-28-1999; Ord. 99-8, passed 6-23-1999; Ord. 2001-13, passed 11-14-2001; Ord. 2015-11, passed 1-13-2016)

CHAPTER 93: PARKS AND RECREATION

Section

93.01 Hours that parks are open to the public

93.02 Prohibited conduct

93.99 Penalty

§ 93.01 HOURS THAT PARKS ARE OPEN TO THE PUBLIC.

Parks are open for public use from: December to February 5:00 a.m. to 6:00 p.m.; March to May 5:00 a.m. to 8:00 p.m.; June to August 5:00 a.m. to 10:00 p.m.; and September to November 5:00 a.m. to 8:00 p.m.

§ 93.02 PROHIBITED CONDUCT.

The following actions are prohibited unless authorized by the Parks and Recreation Board. No person shall:

- (A) Engage in the use of profanity;
- (B) Possess any alcoholic beverages or illegal drugs in any park or recreational facility;
- (C) Engage in gambling of any form in park areas or buildings;
- (D) Engage in an amusement for gain or for which a charge is made without the consent of the Parks and Recreation Board. Such amusement must be conducted in accordance with any ordinance pertaining hereto;
- (E) Skate, skateboard, rollerblade, or sleigh ride in any area other than those designated for these activities;
- (F) Drive or park any motor vehicle (car, truck, motorbike, minibike, golf cart, and the like) except on a street, driveway, or parking lot in any park; or park or leave any such vehicle in any place other than one established for public parking;
- (G) Bring animals into any park or onto any park facility unless in a designated area;
- (H) Vend, sell, peddle, or offer for sale any commodity or article within any park or park facility;
- (I) Paste, glue, tack, or otherwise post any sign, plaque, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any pole, building, fence, or other structure within the parks system;
- (J) Fail to clean up all debris and extinguish fires in park areas;
- (K) Engage in archery or possess or discharge any firearm, fireworks, or air weapon within any park;
- (L) Enter upon or remain in any park areas at a time other than during those hours which the Parks and Recreation Board specified that the facilities are open for public use;
- (M) Use any developed baseball fields or baseball facilities located at Lykins Park. These are restricted to use by organized youth leagues and activities;
- (N) Create excessive noise by use of a public address system, radios, or musical instruments with amplifiers;
- (O) Use any fields or facilities at the Kroger Youth Soccer Complex. These are restricted to use by organized youth leagues and activities; and/or
- (P) Engage in an aggressive, abusive, threatening, or destructive behavior toward another person or facility property.

(Ord. 2018-07, passed 4-17-2018) Penalty, see §93.99

§ 93.99 PENALTY.

- (A) Penalties for violations occurring within a calendar year:

- (1) First offense: \$25 fine;
- (2) Second offense: \$50 fine;
- (3) Third offense: \$100 fine; and
- (4) A \$250 fine may be given for any further offenses.

(B) The penalties set forth herein are distinct and separate from any other charges and penalties which may be imposed under the state and other applicable law and ordinances.

(Ord. 2018-07, passed 4-17-2018)

CHAPTER 94: FAIR HOUSING

Section

- 94.01 Policy
- 94.02 Definitions
- 94.03 Unlawful practice
- 94.04 Discrimination in the sale or rental of housing
- 94.05 Discrimination in the financing of housing
- 94.06 Discrimination in the provision of brokerage services

- 94.07 Exemption
- 94.08 Administration
- 94.09 Education and conciliation
- 94.10 Enforcement
- 94.11 Investigations; providing evidence
- 94.12 Interference, coercion, or intimidation
- 94.13 Prevention of intimidation in fair housing cases

94.99 Penalty

§ 94.01 POLICY.

It is the policy of the County Fiscal Court (hereinafter referred to as "LPA") to provide, within constitutional limitations, for fair housing throughout the target area.

(Ord. 2005-3, passed 2-9-2005)

§ 94.02 DEFINITIONS.

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

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 94.04, 94.05, and 94.06 of this chapter.

DWELLING. Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILY. Includes a single individual.

PERSON. Includes one or more individuals, corporations, partnerships, associates, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

TO RENT. Includes to lease to sublease, to let, and otherwise to grant for a consideration the right to occupy the premise owned by the occupant.

(Ord. 2005-3, passed 2-9-2005)

§ 94.03 UNLAWFUL PRACTICE.

(A) It will be considered an unlawful practice to engage in discrimination in the sale or rental of any dwelling except as exempted by division (B) below.

(B) Nothing in § 94.04 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was to the most recent resident of one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be exempted from the application of this title only if such house is sold or rented:

(a) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and

(b) Without the publication, posting, or mailing, after notice of any advertisement or written notice in violation of § 94.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(2) (a) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(b) For the purpose of this division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

1. He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
2. Has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental of any dwelling or any interest therein; and
3. He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 2005-3, passed 2-9-2005)

§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 94.03 and except as exempted by §§ 93.03(B) and 93.07, it shall be unlawful:

- (A) To refuse to sell or rent after making of a bona fide offer, or to refuse to negotiate for sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status, or handicapped status;
- (B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status, or handicapped status;
- (C) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, or handicapped status, or an intention to make any such precedence, limitation, or discrimination; and
- (D) To represent to any person because of race, color, religion, sex, national origin, familial status, or handicapped status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.05 DISCRIMINATION IN THE FINANCING OF HOUSING.

It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making commercial real estate loans, to deny a loan or other financial assistance to a persons applying thereof for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other person or of any loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling of dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 94.03(B).

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple- listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial statutes, or handicapped status.

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.07 EXEMPTION.

Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provided lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. 2005-3, passed 2-9-2005)

§ 94.08 ADMINISTRATION.

- (A) The authority and responsibility for administering this Act shall be in the Chairperson of the LPA.
- (B) (1) The Chairperson may delegate any of these functions, duties, and powers to the state's Human Rights Commission or to a designated employee of the county, including functions, duties, and powers with respect to investigation, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business,

or matter under this order.

(2) The Chairperson shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to others hearing examiners or to the state's Human Rights Commission, as shall be appropriate and in accordance with the law.

(C) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chairperson to further such purposes.

(Ord. 2005-3, passed 2-9-2005)

§ 94.09 EDUCATION AND CONCILIATION.

Immediately after the enactment of this order, the Chairperson shall commence such educational and conciliatory activities as will further the purposes of this order and his or her suggested means of implementing it, and shall endeavor to work out programs of voluntary compliance and of enforcement.

(Ord. 2005-3, passed 2-9-2005)

§ 94.10 ENFORCEMENT.

(A) Any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chairperson or their designated city employee. Complaints shall be in writing and shall contain such information and be in such form as the Chairperson requires. Upon receipt of such a complaint, the Chairperson shall furnish a copy of the same both to the state's Civil Rights Commission and to the person or persons who allegedly committed or was about to commit the alleged discriminatory housing practice. The Chairperson will request assistance from the state's Civil Rights Commission in resolving this complaint either through informal endeavors or through procedures, conciliation, agreement, and/or enforcement per KRS 344.200 through 344.290. The Chairperson shall act as a facilitator and will assist (when requested and/or where appropriate) the state's Civil Rights Commission in resolving the complaint. Nothing said or done in the course of informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

(B) A complaint under division (A) above shall be filed with the state's Human Rights Commission within one 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and, with the leave of the state's Human Rights Commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(C) If within 30 days after a complaint is filed with the state's Human Rights Commission, the state's Human Rights Commission has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The state's Human Rights Commission will assist in this filing.

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.11 INVESTIGATIONS; PROVIDING EVIDENCE.

In conducting an investigation, the state's Human Rights Commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and report the testimony or statements of such person as are reasonably necessary for the furtherance of the investigation per KRS 344.200 to 344.290; provided, however, that the state's Human Rights Commission first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The state's Human Rights Commission may issue subpoenas to compel his or her access to of the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the Untied States District Court for the district in which the investigation is taking place.

(Ord. 2005-3, passed 2-9-2005)

§ 94.12 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 94.03 to 94.06. This section may be enforced by appropriate civil action.

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.13 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with:

(A) Any person because of his or her race, color, religion, sex, national origin, familial status, or handicapped status, and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiation for the sale, purchase, rental, financing, or occupation, or facility relating to the business of selling or renting dwelling;

(B) Any person because he or she is or has been, in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status, or handicapped status in any of the activities, services, organizations, or facilities described in § 94.03 of this chapter; or

(2) Affording another person or class of persons opportunity or protection so to participate.

(Ord. 2005-3, passed 2-9-2005) Penalty, see §94.99

§ 94.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any employee of the Chairperson who shall make public any information in violation of §94.10 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year.

(C) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the state's Human Rights Commission shall be fined no more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the state's Human Rights Commission, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the state's Human Rights Commission pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned no more than one year, or both.

(D) Any citizen because he or she is or has been, in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in § 94.03, or participating lawfully in speech or peaceful assemble opposing any denial of the opportunity to so participate shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 2005-3, passed 2-9-2005)

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110: OCCUPATIONAL LICENSES

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GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

ASSOCIATION. A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

BUSINESS. An enterprise, activity, profession, or undertaking of any nature conducted for gain or profit, whether conducted by an individual, copartnership, association, or any other entity, but shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions (or other association performing the services usually performed by trade associations or unions); community chest funds or foundations; corporation or associations organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes, for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, education, or fraternal purposes, where no part of the earnings of income or receipts of such units, groups, or associations inures to the benefit of any private shareholder or individual.

CORPORATION. A corporation or joint stock association organized under the laws of the United States, the State of Kentucky, or any other state, territory, or foreign country or dependency.

COUNTY. Clark County, Kentucky, including the City of Winchester and any other community whether incorporated or not.

DIRECTOR OF FINANCE. An official director of the occupational tax, to be appointed by the Clark Fiscal Court.

EMPLOYEE. Any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter.

EMPLOYER. An individual, copartnership, association, corporation, governmental body or unit or administration or agency, or any other entity, who or that employs five or more full-time employees on a salary, wage, commission, or other compensation basis, regardless of whether the employer is engaged in business as above defined, or is excluded by the terms of such definition.

GROSS RECEIPTS. The phrase "gross receipts" and the word "compensation", when applied to a person employed by others, shall have the same meaning and shall include the gross amount of all salaries, wages, commissions, bonuses, or other money payments of any kind, or other consideration having a monetary value, which a person receives or becomes entitled to, or is given credit for by an employer, without deduction for withholding taxes social security benefits, any form of insurance or retirement benefits, other deductions made by an employer in calculating "take home pay"; provided, however, that any traveling expenses actually incurred and paid by the employer, and wages, salaries, or other compensation received by domestic servants employed in a private home, shall be exempt from the operation of this order.

LICENSEE. Any person required hereunder to file a return or to pay a license fee under this subchapter.

NET PROFIT. The net income from the operation of a business or enterprise after provision for all costs and expenses incurred or enterprise after provision for all costs and expenses incurred in the conduct thereof shall be the same as

reported for federal income tax purposes, excluding items exempted under this section but without deduction of taxes based on income.

NONRESIDENT. An individual, copartnership, fiduciary, association, or corporation. Whenever the term "person" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers and directors.

RESIDENT. An individual, copartnership, association, corporation, or other entity domiciled or having a business in the county.

SALES. Net sales of merchandise or of services, or of both, computed by whatever method of accounting is authorized for federal income tax purposes.

SALES WITHIN THE COUNTY. Includes sales of merchandise delivered to a customer within the county or services performed within the county for a customer.

TRADE, OCCUPATION, OR PROFESSION. Includes any and all activities and the rendering of any and all services of all kinds or any activity resulting in other remuneration, or net profit or gain of any kind when applied to persons so engaged for themselves whether the person be a resident of the county or not.

TREASURER. The Clark County Treasurer.

(Prior Code, § 60.001) (Ord. 86-2, passed 5-14-1986)

§ 110.02 REGULATION, ADMINISTRATION, ENFORCEMENT, AND COLLECTION OF LICENSE FEES; PURPOSE.

(A) It shall be the duty of the Director of Finance to collect all license fees and deposit the same in the General Fund of the county, to be used to defray the general expenses of the county government. The Director of Finance 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 for all such license fees and for all other requirements in the proper and efficient administration of this subchapter.

(B) The Director of Finance or any agent or employee designated in writing by him or her is hereby authorized to examine the books, papers, and records of any employer or supposed employer or of any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this subchapter. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Director of Finance or his or her duly authorized agent or employee the means, facilities, and opportunity for the examination and investigation as are hereby authorized. The Director of Finance is hereby authorized to examine any person under oath concerning any wages, salaries, commissions, or other compensation or net profits which were or should have been returned; and, to this end, he or she may compel the production of books, papers, records, and the attendance of all persons before him or her, whether as parties or witnesses, whom he or she believes to have knowledge of the wages, salaries, commissions, or other compensation or net profits, to the extent that any officer empowered to administer oaths in this state is permitted to so order.

(Prior Code, § 60.002) (Ord. 86-2, passed 5-14-1986)

§ 110.03 WHO MUST OBTAIN; BASIS OF COMPUTATION.

(A) All persons engaged in any trade, occupation, or profession within the county, when employed by another who employs as many as five persons on a full-time basis, shall pay a license fee measured by and equal to 1.25% of gross receipts paid for such service.

(B) All persons engaged in any trade, occupation, or profession within the county, for themselves, for profit or gain and who have as many as five or more full-time employees, shall pay a license fee measured by and equal to 1.50% of the net profit realized from such activity.

(C) Where salaries, wages, commissions, and other compensations under division (A) above are earned for work done or services performed or rendered both within and without the county, such license fee shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the county bears to the total compensation earned.

(D) The net profits of business or professions from activities conducted in the county under division (B) above shall be computed as follows: multiply the entire net profit from all sources by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the gross receipts of the license from sale or service rendered within the county bears to the total gross receipts from sales or services rendered wherever made;

(2) Ascertaining the percentage which wages, salaries, and other personal service compensation for the period covered by the report for services performed or rendered within the county bears to the total wages, salaries, and personal service compensation for such period of all the licensee's employees within and without the county; and

(3) Adding together the percentages determined in accordance with divisions (D)(1) and (D)(2) above, and dividing the total so obtained by two.

(E) It shall be unlawful for any person to engage in any trade, occupation, or profession within the county without

withholding, reporting, and paying the license fees herein provided and required. Portions of this subchapter prescribing a penalty in the form of fine or imprisonment shall mean and include the individual members of a firm, partnership, or association, and the officers of any governmental body or agency or any corporation.

(Prior Code, § 60.003) (Ord. 86-2, passed 5-14-1986; Ord. 91-17, passed 11-27-1991)

§ 110.04 CREDIT FOR LICENSE FEES PAID TO THE CITY OF WINCHESTER.

All persons engaged in any trade, occupation, or profession with the City of Winchester, Clark County, Kentucky, when employed by another, shall receive a credit against the license fee herein imposed for any sum paid to the City of Winchester. Whenever the license fee imposed by the City of Winchester equals or exceeds the license fee imposed by the County Fiscal Court, the Director of Finance can waive the requirement of filing a return with the Director of Finance, unless the person works both within the city limits of Winchester, and in the unincorporated part of the county, in which case the license fee under this subchapter shall be applicable to the work performed in the unincorporated area of the county without any credit for the license fee paid to the City of Winchester.

(Prior Code, § 60.004) (Ord. 86-2, passed 5-14-1986)

§ 110.05 EXEMPT ACTIVITIES.

(A) Because of the undue burden of administration, no license under this subchapter shall be required of a person employed by an employer who employs less than five full-time employees. The Director of Finance is empowered to draft regulations defining full-time employees for the purpose of this subchapter.

(B) No license shall be required of a minister of religion who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its religious doctrines or to administer its rites in public worship, in the performance of one or more of those duties; however, it is not intended to exempt such ordained minister of religion from the necessity of paying a license fee for work done or services performed in the county in activities not connected with his or her regular duties as a minister of religion.

(C) No license under this subchapter shall be required of nonresidents who sell farm products, other than trees, shrubs, or ornamental plants, in the county, or nonresident owners who sell livestock in the county or who board their livestock in the county for breeding purposes. The activities described in this division (C) shall not constitute being engaged in any occupation, trade, profession, or other activity as mentioned in this section.

(D) Natural persons of the age of 65 and older shall be exempt from the provisions of the occupational license fee as to the first \$10,000 of salaries, wages, commissions, or other compensation earned by such persons in the county for work done or services performed or rendered in the county.

(E) No license under this subchapter shall be required of any person authorized by the City of Winchester or the County Fiscal Court to demonstrate, sell, or offer for sale any goods, wares, or merchandise at an annual, semi-annual, or other festival of arts and crafts show.

(F) All persons engaged in any trade, occupation, or profession within the City of Winchester, for themselves, for profits or gains, who has paid a license fee to the City of Winchester for the privilege of doing business within the City of Winchester, shall be exempted from paying a license fee to the County Fiscal Court under the terms of this subchapter.

(Prior Code, § 60.005) (Ord. 86-2, passed 5-14-1986)

§ 110.06 DUTY OF EMPLOYER TO WITHHOLD, REPORT, AND PAY LICENSE FEES; RECORDS.

(A) Each employer who employs five or more persons on a full-time basis within the county shall deduct monthly, or more often than monthly, at the time of the payment thereof, the license fee due from each employee measured by the amount of salaries, wages, commissions, or other compensation due by such employer to such employee and shall pay to the county government the amount of the license fee so deducted.

(B) The payment required to be made on account of deductions by employers shall be made quarterly to the county government, for the quarterly periods ending March 31, June 30, September 30, and December 31, on or before the last day of the month following the quarter of such deduction; however, any employer withholding \$300 or more license fee during any quarter shall file a return and pay the license fee withheld monthly.

(C) Each employer who employs five or more persons within the unincorporated area of the county shall, annually on or before February 28 of each year, make a return to the Director of Finance in which it sets forth the name and residence of each employee of such employer employed during the preceding calendar year, giving the amount of salaries, wages, commissions, or other compensation earned during such preceding year by such employee together with such other pertinent information as the Director of Finance may require; however, the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee and compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this subchapter, established by the Director of Finance of the County Fiscal Court.

(D) No church, religious congregation, or religious society of any creed is required under the terms of this subchapter to withhold or deduct any sum from the wages, salaries, commissions, or other compensation due by the church, religious congregation, or religious society to its employees as salaries, wages, commissions, or other compensation; however, this failure to withhold by the employer the license fees shall not relieve the employees of the churches, religious congregations,

or religious societies from the payment of the license fees required by this subchapter.

(E) Nothing in this section shall be construed to mean that employees of churches, religious congregations, or religious societies of all creeds (except duly ordained ministers) shall be relieved from the payment of any occupational license fee in compliance with all regulations established by the Director of Finance with respect to making returns and payment of such fees.

(Prior Code, § 60.006) (Ord. 86-2, passed 5-14-1986; Ord. 2007-30, passed 1-9-2008)

§ 110.07 SEPARATE RETURNS; PAYMENTS, CONFIDENTIALITY.

(A) Each person subject to a license fee imposed by this subchapter shall, on or before the fifteenth day of the fourth month following the close of each year, make and file with the Director of Finance a return, in duplicate, on a form furnished by or obtainable from the Director of Finance, setting forth the aggregate amount of salaries, wages, commissions, and other compensation or net profits during the preceding year, with such other pertinent information as the Director of Finance may require; however, where the entire license due under this subchapter has been withheld under the provisions hereof, the Director of Finance may waive the filing of such return by the licensee; further, where the fiscal year of the business, profession, or other activity differs from the calendar year and the licensee filed a federal income tax return of such other fiscal period, the license fee shall be measured by the net profits of the fiscal year, and where the return is made for a fiscal year or any other period different from a calendar year, the return shall be made on or before the fifteenth day of the fourth month following the end of the fiscal year or other period. The return shall also show the amount of the license fee imposed by this subchapter.

(B) The person making the return shall, at the time of the filing thereof, pay to the Director of Finance the amount of license fees shown as due thereon, however, where any portion of the license fee so due shall have been deducted at the source, credit for such amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of such return, as hereinabove provided; and it shall be the duty of each employer who has deducted the license fee from the wages, salaries, commissions, or other compensation referred to in § 110.06 to furnish such employee a statement showing the amount of salary earned and license fee deducted and paid by such employer during the preceding calendar year, on or before January 31 of each year.

(C) The Director of Finance shall have the authority to extend the filing of such return in his or her discretion. Such extension shall be upon the written request of the licensee; however, any balance unpaid when payment is due under the terms of this subchapter shall bear interest at the rate of 12% per annum until paid.

(D) Any information gained by the Director of Finance or any other official or agent or employee of the county government as a result of any returns, investigations, hearings, or verifications required or authorized by this subchapter shall be confidential, except in accordance with proper judicial order, or as otherwise provided by law; and any person or agent divulging such information shall, upon conviction, be subject to a fine not exceeding \$1,000 or imprisoned for not more than one year, or both, at the discretion of the court; however, such persons may disclose to the Commissioner of Revenue of the state or his or her duly authorized agent all such information and right to inspect any of the books and records of the county government the reciprocal right to obtain information from the files and records of the department of revenue of the state and maintain the privileged character of the information so furnished to him or her.

(E) All license fees imposed by this subchapter remaining unpaid after they become due shall bear interest at the rate of 12% per annum, and the person from whom such license fees are due shall further be charged a penalty of 5% of the amount of the unpaid license fee for each month or fraction of a month such license fees remain unpaid provided, however, that the total penalty levied pursuant to this section shall not exceed 25% of the total tax due and the penalty shall not be less than \$25. Any person or employer who fails or refused to withhold monthly the license fee measured by a percent of salaries, wages, and other methods prescribed, or who fails to pay such money, after withholding the same, to the Director of Finance at the time it is due as provided under the terms of § 110.05, shall become liable for the amount due to the county and the same shall bear interest at the rate of 12% in addition to which a penalty of 5% of such amount shall be added thereto for each month or fraction of a month said license fees remain unpaid, but shall not exceed 25% and shall not be less than \$25.

(F) A taxpayer may claim a refund of any taxes improperly collected by the County Treasurer, provided the claim for refund is made within two years of the receipt of the taxes by the County Treasurer.

(Prior Code, § 60.007) (Ord. 86-2, passed 5-14-1986; Ord. 97-15, passed 10-15-1997; Ord. 2007-30, passed 1-9-2008)

§ 110.08 COMMENCEMENT DATE; DURATION.

The license fees imposed by this subchapter shall be effective beginning October 1, 1986, and shall remain in force and effect until repealed or modified according to law.

(Prior Code, § 60.008) (Ord. 86-2, passed 5-14-1986)

§ 110.09 HOTELS, MOTELS, AND THE LIKE.

(A) Every person, group, or association doing business as a motor court, motel, hotel, inn, or like or similar accommodation in the county or the City of Winchester shall:

(1) (a) Continuously remain compliant and current regarding all taxes, fees, and licenses due to the city;

(b) 1. Continuously remain in compliance with all applicable fire, electrical, building property maintenance, plumbing codes, health department regulations, state or federal codes relating to Americans with Disabilities Act being 42 U.S.C. §§ 12101 et seq., disabled access, and any other code or regulation that relates to the operation of said accommodation;

2. Permit unlimited access to all authorized inspectors on a regular basis or in response to a complaint; and

3. As licensee, assume all responsibility to ensure that said accommodation meets all applicable codes and regulations.

(c) Ensure that not less than 95% of all rooms remain continuously available for public occupancy on a daily, weekly, or monthly basis; provided, however, in no event shall rooms be used as apartments.

(2) Failure to comply with any of the provisions of this section shall be grounds for temporary closure by any authorized inspector. Reports of non-compliance shall be made promptly to the city licensing board which may suspend or revoke the license to operate the accommodation pursuant to Ord. 9-45.

(B) It shall be unlawful for any person (except an employee), firm, or corporation, whether or not such person, firm, or corporation maintains a place of business within the corporate limits of the city, to engage in any business, occupation, trade or profession, or to sell, or offer for sale, any article of goods, wares, or merchandise named in this subchapter, or to provide or offer to provide any service for gain or profit, within the corporate limits of the City of Winchester, or with respect to a motor court, motel, hotel, inn, or similar accommodations in the county without first having procured a license so to do and paid the required license tax or fee therefor.

(Ord. 2007-23, passed 9-12-2007) Penalty, see §110.99

FIREWORKS SALES

§ 110.20 DEFINITIONS.

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

FIREWORKS. Any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" as defined in KRS 227.702 or "display" fireworks as defined in KRS 227.706 and as set forth in the United States Department of Transportation's (DOT) hazardous materials regulations. **FIREWORKS** does not include:

(1) Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times;

(2) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks; or

(3) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.

FIREWORKS RETAILER. Any individual, firm, partnership, or corporation engaged in the business of making retail sales of fireworks to the general public.

(Ord. 2013-4, passed 6-12-2013)

§ 110.21 RESTRICTIONS ON FIREWORKS RETAILERS.

It shall be unlawful for any person, entity, business, or fireworks retailer to offer for sale, market, or distribute any kind of firework unless:

(A) The sale of fireworks occurs between May 15 and July 15 or from December 15 and January 15 of any calendar year or both. Fireworks may only be offered for sale between the hours of 10:00 a.m. and 11:00 p.m.;

(B) The business permit fee to the retailer to offer for sale, market, and distribution of any kind of firework is a charge of \$100 per day or a fee of \$500 for any period of five or more consecutive days;

(C) The business permit shall be obtained by the retailer Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. at the Clark County Fire Department, 200 Barnes Drive, Winchester, Kentucky 40391;

(D) All fireworks retailers shall display the State Fire Marshal registration placard;

(E) Each site of a fireworks retailer shall comply with all applicable provisions of the International Building Code, with state amendments (adopted edition), and NFPA 1124 (National Fire Protection Association) Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (adopted edition);

(F) No person under 18 years of age shall work at a fireworks retailer sales facility unless the individual is supervised by a parent or guardian;

(G) All firework retailers shall post at least one sign that reads as follows, in letters at least two inches (51 mm) high on a contrasting background, shall be conspicuously posted at the point of sale within ten feet (3.05m), as per KRS 227.715(11)

(a)(b):

- (1) YOU MUST BE 18 YEARS OF AGE TO PURCHASE AND/OR DISCHARGE FIREWORKS; and
- (2) FIREWORKS CANNOT BE DISCHARGED WITHIN 200 FT. OF ANY STRUCTURE, VEHICLE, OR ANY OTHER PERSON WITHIN THE COUNTY.

(H) All fireworks retailers shall provide the local Fire Marshal with the state storage notification report and a copy of all fireworks inventory; and

- (I) All fireworks retailers shall comply with KAR 815 10:70, KRS Chapter 227, and NFPA 1124.

(Ord. 2013-4, passed 6-12-2013)

§ 110.22 DISCHARGE OF FIREWORKS.

(A) No person, business, or fireworks retailer shall give, offer for sale, or sell any fireworks listed in KRS 227.702 to any person under 18 years of age.

(B) Any person, business, entity, or fireworks retailer may ignite, fire, explode, or discharge fireworks only between the hours of 10:00 a.m. and 11:00 p.m. from June 27 through July 6 and from December 30 through January 1. This restriction shall apply to all zoning classifications, including, but not limited to, residential, business, and industrial but shall not include properties zoned agricultural, which properties shall be exempt from this restriction.

(Ord. 2013-4, passed 6-12-2013; Ord. 2018-20, passed 9-26-2018) Penalty, see §110.99

INSURANCE COMPANIES

§ 110.35 LICENSE FEE.

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the county beginning July 1, 2005, and to continue thereafter from year to year until abolished by ordinance.

(Ord. 2005-10, passed 3-18-2005)

§ 110.36 CALCULATION OF FEE.

The license fee imposed upon each insurance company which issues any insurance policy shall be 4% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the county on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Worker's Compensation Act, being KRS Chapter 342 and shall not include premiums received on policies of life insurance or health insurance.

(Ord. 2005-10, passed 3-18-2005)

§ 110.37 PAYMENT OF FEE.

(A) The revenue generated by virtue of this subchapter shall be paid into the General Fund of the county.

(B) All license fees imposed by this subchapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(Ord. 2005-10, passed 3-18-2005)

§ 110.38 DOCUMENTATION OF COLLECTIONS.

Every insurance company subject to the license fees imposed by this subchapter shall manually, by March 31, furnish the county with a written breakdown of all collections since inception on July 1, 2005 for the following categories of insurance: casualty; automobile; inland marine; and fire and allied perils.

(Ord. 2005-10, passed 3-18-2005)

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person who shall fail, neglect, or refuse to make any return required by §§110.01 to 110.08, or any employer who shall fail to withhold the license fees under the terms of §§ 110.01 to 110.08, or to pay over to the county government fees so withheld, or any person who shall refuse to permit the Director of Finance or any agency or employee designated by him or her, in writing, to examine his or her books, records, papers, or who shall knowingly make any incomplete, false, or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of earnings or profits in order to

avoid the payment of the whole or any part of the license fee shall, upon conviction, be subject for each offense to a fine or penalty not to exceed \$500 and/or imprisonment for a period not to exceed one year. The defendant shall, upon conviction, pay all court costs for each offense.

(2) Any person who shall engage in the occupations without first obtaining the required license under the terms of this chapter, or who shall fail to pay the required license fee when the same shall be due shall, upon conviction, be subject for each offense to a fine or penalty of not less than \$10 nor more than \$500 and/or imprisonment for a period not to exceed 12 months. Each day that any person continues to operate without the required license shall be deemed a separate offense.

(Prior Code, § 60.999)

(C) (1) Any violation of § 110.21 shall be considered a Class A misdemeanor, punishable by up to a year in the county detention center and fine up to and not to exceed \$500.

(2) Any violation of § 110.21(l) shall be punishable by a fine of \$1,000 per occurrence or per day of a violation.

(3) Any violation of § 110.22 shall be considered a Class A misdemeanor, punishable by up to a year in the county detention center and fine up to and not to exceed \$500.

(Ord. 86-2, passed 5-14-1986; Ord. 2018-20, passed 9-26-2018)

CHAPTER 111: PAWBROKERS AND PRECIOUS METAL DEALERS

Section

Pawnbrokers

- 111.01 Definitions
- 111.02 When items can be accepted
- 111.03 Register of loans and purchases
- 111.04 Ticket and receipt for articles
- 111.05 Daily reports
- 111.06 Maximum interest and service charges
- 111.07 Receipts for payments
- 111.08 Ten-day hold for purchase items
- 111.09 Duties of precious metal dealers
- 111.10 Hold of purchased metals by precious metal dealer
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- 111.12 Reporting through web-based central reporting system
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Precious Metal Dealers

- 111.25 Daily register to be kept
- 111.26 Daily reports
- 111.27 Receipt to be given for each article
- 111.28 Prohibited activities

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PAWBROKERS

§ 111.01 DEFINITIONS.

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

LEADSONLINE. An existing web-based central reporting system that allows pawnbrokers and precious metal dealers to report their transactions to law enforcement with information required by state statute and this subchapter.

PAWBROKER. Any person who loans money on deposit of personal property, or who deals in the purchase of personal

property on condition of selling the property back again at a stipulated price, or who makes a public display at his or her place of business of the sign generally used by pawnbrokers to denote their business, or who publicly exhibits a sign advertising money to loan on personal property or deposit is a **PAWNBROKER**.

PRECIOUS METAL DEALER. Any business that engages in the purchase of non-ferrous metals for the purposes of reselling and/or recycling metal for its physical qualities. Businesses are also identified as **PRECIOUS METAL DEALERS** if that business advertises that they purchase gold or silver for cash. A **PRECIOUS METAL DEALER** does not include any recycler who, as part of their business, purchases motor vehicles for scrap metal.

(Ord. 2011-08, passed 8-10-2011)

§ 111.02 WHEN ITEMS CAN BE ACCEPTED.

No pawnbroker shall receive, by way of pledge or pawn, any article whatever from a minor at any time, nor from any person between 8:00 p.m. and 7:00 a.m.

(Ord. 2011-08, passed 8-10-2011) Penalty, see §111.99

§ 111.03 REGISTER OF LOANS AND PURCHASES.

Every pawnbroker shall keep a register of all loans and purchases of all articles effected or made by him or her. The register shall show the dates of all loans or purchases, and the names of all persons who have left any property on deposit as collateral security, or as a delivery or sale. Opposite the names and dates shall be written in plain hand a full description of all property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned and the interest charged. The register shall at all times be open to the inspection of any officer of this state when in the discharge of his or her official duty.

(Ord. 2011-08, passed 8-10-2011)

§ 111.04 TICKET AND RECEIPT FOR ARTICLES.

(A) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased, or upon which money is loaned, having on each a copy of the entries required by KRS 226.040 to be kept in his or her register. He or she shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 60 days from the maturity of the loan, provided that, not less than ten days before making the sale, the pawnbroker shall have given notice to the person by whom the article was pawned, by mail addressed to the post office address of such person as shown on the pawnbroker's register, notifying such person that, unless he or she redeems the article within ten days from the date of mailing said notice, the article will be sold.

(Ord. 2011-08, passed 8-10-2011)

§ 111.05 DAILY REPORTS.

(A) Every pawnbroker in a city or in the unincorporated area of any county shall, by 11:00 a.m. each day, make available to the chief of police of the city, the chief law enforcement officer of the county, or to the Department of State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable.

(B) The chief of police of the city, the chief law enforcement officer of the county, or the Department of State Police shall furnish blanks for the reports required by division (A) above.

(Ord. 2011-08, passed 8-10-2011)

§ 111.06 MAXIMUM INTEREST AND SERVICE CHARGES.

Any pawnbroker, as defined in KRS 226.010, may, in loaning money on deposit of personal property, charge, contract for, or receive interest at a rate not exceeding 2% per month on the unpaid principal balance of the loan, and may charge, contract for, and receive a reasonable fee, not to exceed one-fifth of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers, and for other expenses, losses, and incidental costs associated with servicing such loans. It is further provided that such fee when made and collected shall not be deemed interest for any purpose of law. No pawnbroker shall directly or indirectly charge, receive, or contract for any interest or consideration greater than that allowed by this section.

(Ord. 2011-08, passed 8-10-2011) Penalty, see §111.99

§ 111.07 RECEIPTS FOR PAYMENTS.

Every pawnbroker, upon receiving any payment of money from a borrower, shall give to such person a plain and complete receipt for such payment, specifying separately the amount applied to principal and the amount applied to interest. In a case where the pawnbroker has purchased personal property under an agreement to sell it back at a stipulated price, the pawnbroker shall, on receiving any payment of money from the person from whom the property was purchased, give such

person a receipt stating the original purchase price, the stipulated resale price, and the amount received.

(Ord. 2011-08, passed 8-10-2011)

§ 111.08 TEN-DAY HOLD FOR PURCHASE ITEMS.

Pawnbrokers shall place a ten-day hold on items purchased without a pawn agreement before reselling such property.

(Ord. 2011-08, passed 8-10-2011)

§ 111.09 DUTIES OF PRECIOUS METAL DEALERS.

Precious metal dealers shall be subject to pawnbroker orders listed in §§111.03 and 111.05 as set forth in this subchapter.

(Ord. 2011-08, passed 8-10-2011)

§ 111.10 HOLD OF PURCHASED METALS BY PRECIOUS METAL DEALER.

Precious metal dealers shall place a ten-day hold on items purchased, in their original form upon entering a precious metal dealer, before those items may be resold, damaged, or recycled.

(Ord. 2011-08, passed 8-10-2011)

§ 111.11 TRANSACTIONS WITH PERSONS CONVICTED OF LARCENY-RELATED OFFENSES.

Pawnbrokers and precious metal dealers are prohibited from engaging in any transaction for a period of three years with a person convicted of a crime in any Clark County Court where their conviction involved the selling or pawning of stolen property to any pawnbroker or precious metal dealer in the county and the City of Winchester. Law enforcement shall supply pawnbrokers and precious metal dealers with the names and date of conviction of anyone convicted of such crime.

(Ord. 2011-08, passed 8-10-2011) Penalty, see §111.99

§ 111.12 REPORTING THROUGH WEB-BASED CENTRAL REPORTING SYSTEM.

Reporting to a web-based central reporting system identified as Leadsonline shall be the primary method of reporting transactions for pawnbrokers and precious metal dealers and will suffice for reporting directly to the appropriate law enforcement agency as set forth in § 111.05. In the event an unintended circumstance prevents reporting through the web-based system, pawnbrokers and precious metal dealers shall revert to reporting in accordance with § 111.05.

(Ord. 2011-08, passed 8-10-2011)

§ 111.13 CONFLICT OF LAW.

To the extent any resolution, ordinance, or parts thereof is in conflict, the provisions of this subchapter will prevail and be given effect.

(Ord. 2011-08, passed 8-10-2011)

PRECIOUS METAL DEALERS

§ 111.25 DAILY REGISTER TO BE KEPT.

(A) 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 Winchester Police Department and/or the County Sheriff of every article received by them in the course of their business and the persons from whom such articles were acquired.

(B) The register shall contain as minute a description of each article as is possible, including any identification numbers and the manufacturer's name, as well as the name, age, sex, race, address, driver's license number or numbers from two IDs, general description of the individual or individuals selling or exchanging the articles, their signatures, and a legible right thumb print.

(Prior Code, § 61.001) (Ord. 81-9, passed 5-27-1981)

§ 111.26 DAILY REPORTS.

All persons engaged in business as described in §111.25 shall furnish to the Chief of Police of the City of Winchester and/or the County Sheriff, each day at their offices by 11:00 a.m., a copy of the register for all transactions which took place during the preceding day.

(Prior Code, § 61.002) (Ord. 81-9, passed 5-27-1981)

§ 111.27 RECEIPT TO BE GIVEN FOR EACH ARTICLE.

(A) All persons engaged in business as described in §111.25 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.

(B) All articles shall be made available for examination to members of the police department, sheriff's department, state police, or other law enforcement official for a period of seven consecutive days after their receipt, before such articles are resold or exchanged, unless written permission is obtained from the Chief of Police of the City of Winchester and/or the County Sheriff.

(Prior Code, § 61.003) (Ord. 81-9, passed 5-27-1981)

§ 111.28 PROHIBITED ACTIVITIES.

No person engaged in business as described in §111.25 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.

(Prior Code, § 61.004) (Ord. 81-9, passed 5-27-1981) Penalty, see §111.99

§ 111.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) The penalties for violation of this §§ 111.01 to 111.13 shall be as follows:

(1) First conviction: Class B misdemeanor constituting a fine not to exceed \$250 and/or up to 90 days in jail; and

(2) Second conviction: Class A misdemeanor constituting a fine not to exceed \$500 and/or up to one year in jail.

(2) Each incident which results in a violation of §§ 111.01 to 111.13 shall constitute a separate offense.

(C) Any violation of any of the duties, requirements, or provisions of §§ 111.25 to 111.28 shall be punishable as a Class A misdemeanor.

(Prior Code, § 61.999) (Ord. 81-9, passed 5-27-1981; Ord. 2011-08, passed 8-10-2011)

CHAPTER 112: RECYCLERS

Section

Motor Vehicle Recyclers

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Duties of Recyclers

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MOTOR VEHICLE RECYCLERS

§ 112.01 DEFINITIONS.

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

LEADSONLINE. An existing web-based central reporting system that allows recyclers to report their transactions to law enforcement with information required by state statute and this subchapter.

MOTOR VEHICLE RECYCLER. Any individual or business, or principals, employees, or agents thereof, that purchases motor vehicles for the purposes crushing and/or recycling motor vehicles for scrap metal.

(Ord. 2011-09, passed 8-10-2011)

§ 112.02 DUTIES OF MOTOR VEHICLE RECYCLER.

Under this subchapter, each motor vehicle recycler shall be obligated to follow and comply with the following regulations and requirements:

(A) Keep a register that contains:

- (1) A photocopy of a valid driver's license or other government-issued identification card or document which contains the name, photograph, and signature of the seller. If the purchaser has a copy of the seller's valid photo identification on file, it shall not be necessary for the purchaser to make another copy of the identification document for each purchase if the purchaser references the number on the identification document in the register at the time of each purchase;
- (2) The state and license number of the motor vehicle used to transport the motor vehicle, to the place of purchase, which shall be provided by the seller of the items;
- (3) The time and date of the transaction;
- (4) The year, make, model, license plate number, and/or vehicle identification number of the motor vehicle purchased by the motor vehicle recycler; and
- (5) The amount paid for the motor vehicle and the unit basis of the purchase, such as by ounce or pound, and the like.

(B) Shall hold motor vehicles purchased, in their original form as presented to the motor vehicle recycler for a period of three business days, unless notified, within that three-day period by a peace officer having reasonable cause to believe that the property may be stolen property, in which case, the motor vehicle may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional 30 days unless earlier notified by a peace officer that the property may be sold. Certain motor vehicles may be recycled immediately. A motor vehicle may be recycled immediately after transaction if meeting any one of the following conditions:

- (1) Motor vehicle is missing an engine or transmission upon entering the business;
- (2) Motor vehicle has fire damage to its exterior;
- (3) Motor vehicle is sold to a motor vehicle recycler with a junk title. Motor vehicle recyclers shall retain a copy of the junk title with the transaction record and kept for two years. The registrant on the junk title shall be the only person who can sell the specific motor vehicle to the motor vehicle recycler. The motor vehicle recycler shall hold the motor vehicle for three business days if sold by anyone other than the registrant listed on the junk title except as provided under (B)(5) below;
- (4) Motor vehicles that are sold to the motor vehicle recycler by a business engaged in towing, impound, insurance, or any other motor vehicle recycler where reporting to another law enforcement agency or Leadsonline registration and notification has already been accomplished;
- (5) Motor vehicle is determined to be older than ten years old. This can be done by using the VIN number to ascertain the year of the motor vehicle; and
- (6) The motor vehicle is determined to be ten years old or less and the motor vehicle is being sold by the person whose name appears on the title to the motor vehicle. A copy of the title and the identification of the person selling the vehicle will be maintained together.

(C) Not purchase any motor vehicle from a person who:

- (1) Is less than 18 years of age; or
- (2) Is unable or refuses to provide the identification and information required in division (C)(1) above;

(D) Retain the information required by this section for a period of two years, after which time, the information may be retained, destroyed in a manner that protects the identity of the owner of the property and the seller of the property, or transferred to a law enforcement agency specified in division (G) below;

(E) If the purchaser ceases business, transfer all records and information required by this section to a law enforcement agency specified in division (G) below;

(F) Permit any peace officer to inspect the register, during normal business hours, and if the peace officer deems it necessary, to locate and inspect the specific stolen motor vehicle received during business hours;

(G) Upon written request of the Sheriff or Chief of Police, as appropriate, transmit a report containing the information required to be retained in the register under division (A) above to Leadsonline web based central reporting system, within 24 hours of the transaction;

(H) If an unintended circumstance prevents transmitting reports to Leadsonline, motor vehicle recyclers shall submit their reports in person, in digital format, in writing, or by electronic means to the County Sheriff and Winchester Police Department within 24 hours of the transaction; or

(I) Comply with a written request pursuant to division (G) above until a written notice to cease sending the reports required by division (G) above is received by the purchaser. A request may relate to:

- (1) All records of purchases;
- (2) Records of a specific motor vehicle;
- (3) Records of purchases during a specific period of time; or
- (4) Records of a specific purchase or purchases.

(Ord. 2011-09, passed 8-10-2011)

§ 112.03 RECORDS RECEIVED BY LAW ENFORCEMENT.

A Sheriff or Police Department receiving records pursuant to this section shall retain the records for two years, after which time, it may either retain or destroy the records in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

(Ord. 2011-09, passed 8-10-2011)

§ 112.04 TRANSACTIONS WITH PERSONS CONVICTED OF LARCENY-RELATED OFFENSES PROHIBITED.

Motor vehicle recyclers are prohibited from engaging in any transaction for a period of three years with a person convicted of a crime in any County Court where their conviction involved the selling of stolen metal or a stolen motor vehicle to any recycler in the county and the City of Winchester. Law enforcement shall supply recyclers with the names and date of conviction of anyone convicted of such crime.

(Ord. 2011-09, passed 8-10-2011)

§ 112.05 CONFLICT OF LAW.

To the extent any resolution, ordinance, or parts thereof is in conflict, the provisions of this subchapter will prevail and be given effect.

(Ord. 2011-09, passed 8-10-2011)

DUTIES OF RECYCLERS

§ 112.20 DEFINITION.

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

LEADSONLINE. An existing web-based central reporting system that allows recyclers to report their transactions to law enforcement with information required by state statute and this subchapter.

(Ord. 2011-10, passed 8-10-2011)

§ 112.21 DUTIES OF PURCHASERS OF METAL AND OBJECTS CONTAINING METAL.

Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, whether such dealers, collectors, or vendors have established places of business or operate a business of an itinerant nature, shall, with regard to any catalytic converter, metal beverage container that is capable of holding more than two liters of beverage and is marketed as returnable, railroad rails, non-ferrous metal or an alloy thereof, ferrous or an object containing non-ferrous metal, and ferrous metal or an alloy thereof:

(A) Keep a register that contains:

(1) A photocopy of a valid driver's license or other government-issued identification card or document which contains the name, photograph, and signature of the seller. If the purchaser has a copy of the seller's valid photo identification on file, it shall not be necessary for the purchaser to make another copy of the identification document for each purchase if the purchaser references the number on the identification document in the register at the time of each purchase;

(2) The state and license number of the motor vehicle used to transport the purchased catalytic converter, metal beverage container that is capable of holding more than two liters of beverage and is marketed as returnable, railroad rail, non-ferrous metal or an alloy thereof, or object containing non-ferrous metal or an alloy thereof, to the place of purchase, which shall be provided by the seller of the items;

(3) The time and date of the transaction;

(4) A description in the usage of the trade of the kind and weight of the railroad rail, non-ferrous metal or an alloy thereof, or object containing the non-ferrous metal or an alloy thereof purchased; and

(5) The amount paid for the material and the unit basis of the purchase, such as by ounce or pound, and the like.

(B) Not purchase any metal that has been smelted, burned, or melted unless, in addition to the other requirements of this division (B), the seller provides the following, and the purchaser maintains a copy thereof:

(1) A signed certificate of ownership stating that he or she is the owner of the metal and is entitled to sell it; or

(2) A signed certificate from the owner of the metal stating that he or she is the owner of the metal, and that the person selling the metal is authorized to sell the metal on behalf of the owner.

(C) Not purchase any catalytic converter, metal beverage container that is capable of holding more than two liters of beverage and is marketed as returnable, railroad rail, non-ferrous metal or an alloy thereof, or an object containing non-ferrous metal or an alloy thereof from a person who:

(1) Is less than 18 years of age; or

(2) Is unable or refuses to provide the identification and information required in division (C)(1) above.

(D) Retain the information required by this section for a period of two years, after which time, the information may be retained, destroyed in a manner that protects the identity of the owner of the property and the seller of the property, or transferred to a law enforcement agency specified in division (G) below;

(E) If the purchaser ceases business, transfer all records and information required by this section to a law enforcement agency specified in division (G) below;

(F) Permit any peace officer to inspect the register, and if the peace officer deems it necessary to locate specific stolen property, may inspect the catalytic converter, metal beverage and container that is capable of holding more than two liters of beverage is marketed as returnable, railroad rail, non- ferrous metal or an alloy thereof, or object containing non-ferrous metal or an alloy thereof received during business hours;

(G) Upon written request of the Sheriff or Chief of Police, as appropriate, make a report containing the information required to be retained in the register under division (A) above in person, in digital format, in writing, or by electronic means within 24 hours of the transaction to:

(1) The Sheriff of the county in which the purchase was made and the Sheriff of the county in which the business is located; and

(2) When the purchase was made in a city, county, urban-county, charter county, consolidated local government, or unified local government, to the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the purchase is made and the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the business is located, unless there is no police department in that jurisdiction.

(H) Comply with a written request pursuant to division (G) above until a written notice to cease sending the reports required by division (G) above is received by the purchaser. A request may relate to:

(1) All records of purchases;

(2) Records of a specific class of metals or items purchased;

(3) Records of purchases during a specific period of time; or

(4) Records of a specific purchase or purchases.

(I) Retain the property in its original form or a photograph or digital image of the property for a period of three business days from the date of purchase unless notified by a peace officer having reasonable cause to believe that the property may be stolen property, in which case, the property may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional 30 days unless earlier notified by a peace officer that the property may be sold.(Ord. 2011-10, passed 8-10-2011)

§ 112.22 RECORDS RECEIVED BY LAW ENFORCEMENT.

A Sheriff or Police Department receiving records pursuant to this subchapter shall retain the records for two years, after which time, it may either retain or destroy the records in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

§ 112.23 BUSINESS RECORDS.

Any record required to be made or reported pursuant to this subchapter may be kept and reported in hard copy or digital or in electronic format.

(Ord. 2011-10, passed 8-10-2011)

§ 112.24 EXCEPTIONS.

This subchapter shall not apply to the purchase, sale, or transfer of:

- (A) A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title;
- (B) A firearm, part of a firearm, firearm accessor, ammunition, or ammunition component;
- (C) A knife, knife parts, accessory or sheath for a knife, or knife making products;
- (D) A nonreturnable used beverage container or food container;
- (E) Jewelry, household goods containing metal, garden tools, and similar household items, except for a catalytic converter or metal beverage container that is capable of holding more than two liters of liquid and which is marketed as returnable, which takes place at a flea market or yard sale;
- (F) A single transaction involving a purchase price of \$10 or less, but more than two transactions with the same person involving a purchase price of \$10 or less in one seven-day period shall be reportable transactions;
- (G) Material disposed of as trash or refuse that contains or may contain a catalytic converter, metal beverage container that is capable of holding more than two liters of beverage and is marketed as returnable, railroad rail, non-ferrous metals or an alloy thereof, or an object that contains or may contain a railroad rail or non-ferrous metals or an alloy thereof, which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the person or agency collecting the material;
- (H) A catalytic convener, metal beverage container that is capable of holding more than two liters of beverage and marketed as returnable, railroad rail, non-ferrous metal or alloy thereof, or an object containing railroad rail, non-ferrous metal, or an alloy thereof from a person who has maintained a record pursuant to this section to a person who is to further recycle the metal or object containing the metal;
- (I) A catalytic convener, metal beverage container that is capable of holding more than two liters of beverage and marketed as returnable, railroad rail, non-ferrous metal or an alloy thereof, or object containing non-ferrous metal or an alloy thereof under a written contract with an organization, corporation, or association registered with the state as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;
- (J) A purchase pursuant to a written contract, from a manufacturing, industrial, or other commercial vendor, that generates catalytic converters, metal beverage containers capable of holding more than two liters of beverage and which are marketed as returnable, railroad rail, non-ferrous metal or an alloy thereof, or object containing non-ferrous metal in the ordinary course of business;
- (K) An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant to KRS Chapter 226 engaging in the business authorized by that chapter; or
- (L) A catalytic converter, metal beverage container that is capable of holding more than two liters of beverage and is marked as returnable, or railroad rails.

(Ord. 2011-10, passed 8-10-2011)

§ 112.25 PROHIBITED ITEMS TO BE PURCHASED BY RECYCLERS.

No recycler shall accept any metal that bears a municipal name, utility company, and/or government waste water removal entity or property that is used for highway safety. This specifically includes, but not limited to, manhole covers, storm grates, and guard rails and their supports. These items may be sold to a recycler by the originating entity or by anyone in possession of a notarized letter containing:

- (A) The originating agency's name and authorizing official's contact information;
- (B) The name of the person who was given the metal for disposal by the authorizing official. The person listed on this notarized letter by the authorizing official shall be the only seller of these specific metals to the recycler; and
- (C) A list of materials that is to be released to the person for disposal.

(Ord. 2011-10, passed 8-10-2011) Penalty, see §112.99

§ 112.26 FERROUS METAL TRANSACTIONS.

All ferrous metals shall also be included in the duties of purchasers set forth in §112.21. Included in ferrous metals are trailers and mowing equipment.

(Ord. 2011-10, passed 8-10-2011)

§ 112.27 FULL DESCRIPTION OF PURCHASED METAL.

Make, model, type, and/or serial numbers shall be reported in accordance with §112.21. In addition, a photograph, digital or video image may be maintained by the recycler to ensure compliance with this section. In the event a make, model, type, or serial number cannot be located, the purchaser shall report a full detailed description of the item purchased.

(Ord. 2011-10, passed 8-10-2011)

§ 112.28 REPORTING THROUGH WEB-BASED CENTRAL REPORTING SYSTEM.

Reporting to a web-based central reporting system identified as Leadsonline shall be the primary method of reporting transactions and will suffice for reporting directly to the appropriate law enforcement agency as set forth in § 112.21. In the event an unintended circumstance prevents reporting through the web-based system, recyclers shall revert to reporting in accordance with § 112.21.

(Ord. 2011-10, passed 8-10-2011)

§ 112.29 TRANSACTIONS WITH PERSONS CONVICTED OF LARCENY-RELATED OFFENSES.

Recyclers are prohibited from engaging in any transaction for a period of three years with a person convicted of a crime in any County Court where their conviction involved the selling of stolen metal or a stolen motor vehicle to any recycler in the county and the City of Winchester. Law enforcement shall supply recyclers with the names and date of conviction of anyone convicted of such crime.

(Ord. 2011-10, passed 8-10-2011) Penalty, see §112.99

§ 112.30 CONFLICT OF LAW.

To the extent any resolution, ordinance, or parts thereof is in conflict, the provisions of this subchapter will prevail and be given effect.

(Ord. 2011-10, passed 8-10-2011)

§ 112.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The penalties for violation of §§ 112.01 to 112.05 shall be as follows:

- (1) Class A misdemeanor constituting a fine not to exceed \$500 and/or up to one year in jail; and
- (2) Each incident which results in a violation of §§112.01 to 112.05 shall constitute a separate offense.

(C) The penalties for violation of §§ 112.20 to 112.30 shall be as follows:

- (1) Class A misdemeanor constituting a fine not to exceed \$500 and/or up to one year in jail; and
- (2) Each incident which results in a violation of §§112.20 to 112.30 shall constitute a separate offense.

(Ord. 2011-09, passed 8-10-2011; Ord. 2011-10, passed 8-10-2011)

CHAPTER 113: SEXUALLY ORIENTED BUSINESSES

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GENERAL PROVISIONS

§ 113.01 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 city and county (hereafter sometimes called the county since the city is contained within the county), and to establish reasonable and uniform regulations to prevent the deleterious location and concentration 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 of any communicative materials, including sexually oriented materials. Similarly, it is not 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.

(Prior Code, § 62.001) (Ord. 2000-11, passed 7-26-2000)

§ 113.02 DEFINITIONS.

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

ADULT AMUSEMENT ARCADE. Any place in which the public is permitted or invited wherein coin operated, slug operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE.

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of

specified sexual activities or specified anatomical areas; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be characterized as **ADULT BOOKSTORE** or **ADULT VIDEO STORE**. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an **ADULT BOOKSTORE** or **ADULT VIDEO STORE** so long as a significant business purpose is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. A use may be significant without being a primary use of an establishment as long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment which regularly, commonly, habitually, or consistently features:

(1) Persons who appear in a state of nudity or semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, or photographic reproductions or other image producing devices which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(4) Persons who engage in exotic or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT MOTEL. A hotel, motel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of these adult-type photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than six hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than six hours.

ADULT MOTION THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the dominant depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly, commonly, habitually, or consistently features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

EMPLOYEE. 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 and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises if such person's presence is occasional, nor does **EMPLOYEE** include a person exclusively on the premises as a patron or customer.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT. Includes 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;

(3) The additions of any sexually oriented business to any other existing sexually oriented business;

(4) The relocation of any sexually oriented business; or

(5) A sexually oriented business or premises on which the sexually oriented business is located.

LICENSED DAY-CARE CENTER. A facility licensed by the state and situated within the county, whether situated within the city or not, that provides care, training, education, custody, treatment, or supervision for children under 14 years of age, where such children are not related by blood, marriage, or adoption to the owner or operator of the facility, for less than 24 hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

LICENSEE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

LICENSING BOARD. The City Licensing Board created in § 9-40 of the Code of Ordinances of the City of Winchester, Kentucky. The enactment of this chapter by the county delegates and establishes authority in the City Licensing Board, herein called the **LICENSING BOARD**, throughout all of the county, as well as the City of Winchester, Kentucky, for all purposes herein stated in connection with the implementation of this chapter, the administration of this chapter, and the issuance of sexually oriented business licenses and sexually oriented business employee licenses.

LIVE THEATRICAL PERFORMANCE. A play, skit, opera, ballet, concert, comedy, or musical drama.

NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

NUDITY or **STATE OF NUDITY.** The showing of the human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, or vulva with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola or human male genitals in a discernibly turgid state even if completely and opaquely covered.

PERSON. An 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 business license pursuant to § 113.15.

SEMI-NUDE or **SEMI-NUDE CONDITION.** The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIED ANATOMICAL AREAS.

- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(1) Prostitution or promotion of prostitution offenses or the offense of maintaining a house of prostitution found in the state's Penal Code or other Kentucky Revised Statutes or federal laws (including those offenses currently at KRS Chapter 529 and KRS Chapter 233); pornography and/or sexual exploitation or minors (including those offenses currently at KRS Chapter 531) including distribution of obscene matter, distribution of obscene matter to minors, using minors to distribute obscene material; advertising obscene material, promoting the sale of obscenity, using a minor in a sexual performance, promoting a sexual performance by a minor, possession of matter portraying a sexual performance by a minor, distribution of matter portraying a sexual performance by a minor, promoting the sale of or advertising material portraying a sexual performance by a minor or using minors to distribute material portraying a sexual performance by a minor; engaging in organized criminal activity; sexual offenses found in the state's Penal Code or other Kentucky Revised Statutes or federal laws (including those offenses currently at KRS Chapter 510) including rape, sodomy, sexual abuse, sexual misconduct and indecent exposure; molestation of child; gambling (including those offenses currently at KRS Chapter 528); or distribution of, selling, trafficking, or otherwise committing a prohibited practice concerning a controlled substance (including those offenses currently at KRS Chapter 218A) other than possession thereof; or any similar offenses to those described above under the Criminal or penal code of the United States of America, any state, or any country;

- (2) For which:
 - (a) Fewer than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (b) Fewer than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (c) Fewer than five years have elapsed since the date of the last conviction or the date of release from confinement

for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall not prevent disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (3) above.

SUBSTANTIAL ENLARGEMENT (of a sexually oriented business). The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

TRANSFER OF OWNERSHIP OR CONTROL (of a sexually oriented business). Includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitutes a 10% or greater 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 at least 10% of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Prior Code, § 62.002) (Ord. 2000-11, passed 7-26-2000)

§ 113.03 CLASSIFICATIONS.

Sexually oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

(Prior Code, § 62.003) (Ord. 2000-11, passed 7-26-2000)

LICENSES

§ 113.15 LICENSE REQUIRED.

(A) It is unlawful:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business operator's license issued by the Licensing Board pursuant to this chapter;

(2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business if such employee is not in possession of a valid sexually oriented business employee license ("employee license") issued to such employee by the Licensing Board pursuant to this chapter;

(3) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the Licensing Board pursuant to this chapter;

(4) It shall be a defense to divisions (A)(2) and (A)(3) above if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises; and

(5) Violation of any provision of this division (A) shall constitute a violation.

(B) An application for an operator's or employee's license must be made on a form provided by the Licensing Board. The Licensing Board is the City Licensing Board created in § 9-40 of the Code of Ordinances of the City of Winchester. For the purpose of implementation and administration of this chapter, the county designates the City Licensing Board, herein called

the Licensing Board, to act on behalf of the county in the issuance of sexually oriented business licenses and sexually oriented business employee licenses.

(C) All applicants for a license must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information reasonably necessary (including fingerprints) as to enable the Licensing Board to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to own or operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10% or greater interest in the business must sign the application for an operator's license as applicant. If an owner or operator of a sexually oriented business is other than an individual, all persons with legal authority over day-to-day policy and/or operations must sign the application for an operator's license as applicant. In the case of a corporation, all officers and directors must sign as applicant. In the case of a limited liability company or partnership, all managers, whether members or not, must sign as applicant. In the case of a general partnership, all partners must sign as applicant unless the written partnership agreement clearly vests day-to-day policy and management in fewer than all the partners under applicable law; only those with management or day-to-day policy authority must sign as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually oriented business operator's license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases or other names ever used by such person and submit proof that he or she is at least 18 years of age;

(b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement if any;

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors, and stockholders, and the name of the registered corporate agent and the address of the registered office for service of process; and

(d) A limited liability company (LLC), the LLC shall state its complete name, the date of its organization, evidence that the LLC is in good standing under the laws of its state of organization and is authorized to do business in the state, the names and capacity of all managers, officers, directors, and members, a copy of the operating agreement, if any, and the name of the registered agent and the address of the registered office for service of process.

(2) The name under which the establishment is to be operated and a general description of the services to be provided. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business's assumed name, and submit the required registration of documents;

(3) Whether the applicant has been convicted of a specified criminal activity as defined in §113.02, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each;

(4) Whether the applicant has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation, and whether the applicant has been a partner in a partnership or an officer, director, or stockholder of a corporation or limited liability company that is licensed under this chapter whose license has previously been denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension, or revocation;

(5) Whether the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed business;

(6) The single classification, as found in §113.03, of a license for which the applicant is filing;

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and the name, address, and telephone number(s), if any, of the owner(s) of the property. If the applicant is not the owner of the property, the applicant must include a copy of the lease for the premises which extends to or beyond the term of the license applied for;

(8) The applicant's street address and mailing address, if different;

(9) A recent photograph of the applicant(s);

(10) The applicant's driver's license number, Social Security number, and/or its state and federal issued tax identification numbers;

(11) 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 it must 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. The premises will

be inspected by the Health Department, Building Inspector, and Zoning Department, but a provisional license may be granted before inspections are completed as hereinafter specified in § 113.18;

(12) A current certificate and straight-line drawing prepared within 30 days prior to application by a Kentucky registered engineer or land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified and the property lines of any established licensed day-care center, religious institution/synagogue, school, or public park, recreation area, or residential area (all as more specifically set out in § 113.24(C)) within 500 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

(13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 113.41 in addition to the foregoing requirements; and

(14) Any of the items other than divisions (E)(1) and (E)(8) above shall not be required for a renewal application if the applicant states that the documents previously furnished remain correct and current unless the Licensing Board makes specific requests for resubmittal for good cause shown.

(F) (1) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Licensing Board the following information:

- (a) The applicant's name or any other name (including "stage names") or aliases now or theretofore used by the individual;
- (b) Age, date, and place of birth;
- (c) Height, weight, hair, and eye color;
- (d) Present business address and telephone number;
- (e) Date, issuing state, and number of driver's license or other state issued identification card information;
- (f) Social Security number; and
- (g) Proof that the individual is at least 18 years of age.

(2) The personal information provided in an employee application shall be confidential and shall not be disclosed to the public except as necessary to enforce the license terms of this chapter or to the extent required by law.

(G) Attached to the application form for a sexually oriented business employee or operator license as provided above, shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant;

(2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country, or has ever had a license, permit, or authority to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application; and

(3) A statement whether the applicant has been convicted, within the past five years, of a specified criminal activity as defined in § 113.02 and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(H) An applicant for any license under this chapter has a continuing, affirmative duty to provide correct information and to provide supplemental information subsequent to the initial submission so that all application information is correct at all times during the license.

(I) Every application for a license under this chapter shall contain a statement under oath that:

(1) The applicant (and each person required to sign the application) has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and

(2) The applicant (and each person required to sign the application) has read the provisions of this division (I).

(J) A separate application and operator's license shall be required for each sexually oriented business classification as set forth in § 113.03.

(Prior Code, § 62.100) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.16 ISSUANCE OF LICENSE.

Once a license application is complete, it shall be considered by the Licensing Board in the manner set forth in the code of ordinances of the City of Winchester and hereinbelow. The provisions of this chapter shall control to the extent that there is

an inconsistency with any other sections of the code of ordinances of the City of Winchester pertaining to the City Licensing Board.

(A) (1) Within 15 calendar days after receipt of a completed sexually oriented business or sexually oriented business employee application, the Licensing Board shall either:

- (a) Approve or deny the issuance of a license to an applicant; or
- (b) Shall issue a provisional license pending the completion of the licensing process.

(2) For these purposes, completion of the licensing process shall include review by the legislative body, if it grants a review of exceptions, and the exhaustion of legal remedies by the applicant. The Licensing Board shall approve the issuance of a license to an applicant unless it determines by a preponderance of the evidence that there is good cause for such denial. A sexually oriented business operator's or employee's license may be denied only for good cause.

(B) Good cause to deny a sexually oriented business employee license may consist of, but is not limited to, any one of the following:

(1) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of 18 years;

(3) The applicant has been convicted of a "specified criminal activity" as defined in §113.02;

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local ordinance, state law, statute, rule or regulation, or prohibited by a particular provision of this chapter;

(5) The applicant has been denied a sexually oriented business employee license by the city or county within 12 months of the date of the current application or the applicant's sexually oriented business employee license has been revoked within the preceding 12 months; or

(6) The license fee required by this chapter has not been paid.

(C) Good cause to deny a sexually oriented business operator's license may consist of, but is not limited to, one or more of the following:

(1) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) An applicant is under 18 years of age;

(3) An applicant has been convicted of a "specified criminal activity" as defined in §113.02;

(4) The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances or a requisite state certificate of occupancy has not been received. It is provided, however, that the failure of the Health Department, Fire Department, or state or local Building Official to act in a timely fashion will not be good cause to deny the issuance of a provisional license pending the receipt of the necessary action by such department or official;

(5) An applicant has been denied a license by the city or county to operate a sexually oriented business within the preceding 12 months or the applicant's license to operate a sexually oriented business has been revoked within the preceding 12 months;

(6) The license fee required by this chapter has not been paid; and/or

(7) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(D) A license granted pursuant to this chapter shall be subject to annual renewal upon the written application of the applicant and a finding by the Licensing Board or legislative body that the applicant has not been convicted of any specified criminal activity as defined in § 113.02 or committed any other act during the existence of the previous license which would be good cause to deny the license renewal. The renewal of the license shall be subject to the payment of the fee as set forth in § 113.17.

(E) If the license application is approved by the Licensing Board, a provisional license shall be granted until the later of 30 days after such approval or until final action (including the exhaustion of all remedies by the applicant) has been taken on such application.

(1) A citizen who deems himself or herself aggrieved by Licensing Board approval may file exceptions with the Winchester City Clerk within 30 days after an application is approved but such exceptions shall be limited to one or more of the enumerated elements of good cause in divisions (B) or (C) above.

(2) The appropriate legislative body (the Board of Commissioners of the City of Winchester, if the application is for an employee license or a business license and the business or place of employment is to be located within the corporate limits of the City of Winchester, or, if not, the County Fiscal Court) shall consider the exceptions at its next regular meeting which is convened at least five days after the end of the 30-day exception period. At such meeting, the legislative body may refuse

to hear the exceptions or it may set the exceptions for a hearing by the legislative body at a regular or special meeting which shall be conducted within 30 days thereafter. After hearing the exceptions, the legislative body shall either dismiss the exceptions or shall remand the matter for further consideration by the Licensing Board. Upon remand, the Licensing Board shall limit its inquiry to the issues stated in the remand order and it may reverse its earlier approval only after making findings of fact that its earlier approval was clearly erroneous. Exceptions may be heard only one time for each application or renewal.

(F) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued pursuant to § 113.03. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time. When engaged in employment or performing services on the sexually oriented business premises, an employee shall, at all times, possess the license in such manner as to be available for immediate inspection upon lawful request.

(G) The Health Department, Fire Department, and local Building Official shall complete their certification that the premises are in compliance or not in compliance within a reasonable time (usually not to exceed ten days of receipt of the application by the Licensing Board).

(H) Denial, suspension, or revocation of a license issued pursuant to this chapter shall be subject to appeal as set forth in § 113.22. An applicant shall be given written notice of the denial, suspension, or revocation and the reasons therefor.

(Prior Code, § 62.101) (Ord. 2000-11, passed 7-26-2000)

§ 113.17 FEES.

(A) Every application for a sexually oriented business operator's license (whether for a new license or for a renewal of an existing license) shall be accompanied by a \$250 non-refundable application and investigation fee.

(B) In addition to the application and investigation fee required in division (A) above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Licensing Board an annual non-refundable license fee of \$800 before license issuance or renewal.

(C) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$200 non-refundable application and investigation fee.

(D) In addition to the application and investigation fee required in division (C) above, every sexually oriented business employee who is granted a license (new or renewal) shall pay to the Licensing Board an annual non-refundable license fee of \$300 before license issuance or renewal.

(E) All license applications and fees shall be submitted to the Winchester City Clerk, as agent of the Winchester Licensing Board, whether the business is to be conducted within or without the city limits of Winchester. The City Clerk shall promptly remit to the County Treasurer all license fees, other than application fees, for businesses or employment to be conducted outside the city limits. If an employee license is issued to a person for employment in a sexually oriented business in both the city and county, the City Clerk shall remit one-half of the license fee, other than the application and investigation fee.

(F) Fees shall be prorated, in increments no smaller than one month, if the license is for fewer than 12 months.

(Prior Code, § 62.102) (Ord. 2000-11, passed 7-26-2000)

§ 113.18 INSPECTION.

(A) An applicant shall, at reasonable times, permit representatives of the County Sheriff's Department, Winchester or State Police Department, County Health Department, Winchester or County Fire Department, Winchester-Clark County Planning and Zoning and Winchester Code Enforcement Department, or other city or county departments or agencies to inspect the premises of a sexually oriented business for the purpose of determining eligibility for a license if the premises are not theretofore licensed.

(B) The city and county authorities shall regularly inspect the premises of the sexually oriented business in order to determine compliance with the provisions of this chapter. An applicant or licensee shall permit representatives of the Police Department and/or Health Department to inspect the premises at any time the establishment is open for business. Such inspection shall be limited to visual assessment of the activities conducted in areas to which patrons have access or are allowed access; to requests for inspection of the licenses required under this chapter; and to requests for identification of those individuals who reasonably appear to be under the age of 18.

(C) A person who operates a sexually oriented business or his or her agent or employee commits a violation if he or she refuses to permit such lawful inspection of the premises at any time it is open for business.

(Prior Code, § 62.103) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.19 EXPIRATION AND NON-RENEWAL OF LICENSE.

(A) Each license shall expire on June 30 of each year and may be renewed only by making application as provided in § 113.15. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days

before the expiration date, the expiration of the license will not be delayed.

(B) When the Licensing Board denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Notwithstanding the provisions of this section, in the event a licensee appeals the non-renewal of a license, the status quo immediately prior to a non-renewal shall be maintained throughout the pendency of the appeal, up to and including judicial review of the merits.

(Prior Code, § 62.104) (Ord. 2000-11, passed 7-26-2000)

§ 113.20 SUSPENSION.

(A) The Licensing Board shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this chapter; or
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized in §113.18.

(B) Notwithstanding the provisions of this section, in the event a licensee appeals the suspension of a license, the status quo immediately prior to suspension shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits.

(Prior Code, § 62.105) (Ord. 2000-11, passed 7-26-2000)

§ 113.21 REVOCATION.

(A) The Licensing Board shall revoke a license if a cause of suspension in §113.20 occurs and the licensee's license has been suspended within the preceding 12 months.

(B) The Licensing Board shall revoke a license if it determines that:

- (1) A licensee gave materially false or misleading information in the material submitted during the application process;
- (2) A licensee has knowingly allowed possession, use, or sale of marijuana, controlled substances, or alcoholic beverages on the premises;
- (3) A licensee has knowingly allowed prostitution on the premises;
- (4) A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act or specified sexual activity to occur in or on the licensed premises;
- (6) A licensee is delinquent in payment to the city or county for any taxes, fees, fines, or penalties relating to the sexually oriented business or the premises thereon and does not pay the same within 30 days of request;
- (7) A licensee was convicted of a specified criminal activity on a charge that was pending prior to the issuance of the license;
- (8) A licensee has, with knowledge, permitted person under 18 years of age to enter or remain in the establishment; or
- (9) A licensee has attempted to sell his or her business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment.

(C) When the Licensing Board revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective.

(D) Notwithstanding the provisions of this section, in the event a licensee appeals the revocation of a license, the status quo immediately prior to revocation shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits.

(Prior Code, § 62.106) (Ord. 2000-11, passed 7-26-2000)

§ 113.22 HEARING DE NOVO; JUDICIAL REVIEW.

After denial of approval of an application, or denial of a renewal of an application, or suspension or revocation of any license by the Licensing Board, an aggrieved party (the applicant or licensee if the license was denied, suspended, or revoked or renewal was denied; or a citizen of Winchester, or the county, as the case may be, if the license was granted or renewed or if suspension or revocation of a license was denied after proceedings therefor) may request a hearing de novo before the Board of Commissioners of the City of Winchester or the County Fiscal Court, as the case may be, by filing a written request stating the grounds therefor within five days after the action of the Licensing Board was communicated to the applicant or licensee by depositing same in the U.S. mail with the required postage thereon. The hearing de novo, limited to the grounds stated in the request for hearing, must be held within ten days after the action by the Licensing Board. The legislative body will not overturn a finding of fact of the Licensing Board unless same is found to be clearly erroneous. If the denial, suspension, or revocation is upheld by the legislative body, the applicant may seek judicial review of the administrative action in any court of competent jurisdiction and upon timely application for such review, a provisional license

shall be granted until the review is completed or until a restraining order is entered.

(Prior Code, § 62.107) (Ord. 2000-11, passed 7-26-2000)

§ 113.23 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 application unless the transfer is approved by the Licensing Board.

(Prior Code, § 62.108) (Ord. 2000-11, passed 7-26-2000)

§ 113.24 LOCATION OF SEXUALLY ORIENTED BUSINESS.

(A) A license may not be granted for a sexually oriented business to be operated in any zoning district other than B-3, B-4, or I-1, as defined and described in the revised zoning code for the county and the City of Winchester.

(B) A person commits a violation if that person operates or causes to be operated a sexually oriented business in any zoning district other than B-3, B-4, or I-1, as defined and described in the revised zoning code for the county and the City of Winchester.

(C) A person commits a violation if the person operates or causes to be operated a sexually oriented business within 500 feet of:

(1) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility, including, but not limited to, licensed day-care facilities or other child care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the revised zoning code for the county and the City of Winchester, or the property line of a lot devoted to a residential use (e.g., planned development with a residential use); or

(4) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the county which is under the control, operation, or management of the city or county park and recreation authorities.

(D) A person commits a violation if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(E) A person commits a violation if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(F) For the purpose of division (C) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in division (C) above. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(G) For purposes of division (D) above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(H) Any sexually oriented business lawfully operating on the effective date of this chapter that is in violation of divisions (B) through (G) above shall be deemed a nonconforming license. The nonconforming license will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming licenses shall not be increased, enlarged, extended, or altered except that the license may be changed to a conforming license if the requirements therefor are complied with. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming license and the later established business(es) is/are nonconforming.

(I) A sexually oriented business lawfully operating as conforming is not rendered nonconforming by the location, subsequent to the grant or renewal of the sexually oriented business license, of a license for a use listed in division (C) above within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

(J) For purposes of this section, **PERSON** includes the officers, directors, and managing members or partners of a business entity.

§ 113.25 INJUNCTION.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of the provisions of §§ 113.61 or 113.62 is subject to a suit for injunction as well as prosecution for violation and suspension or revocation of license.

(Prior Code, § 62.110) (Ord. 2000-11, passed 7-26-2000)

REGULATIONS; VIOLATIONS

§ 113.40 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in § 113.02.

(B) A person commits a violation if, as the person in control of a sleeping room in a hotel, motel, or similar establishment that does not have a sexually oriented license, he or she rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or subrents the same sleeping room again.

(C) For purposes of division (B) above, the terms **RENT** or **SUBRENT** mean the act of permitting a room to be occupied for any form of consideration.

(Prior Code, § 62.200) (Ord. 2000-11, passed 7-26-2000)

§ 113.41 VIEWING ROOM EXHIBITION REGULATIONS.

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit 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 should be oriented to the north or to some designated street or object and should 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 Licensing Board 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) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Licensing Board.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager'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 manager's stations. The view required in this division must be by direct line of sight from the manager's station.

(6) It shall be the duty of the licensee to ensure that the view area specified in division (A)(5) above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials and, at all times, 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 in the application filed pursuant to division (A)(1) above.

(7) No viewing room may be occupied by more than one person at any time.

(8) The 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 measured at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under divisions (A)(1) through (A)(14) above commits a violation if he or she knowingly fails to fulfill that duty. ***KNOWINGLY*** includes both actual knowledge and a lack of actual knowledge if an ordinarily prudent person would have acquired knowledge under the circumstances.

(Prior Code, § 62.201) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.42 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits a violation if a person under the age of 18 years acts as an escort or if a person agrees to act as an escort for any person under the age of 18 years.

(Prior Code, § 62.202) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.43 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits a violation if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (B) if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A person commits a violation if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Prior Code, § 62.203) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.44 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.

(A) It shall be a violation for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(B) It shall be a violation for a person who knowingly or intentionally, in a sexually oriented business, appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be a violation for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while the employee is semi-nude in a sexually oriented business.

(D) It shall be a violation for an employee, while semi-nude, to touch a customer or the clothing of a customer.

(E) ***KNOWINGLY*** includes both actual knowledge or a lack of actual knowledge if an ordinarily prudent person would have acquired knowledge under the circumstances.

(Prior Code, § 62.204) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.45 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

(A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(B) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(1) The establishment is a part of a commercial multi-unit center; and

(2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the

business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(D) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(E) A violation of any provision of this section shall constitute a violation.

(Prior Code, § 62.205) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.46 SIGNAGE.

(A) Notwithstanding any other applicable statute, ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than as provided herein.

(B) The sign shall have no more than two display surfaces. Each such display surface shall:

(1) Not contain any flashing lights;

(2) Contain no photographs, silhouettes, drawings, or pictorial representations which in any manner depict any part of the nude or semi-nude human body or specified anatomical areas or specified sexual activities as defined in § 113.02, whether nude or not; and

(3) Contain no form of the words "sex" or "nude" or any other words alluding to specified anatomical areas or specified sexual activities as defined in § 113.02.

(C) Violation of any provision of this section shall constitute a violation.

(Prior Code, § 62.206) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.47 EXEMPTIONS.

It is a defense to prosecution under § 113.43 that a person appearing in a state of nudity did so in a modeling class operated:

(A) By a proprietary school, licensed by the state; a college, junior college, or university supported entirely or partly by taxation;

(B) 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

(C) In a structure:

(1) Which has no signs visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

(Prior Code, § 62.207) (Ord. 2000-11, passed 7-26-2000)

PROHIBITIONS

§ 113.60 ALCOHOLIC BEVERAGES PROHIBITED.

(A) The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

(B) Any violation of this section shall constitute a violation.

(Prior Code, § 62.300) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.61 MASSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.

(A) It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor, or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

(B) Violation of this section shall constitute a violation.

(Prior Code, § 62.301) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.62 PROHIBITION AGAINST CHILDREN IN SEXUALLY ORIENTED BUSINESS.

A person commits a violation if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business. **KNOWINGLY** includes both actual knowledge or a lack of actual knowledge if an ordinarily prudent person would have acquired knowledge under the circumstances.

(Prior Code, § 62.302) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.63 HOURS OF OPERATION.

(A) No sexually oriented business, except for an adult motel, may remain open at any time between the hours of midnight and 8:00 a.m., except that premises may remain open from midnight until 1:00 a.m. Saturday and Sunday and, notwithstanding the foregoing, the premises may not be open during the 23 hours of Sunday beginning at 1:01 a.m.

(B) A violation of this section shall constitute a violation.

(Prior Code, § 62.303) (Ord. 2000-11, passed 7-26-2000) Penalty, see §113.99

§ 113.99 PENALTY.

Violations of the provisions of this chapter shall be punishable as permitted by the Kentucky Revised Statutes. Each day a sexually oriented business so operates is a separate offense.

(Prior Code, § 62.999) (Ord. 2000-11, passed 7-26-2000)

CHAPTER 114: ALCOHOLIC BEVERAGES

Section

- 114.01 License required
- 114.02 State license prerequisite to county license
- 114.03 Local approval required before application for state license
- 114.04 Types of business licenses
- 114.05 Quotas
- 114.06 License period; prorating and abatement of fees
- 114.07 Persons who may not be licensed
- 114.08 Premises for which licenses not to be issued
- 114.09 Conspicuous posting required
- 114.10 Duplicates
- 114.11 Conditions to which license subject
- 114.12 Transferability
- 114.13 Disposition of taxes and forfeited bonds
- 114.14 Sunday alcohol sales

114.99 Penalty

§ 114.01 LICENSE REQUIRED.

No person within the county, but outside the corporate boundaries of the City of Winchester, shall vend, sell, deal, or traffic, or, for the purpose of evading any law or provision of this chapter, give away any intoxicating liquor in any quantity whatever, or cause the same to be done, without having procured a license as provided in this chapter, nor without complying with all provisions of this and all statutes, ordinances, and regulations applicable thereto.

(Prior Code, § 63.001) (Ord. 2001-11, passed 10-15-2001) Penalty, see §114.99

§ 114.02 STATE LICENSE PREREQUISITE TO COUNTY LICENSE.

Except as provided in § 114.03, no license provided for in this chapter shall be granted, issued, or sold to any person until such person shall have obtained from the state administrator a license as provided by state law.

(Prior Code, § 63.002) (Ord. 2001-11, passed 10-15-2001)

§ 114.03 LOCAL APPROVAL REQUIRED BEFORE APPLICATION FOR STATE LICENSE.

Any person intending to make application for a premises within the county, or for the transfer of any existing retail drink license, shall first make an application with and obtain the approval of the county alcoholic beverage control administrator as hereinafter provided before making application with the state Alcoholic Beverage Control Board.

(Prior Code, § 63.003) (Ord. 2001-11, passed 10-15-2001)

§ 114.04 TYPES OF BUSINESS LICENSES.

There are hereby created those types of alcoholic beverage licenses as now may be permitted under state law, including, but not limited to, KRS 243.060 and as hereafter may be provided for by statutory revision or repeal. Business that may be conducted by the licensee of these licenses shall be as defined by state statute. It is the intent of the County Fiscal Court to provide for licenses and license fees for all categories of alcoholic beverage licenses as permitted by state law. The fees for each such license shall be set at 50%.

(Prior Code, § 63.004) (Ord. 2016-13, passed 9-14-2016)

§ 114.05 QUOTAS.

Quotas for the various licenses authorized by this chapter shall be those from time to time fixed by regulations of the state Alcoholic Beverage Control Board adopted pursuant to KRS 241.060 and other applicable laws.

(Prior Code, § 63.005) (Ord. 2001-11, passed 10-15-2001)

§ 114.06 LICENSE PERIOD; PRORATING AND ABATEMENT OF FEES.

All licenses issued pursuant to this chapter shall expire on dates as set forth in KRS 243.090(1) of the provisions of the state's Alcoholic Beverage Control Law, being KRS Chapters 241 through 244, the regulations promulgated thereunder, and all amendments and supplements thereto. Copies of the Alcoholic Beverage Control Law of the state, being KRS Chapters 241 through 244 and the regulations promulgated thereunder are hereby adopted by reference and made a part hereof as though copied at length herein.

(Prior Code, § 63.006) (Ord. 2001-11, passed 10-15-2001)

§ 114.07 PERSONS WHO MAY NOT BE LICENSED.

(A) No license shall be granted under this chapter to any person not of good moral character and a full citizen of the United States and of Kentucky; nor shall any license be issued to any person who has habitually been a petty law offender, or has been convicted of an offense against the laws of the state punishable by imprisonment in the state prison, unless the person committed has been duly pardoned. The provisions of this section shall not apply to a corporation authorized to do business in the state, but such provisions except the residence requirements shall apply to all officers and directors of any corporation.

(B) No such license shall be granted to any person under 21 years of age.

(C) No such license shall be granted to any corporation when more than 50% of the stock interest, legal or beneficial, is held by any person or person not eligible for a license under this chapter.

(Prior Code, § 63.007) (Ord. 2001-11, passed 10-15-2001)

§ 114.08 PREMISES FOR WHICH LICENSES NOT TO BE ISSUED.

(A) No license shall be granted for any premises that is located within a residential district except that a special private club license may be issued and, if so, a malt beverage license may be issued to the same licensee holding a special private club license for the same premises. Any premises shall be deemed to be included within a residence district if two-thirds of the buildings within a radius of 500 feet are used exclusively for residence purposes or the uses incidental thereto, regardless of the zoning classification of the property.

(B) No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid.

(C) No license shall be issued unless the premises to be licensed conform to the sanitary, safety, and health requirements of the city and the rules and regulations of the state board of health applicable to restaurants.

(D) No license shall be granted nor shall any application be accepted for any premises unless there is an established business operating upon the premises or the premises is at the time of the application ready to commence business.

(Prior Code, § 63.008) (Ord. 2001-11, passed 10-15-2001)

§ 114.09 CONSPICUOUS POSTING REQUIRED.

Every license and permit issued pursuant to this chapter shall be posted while in force in a conspicuous place in the room or place where intoxicating liquors are kept for sale.

(Prior Code, § 63.009)

§ 114.10 DUPLICATES.

Whenever a license or permit shall be lost or destroyed without fault on the part of the holder or his or her agent or employee, a duplicate in lieu thereof under the original application shall be issued by the County Clerk on satisfying himself

or herself as to the facts, upon the payment of a renewal fee of \$10.

(Prior Code, § 63.010) (Ord. 2001-11, passed 10-15-2001)

§ 114.11 CONDITIONS TO WHICH LICENSE SUBJECT.

All licenses granted hereunder shall be granted subject to the following conditions as well as any other conditions of this chapter, and subject to all other ordinances, statutes, or regulations of the county or state applicable thereto.

(A) Every applicant procuring a license thereby consents to the entry of the Sheriff or other duly authorized representatives of the county or state at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and ordinances there had in violation of county ordinances or state laws, and consents to the introduction of such things and ordinances in evidence in any prosecution that may be brought for such offenses.

(B) No person, firm, or corporation holding a license under the provisions of this chapter shall sell any intoxicating alcoholic liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide it or screen it from public view.

(C) Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.

(D) No gambling or game of chance of any sort shall be permitted in any form upon the licensed premises. Dice, slot machines, or any device of chances are prohibited and shall not be kept upon the premises.

(Prior Code, § 63.011) (Ord. 2001-11, passed 10-15-2001) Penalty, see §114.99

§ 114.12 TRANSFERABILITY.

No license issued under provisions of this chapter shall be transferable either as to license or location except as provided in this chapter or by state law.

(Prior Code, § 63.012) (Ord. 2001-11, passed 10-15-2001)

§ 114.13 DISPOSITION OF TAXES AND FORFEITED BONDS.

All money derived from the collection of license taxes herein provided for, and all money derived from the forfeiture of bonds herein provided for, shall be paid into and become a part of the General Fund of the county.

(Prior Code, § 63.013) (Ord. 2001-11, passed 10-15-2001)

§ 114.14 SUNDAY ALCOHOL SALES.

(A) The County Fiscal Court hereby adopts those sections of the Kentucky Revised Statutes, KRS 244.290, relating to wine and distilled spirits, and KRS 244.480, relating to malt beverages, as it relates to the sale of alcoholic beverages on Sunday to licensees who sell wine, distilled spirits, and malt beverages by the drink.

(B) Those licensees authorized to offer wine, distilled spirits, and malt beverages by the drink shall meet the requirements as set forth in KRS 244.290(4) before same shall be authorized to offer Sunday sales of wine, distilled spirits, and malt beverages.

(C) The hours of sale of wine, distilled spirits, and malt beverages for such sales shall be between the hours of 1:00 p.m. and 10:00 p.m. on Sunday.

(D) (1) Pursuant to KRS 244.290(4), KRS 244.290(5), and KRS 244.480, a licensee for the retail sale of wine, distilled spirits, and/or malt beverages by the drink shall be permitted to sell or dispense alcoholic beverages on Sunday between the hours of 1:00 p.m. and 10:00 p.m. The retailer must meet the requirements set forth in KRS 244.290 before being authorized to sell said alcohol.

(2) Any licensed small farm winery that is permitted to sell alcoholic beverages under KRS Chapter 242, shall be permitted to sell alcoholic beverages in accordance with the sales permitted under KRS 243.155 on the licensed premises of the small farm winery in accordance with the times set forth in division (C) above.

(Ord. 2018-18, passed 9-12-2018)

§ 114.99 PENALTY.

Any person commencing the operation of a business required to be licensed under provisions of this chapter without first having acquired such license shall, upon conviction, be assessed the penalties provided therefor by statute, and, in all other cases, such person shall, upon conviction, be fined not less than \$10 nor more than \$100, with each day of operation without a license to be a separate offense. Violation of any other of the provisions of this chapter shall, if a statutory offense, be assessed the penalty provided by statute, and, in all other cases, violators shall be punished by a fine of not less than \$10 nor more than \$100, and if the violation is a continuing violation each day shall constitute a separate offense.

(Prior Code, § 63.999) (Ord. 2001-11, passed 10-15-2001)

CHAPTER 115: CABLE TELEVISION FRANCHISE

Section

- 115.01 Short title
- 115.02 Definitions
- 115.03 Description, term, and renewal of franchise
- 115.04 Design and service provisions
- 115.05 Construction provisions
- 115.06 Conditions of occupancy of public property
- 115.07 Operation and maintenance
- 115.08 Franchise fee
- 115.09 Indemnity and insurance
- 115.10 Revocation
- 115.11 Unauthorized operation and use
- 115.12 Conditions of access
- 115.13 Miscellaneous

- 115.99 Penalty

§ 115.01 SHORT TITLE.

This chapter shall be known and may be cited as the “County of Clark Cable Television Franchise Ordinance”.

(Prior Code, § 64.001) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.02 DEFINITIONS.

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

CABLE ACT. The Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., and such future enactments as may amend or supersede it.

CATV SYSTEM. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the county. **CATV SYSTEM** does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility uses a public right-of-way;
- (3) A facility of a common carrier that is subject, in whole or in part, to the provisions of the Common Carrier Title of the Communications Act of 1934, 47 U.S.C. §§ 201 et seq., except that such facility will be considered a **CATV SYSTEM** to the extent that it is used in the transmission of video programming directly to subscribers; or
- (4) Any facilities of any electric utility used solely for operating its electric utility systems.

CHANNEL. A frequency band which is capable of carrying either one video signal or a number of audio, digital, or other non-video signals, or some combination thereof.

COUNTY. The County of Clark, Kentucky in its present form or in any form which may subsequently be adopted.

FCC. The Federal Communications Commission.

FISCAL COURT. The Fiscal Court of the County of Clark or any future entity constituting the legislative body of the County of Clark.

FRANCHISE. All those rights and obligations created by this chapter and granted by separate ordinance to a grantee.

GRANTEE. A person granted a franchise right as created by this chapter, its successors and assigns.

GROSS REVENUES. All system revenues received for any fiscal year by grantee from subscribers for recurring services,

after deducting all taxes and other assessments collected by grantee for governmental authorities, franchise fees, bad debt expenses, installation and disconnect charges, and refundable subscriber deposits.

OWNER. A person with a legal or equitable interest in the ownership of real property.

PERSON. Any individual, corporation, partnership, association, joint ventures, or organization of any kind and any lawful trustee, successor, assign, transferee, or personal representative thereof.

PUBLIC PROPERTY.

- (1) Any real property owned by the county;
- (2) The surface of and the space above and below any public street, road, freeway, lane, path, public way, alley, court, sidewalk boulevard, parkway, or drive, insofar as any such surface and space is within the county; and
- (3) Any easement or right-of-way now or hereafter held by the county or dedicated for use by the county or the general public.

SUBSCRIBER. Any person subscribing to any service provided by grantee by means of the system.

SYSTEM. The CATV system owned, operated, and maintained by grantee in the county pursuant to this franchise.

(Prior Code, § 64.002) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.03 DESCRIPTION, TERM, AND RENEWAL OF FRANCHISE.

(A) *Description of franchise.* There are hereby created non-exclusive franchises which shall include the right to establish, construct, erect, operate, maintain, install, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along any and all public property such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary or convenient to the operation of the system subject to the terms and conditions set forth herein.

(B) *Franchise term.* The term of all franchises shall commence on the effective date of the ordinance granting said franchise and shall expire 15 years after said date, unless this franchise shall be terminated or renewed as herein provided.

(C) *Award process.* The county shall, by ordinance, grant one or more of the franchises herein created to the highest and best bidders after advertising the sale of the franchise by publication, pursuant to KRS Chapter 424, or other applicable law or succeeding or amended law, and receiving bids publically. The county shall have the right to reject any and all bids.

(D) *Bid bonds.* Every bidder who does not already own plant and equipment in the county sufficient to render the service contemplated by this chapter shall deposit with his or her bid cash or certified check in an amount equal to 5% of the fair estimated cost of the plant required to render this service, all pursuant and subject to the terms of KRS 96.020 or other applicable law. The said estimated cost shall be included in the advertisement for bids.

(E) *Rights of reserve to the county.* With respect to the franchises herein created, the county reserves the right notwithstanding other language contained herein, to regulate the poles, wires, or other apparatus and the public ways or grounds upon which they are erected, constructed, or installed and the right to require any franchisee to conform any changed grades or routes or such public ways or grounds, and to further right to require the removal of such poles, posts, wires, or other apparatus and to install its distribution facility and equipment underground, insofar as possible.

(F) *Renewal.*

- (1) Upon the expiration of the term of any franchise, grantee may renew said franchise if:
 - (a) The grantee has substantially complied with the material terms of the franchise and with applicable law;
 - (b) The quality of the grantee's service, including signal quality, response to consumer complaints, and billing practices, (including the mix, quality, or level of CATV system services or other services provided over the system) has been reasonable in light of community needs;
 - (c) The grantee has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in its renewal proposal;
 - (d) The grantee's renewal proposal is reasonable to meet the future cable-related needs and interests of the county, taking into account the cost of meeting such needs and interests; and
 - (e) In any formal renewal hearing, the procedures set forth in § 626 (a) to (g) of the Cable Act, being 47 U.S.C. § 626(a) to (g) shall apply.
- (2) Notwithstanding the foregoing, the grantee may submit a proposal for renewal of the franchise in accordance with § 626(h) of the Cable Act, being 47 U.S.C. § 626(h).

(Prior Code, § 64.003) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.04 DESIGN AND SERVICE PROVISIONS.

(A) *Technical requirements.* The grantee's system shall comply with all applicable FCC technical standards. Procedures for testing the technical capacity of the system shall conform to the technical and testing standards applied to cable television systems by the FCC. The results of any tests required by the FCC shall be filed annually with the county upon the county's request.

(B) *Level of services.* As of the effective date of a franchise, the grantee's system shall have the technical capability to provide at least 34 channels. The grantee shall have the right to add, delete, replace, and/or rearrange its programming services during the term of the franchise, provided however, that at no time shall less than 30 channels of television service be offered.

(C) *Free service to schools.* Upon written request by the county, the grantee shall furnish a single connection to each public and parochial school located in the county and provide the grantee's basic cable television service without cost to the county, provided that such school building is within 150 feet of a main or lateral cable, or within range of radio waves if radio waves are utilized by the grantee for the transmission and distribution of its signals. There shall be no restriction upon the county as to the number of television receivers which the county may operate from such connection, provided that the expense of installing and maintaining an internal distribution system within any such school building shall be the responsibility of the county or its school board. Any such internal distribution system installed by a school must conform to all applicable federal, state, and county rules, regulations, and ordinances and must be operated in such a manner as not to interfere with the grantee's system.

(D) *Free service to county.* Upon written request by the county, the grantee shall provide its basic monthly service without charge, excluding installation (such installation charges to consist only of time and material), necessary equipment, and maintenance of said equipment, at up to three locations in the county to be designated by the county. Installation and service will be subject only to such location being within 150 feet of a main or lateral cable, or within range of radio waves if radio waves are utilized by the grantee for the transmission and distribution of signals. The grantee shall relocate monitoring facilities at the county's request for a charge not to exceed the grantee's costs for such relocation.

(Prior Code, § 64.004) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.05 CONSTRUCTION PROVISIONS.

(A) *Construction requirements.*

(1) The grantee may make use of existing poles and other facilities available subject to the grantee's obtaining any necessary consents for such use, and the grantee may also erect its own poles and install its own conduit, with approval of the county, which approval shall not be unreasonably withheld.

(2) All poles and conduit installed within the county shall be made available for attachment or use by the grantee, at just and reasonable rates applied to public utilities under the formula established in the Pole Attachment Act, 47 U.S.C. § 224 (which federal statute sets forth the formula for calculating various pole attachment rates).

(3) In case of new construction or property development where utilities are to be placed underground, the owner or developer shall give the grantee reasonable notice of not less than 30 days prior to such construction or development, and of the particular date on which open trenching will be available for the grantee's installation of conduit, pedestals, vaults, and/or laterals, which facilities and equipment shall be provided at the grantee's expense. The grantee shall also provide specifications as needed for trenching. The owner or developer shall not impose any charge or fee upon the grantee for the grantee's installation in or use of such trenching.

(B) *Construction codes and permits.* The grantee shall obtain any required permits from the county before commencing construction involving the opening or disturbance of any public property. The county shall cooperate with the grantee and shall use its best efforts to issue promptly to the grantee such permits as may be required.

(Prior Code, § 64.005) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.06 CONDITIONS OF OCCUPANCY OF PUBLIC PROPERTY.

(A) *Location of facilities.* The grantee shall install its lines, poles, equipment, and other facilities on any public property in such manner as to avoid unreasonable interference with the usual and customary use of said public property by any person.

(B) *Repair of public property.* Any and all public property which is disturbed or damaged during the grantee's construction, operation, or maintenance of the system shall be promptly repaired by the grantee at its expense and returned to a condition reasonably comparable to its condition prior to the disturbance or damage.

(C) *Trimming of trees.* The grantee may cut or trim trees and vegetation in accordance with the National Electrical Safety Code and any other applicable clearance requirements.

(D) *Temporary removal of facilities.* In the event it is necessary to temporarily move or remove any of the grantee's lines, poles, equipment, or other facilities in order lawfully to transport a large object, vehicle, building, or other structure over any public property of the county, then upon five business days prior notice from the county to the grantee, the grantee shall temporarily move or remove such of its facilities as may be necessary to accomplish such transport. The grantee shall be entitled to reimbursement for the costs of such temporary removal from the person making such request, and the grantee may require such reimbursement in advance.

(E) *Relocation of facilities.* If at any time during the period of any franchise the county shall lawfully elect to alter or change the grade of any public property, then upon reasonable notice by the county, the grantee shall remove, relay, and relocate its lines, poles, equipment, and other facilities at its own expense; provided, however, that where public funds or funds from property owners are available for such relocation pursuant to law, the grantee shall not be required to pay the cost.

(F) *Placement of facilities underground.* In all areas of the county where the lines, wires, or other like facilities of public utilities are placed underground, the grantee shall place its lines, wires, or other like facilities underground to the maximum extent that existing technology reasonably permits the grantee to do so.

(Prior Code, § 64.006) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.07 OPERATION AND MAINTENANCE.

(A) *Annual reports.* Within 30 days after the end of each calendar quarter, the grantee shall file with the county a quarterly status report and financial statement for such preceding quarter, prepared in accordance with generally accepted accounting principles applied on a consistent basis, certified by an officer of the grantee. The grantee's quarterly franchise fee payment referenced in § 115.08 shall accompany such filing.

(B) *Inspection.* Upon reasonable prior written notice and during ordinary business hours, the county shall have the right to inspect the public records of the grantee relating to the system.

(C) *Service and maintenance.* The grantee shall render efficient service, make repairs promptly, and interrupt system service only for good cause.

(D) *Franchise subject to others laws, police power.* The grantee shall be subject to and shall comply with all applicable laws, ordinances, codes, rules, regulations, and orders of the United States of America, the state, and the county, respectively. The grantee shall also be subject to the county's police power in accordance with applicable law.

(E) *Safety.*

(1) The grantee shall at all times exercise reasonable care not to cause damage or injury to any person or to any public or private property.

(2) All system lines, poles, equipment, and other facilities within the county shall at all times be kept and maintained by the grantee in a safe and suitable condition and in good order and repair.

(F) *Subscriber practices.*

(1) The grantee shall not deny service, deny access, or otherwise discriminate against any subscriber on the basis of race, color, religion, national origin, sex, or age. The grantee shall adhere to the equal employment opportunity requirements of the FCC.

(2) The grantee may conduct promotional campaigns in which rates are discounted or waived.

(3) The grantee may make special contracts for non-profit charitable, educational, governmental, and religious organizations.

(4) The grantee may offer bulk rate discounts for multiple-unit dwellings, hotels, motels, and other similar institutions.

(5) The grantee shall comply with applicable federal law regarding the protection of the privacy of subscribers and system data relating to subscribers.

(6) The grantee shall have full authority to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be necessary or appropriate to enable the grantee to operate under a franchise granted pursuant to this chapter.

(Prior Code, § 64.007) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.08 FRANCHISE FEE.

Within 30 days after the end of each calendar quarter, the grantee shall pay to the county a franchise fee in an amount equal to 3% of the grantee's gross revenues for the preceding quarter. All payments due the county under this section shall be submitted to the county accompanied by the grantee's quarterly report referenced in § 115.07(A) above.

(Prior Code, § 64.008) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.09 INDEMNITY AND INSURANCE.

(A) *Indemnity.* The grantee shall indemnify and hold harmless the county at all times during the term of a franchise from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the grantee's construction, erection, operation, or maintenance of the system. No claim for indemnification shall be valid unless the grantee is provided with notice of the respective injury, loss, or claim promptly after the occurrence thereof, and it provided

with full and timely opportunity to defend.

(B) *Insurance.*

(1) Throughout the term of a franchise, the grantee shall maintain worker's compensation insurance sufficient to comply with all state requirements, and general comprehensive liability insurance with respect to the construction, operation, and maintenance of the system which insurance shall name the county as an additional insured, in amounts not less than the following:

- (a) For bodily injury, including death, \$500,000 for any one individual, and \$1,000,000 for any one accident; and
- (b) For property damage, \$500,000.

(2) Upon request by the county, the grantee shall provide the county with satisfactory written evidence of such insurance.

(Prior Code, § 64.009) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.10 REVOCATION.

(A) Any franchise granted by authority of this chapter may be revoked by the county on account of the grantee's material breach of said franchise, as herein after provided. The county shall give written notice to the grantee that the grantee is in material breach, which notice shall specify the basis therefor. If within 90 days of the grantee's receipt of such notice, such breach has not been corrected and the grantee is not actively pursuing the correction thereof, then the Fiscal Court may give written notice to the grantee of the county's intent to consider revocation of the grantee's franchise, stating the county's reasons therefor.

(B) Before final action shall be taken, the Fiscal Court shall hold a hearing at which time the grantee shall be given an opportunity to present evidence and make argument. Following the hearing, the Fiscal Court shall determine whether or not to revoke said franchise based upon the evidence and arguments presented at the hearing. The Fiscal Court's determination shall be reflected in a written opinion setting forth in detail the reasons for its decision.

(C) Any franchise may, at the option of the county, be revoked 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless within that 120-day period:

(1) Such assignment, receivership, or trusteeship has been vacated; or

(2) Such assignee, receiver, or trustee has fully complied with the terms and conditions of this franchise and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of this franchise.

(D) In the event of foreclosure or other judicial sale of the facilities, equipment, and property of the grantee, the county may revoke a franchise by serving notice upon the grantee and the successful bidder at the sale, in which event this franchise shall be revoked 30 calendar days after service of such notice, unless:

(1) The county has approved the transfer of this franchise to the successful bidder; and

(2) The successful bidder has covenanted and agreed with the county to assume and be bound by the terms and conditions of this franchise.

(E) The Fiscal Court may, at its sole discretion, take any other lawful action which it deems appropriate to enforce the county's rights under this chapter in lieu of revocation of a franchise.

(F) The grantee shall be entitled to the continuance of all of its rights under any franchise at all times during the pendency of any revocation proceeding or appeal thereof.

(Prior Code, § 64.010) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.11 UNAUTHORIZED OPERATION AND USE.

(A) *Unauthorized operations.* It shall be unlawful for any person to establish, operate, or carry on the business of distributing to any person in the county any television signals or radio signals by means of any CATV system unless a franchise therefor has first been obtained from the county and is in full force and effect.

(B) *Unauthorized use.*

(1) No person shall intercept, descramble, decode, or receive or assist in intercepting, descrambling, decoding, or receiving any signals from a grantee's system unless specifically authorized to do so by the grantee. **ASSIST IN INTERCEPTING, DESCRAMBLING, DECODING, OR RECEIVING** shall include the manufacture or distribution of equipment intended by the manufacturer or distributor for unauthorized reception of signals over a CATV system.

(2) No person shall tamper with, remove, or injure any lines, poles, equipment, or other facilities used with a system

unless specifically authorized to do so by the grantee.

(3) No person shall intentionally deprive a grantee of a lawful charge for cable service.

(4) If an unauthorized device or connection designed to intercept, descramble, or decode a cable television signal is present on the premises or property occupied or used by a person, it shall be presumed that such person knowingly used such device or connection to intercept, descramble, or decode cable television signals. If equipment of the grantee which has been tampered with, changed or modified is present on the premises or property occupied or used by a person, it shall be presumed that such person knowingly used such equipment to intercept, descramble, or decode cable television signals.

(5) Nothing herein shall be deemed to limit any of a grantee's applicable rights and remedies available in law or in equity, all of which are expressly reserved to the grantee.

(Prior Code, § 64.011) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002) Penalty, see § 115.99

§ 115.12 CONDITIONS OF ACCESS.

(A) A grantee hereunder shall have the right to require any subscriber to agree that the grantee and the grantee's representatives may enter and have access to the property and premises of such subscriber for purposes of recovering and removing the grantee's property and equipment when and if such subscriber's service is terminated.

(B) No person who owns or controls a residential multiple-unit dwelling, trailer park, condominium, apartment complex, subdivision, or other property shall interfere with the right of any tenant, resident, or lawful occupant thereof to receive cable installation, service, or maintenance from the grantee.

(C) Upon request by the grantee, the county shall promptly exercise any rights it may have to obtain or utilize easements with respect to any residential multiple-unit dwelling, trailer park, condominium, apartment complex, subdivision, or other property as required to facilitate the grantee's use thereof for purposes of providing system service to the tenants, residents, or lawful occupants thereof. In any such proceeding, the restitution to the owner for the amount of space utilized by the system, considering the enhanced value to the premises resulting from the installation of cable television facilities, shall be a one-time charge of \$1 per dwelling unit.

(Prior Code, § 64.012) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

§ 115.13 MISCELLANEOUS.

(A) *Notices.* All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, or mailed by certified or registered mail properly addressed with postage prepaid:

(1) If to the county, to: Office of the Clark County Judge/Executive, Clark County Courthouse, 34 South Main Street, Winchester, KY 40391, or to such other person or address as the county shall furnish to the grantee in writing in accordance herewith; and

(2) If to the grantee, to that address for the grantee contained in the ordinance granting said franchise, or to such other person or address as the grantee shall furnish to the county in writing in accordance herewith.

(B) *Severability.* If any law, ordinance, regulation, or court decision shall render any provision of this franchise invalid, the remaining provisions of this franchise shall remain in full force and effect.

(C) *Force majeure.* Any failure or delay by the grantee in its performance of any provision of this franchise shall not be deemed non-compliance with or a violation of this franchise if such failure or delay is attributable to any Act of God or is due to any other circumstances beyond the control of the grantee.

(D) *Non-exclusivity.* The right to own, operate, and maintain a CATV system in the county shall be non-exclusive; however, should the county desire to grant multiple CATV system franchises, the county shall not authorize or permit any such CATV system to operate within the county on terms or conditions more favorable or less burdensome to such operator than those applied to the grantee pursuant to this chapter. Should the county authorize or permit multiple CATV systems to operate within the county, the county shall do so on the condition that such additional grantees indemnify and hold harmless existing grantees from and against any and all costs and expenses incurred by existing grantee in strengthening poles, replacing poles, rearranging attachments, placing underground facilities, and all other costs, including those of the grantee, the county, and utilities, incident to inspections, make-ready, and construction of any additional CATV system in the franchise area; and provided further that the grantee shall be designated a third party beneficiary of such conditions as are incorporated into any authorization(s) granted to any other CATV system.

(E) *Assignment and change of control.* The grantee may assign any franchise granted, provided that the assignee shall give prompt written notice thereof to the county and shall, in such notice, covenant and agree to be bound by all of the terms and conditions of said franchise.

(F) *Governing law.* This franchise shall be governed by and construed in accordance with the laws of the state and applicable federal law.

(Prior Code, § 64.013) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord.

§ 115.99 PENALTY.

Any person who fails to comply with any provision of this chapter shall be in violation of this chapter and, upon being found guilty of such violation, shall be fined not less than \$100 nor more than \$500 and be in prison for not more than 30 days. Each and every day of violation of this provision shall constitute a separate offense.

(Prior Code, § 64.999) (Ord. 89-15, passed 8-23-1989; Ord. 95-7, passed 4-19-1995; Ord. 95-6, passed 5-10-1995; Ord. 95-20, passed 12-13-1995; Ord. 2002-13, passed 6-12-2002)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

Miscellaneous Regulations

- 130.01 Wearing hoods or masks
- 130.02 Carrying concealed deadly weapons

Social Gatherings

- 130.15 Definitions
- 130.16 Prohibited conduct
- 130.17 Protected activities
- 130.18 Exculpation
- 130.19 Conflict of law

- 130.99 Penalty

MISCELLANEOUS REGULATIONS

§ 130.01 WEARING HOODS OR MASKS.

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

PUBLIC PLACE. All public ways, all publicly-owned property, and all privately-owned property open to the public.

(B) *Wearing hoods or masks prohibited in public places.* No person shall enter, be, or appear in any public place within the county while wearing any hood, mask, or other device whereby a substantial portion of the face is hidden or covered so that the identity of the wearer is concealed.

(C) *Wearing hoods or masks prohibited on property of another.* No person shall demand entrance or admission or enter or go upon or be upon the premises or property of another in the county while wearing a hood, mask, or other device whereby a substantial portion of the face is hidden or covered so that the identity of the wearer is concealed, unless he or she shall have first obtained the written permission of the owner and the occupant of the property.

(D) *Exceptions.* The following are excepted from the prohibitions contained in divisions (B) and (C) above:

- (1) Any person under 16 years of age;
- (2) Any person wearing traditional holiday costumes in season;
- (3) Any person using masks in theatrical productions, including use in mardi gras celebrations and masquerade balls;
- (4) Any person lawfully engaged in trades, professions, or employment or in a sporting activity where a mask or facial covering is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade, or profession or sporting activity;
- (5) Any person wearing a gas mask in drills, exercise, or emergencies; or

(6) Any person wearing a ski mask, muffler, or other device for the protection of the face of the wearer from the cold.

(Ord. 81-8, passed 5-27-1981) Penalty, see §130.99

§ 130.02 CARRYING CONCEALED DEADLY WEAPONS.

The provisions of this section, as enacted under KRS Chapter 237, shall not be deemed to be a violation of KRS 65.870.

(A) 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 18 inches square and shall read as follows: "The Possession of Concealed Deadly Weapons, Concealed Even with Proper Permit, are Hereby Prohibited on this Property".

(B) Any person or persons violating this section may be denied entrance to the building or ordered to leave the building.

(C) Any employee of the county, excluding elected officials and peace officers, who violate this section shall be subject to employee disciplinary measures.

(D) The provisions of this section shall not apply to property owned by a unit of county government but used as public housing by private persons.

(E) The adoption of this section shall be deemed to serve as public notice that the carrying of concealed deadly weapons shall be prohibited on all property which shall be posted accordingly.

(Ord. 99-6, passed 6-23-1999) Penalty, see §130.99

SOCIAL GATHERINGS

§ 130.15 DEFINITIONS.

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

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes, either alone or when diluted, mixed, or combined with other substances.

GUARDIAN. Includes a person who, under court order, is the guardian of the person of a minor, or a public agency with whom a minor has been placed by the court.

HOST. Someone who receives and entertains guests.

KNOWINGLY. When, with respect to conduct or to a circumstance described by this subchapter, a person is aware that his or her conduct is of that nature or that the circumstance exists.

LAW ENFORCEMENT SERVICES. Includes the salaries and benefits of police officers, sheriffs, or code enforcement personnel for the amount of time actually spent in responding to or remaining at the party, gathering, or event and the administrative costs attributable to the incident; the actual cost of any medical treatment to injured police officers, sheriffs, or code enforcement personnel; the cost of repairing any damaged equipment or property owned or operated by the responding agency or government entity; and the cost arising from the use of any equipment in responding to or remaining at the party, gathering, or event.

MINOR. Any person under 21 years of age.

PARENT. A person is a natural parent, adoptive parent, legal custodian, or step-parent of another person.

PARTY, GATHERING, OR EVENT. Includes a group of persons who have assembled or are assembling for a social occasion or social activity.

(Ord. 2010-7, passed 4-14-2010)

§ 130.16 PROHIBITED CONDUCT.

Except as permitted by the free exercise and enjoyment of religion, it is unlawful for any person to knowingly permit, allow, or host a party, gathering, or event at his or her place of residence or other private property, place of premises under his or her control where a minor or minors are present and alcoholic beverages are being consumed by any minor.

(Ord. 2010-7, passed 4-14-2010) Penalty, see §130.99

§ 130.17 PROTECTED ACTIVITIES.

This subchapter shall not apply to conduct involving the use of alcoholic beverages, which occurs exclusively between a minor child and his or her parent or legal guardian.

(Ord. 2010-7, passed 4-14-2010)

§ 130.18 EXCULPATION.

The defendant can prove as an exculpation or as a defense, that the consumption of alcohol was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the minor was such that his or her age could not have been ascertained, and indicated strongly that he or she was of legal age to consume alcoholic beverages and, if so proved, shall not be liable under this subchapter.

(Ord. 2010-7, passed 4-14-2010)

§ 130.19 CONFLICT OF LAW.

To the extent any resolution, ordinance, or parts thereof is in conflict, the provisions of this subchapter will prevail and be given effect.

(Ord. 2010-7, passed 4-14-2010)

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates the provisions of §130.16 shall, upon conviction, be fined no more than \$100 and/or imprisoned for no longer than 50 days.

(C) (1) The penalties for violation of this section shall be as follows:

(a) First conviction: violation as that term is defined in KRS 532.020(4); and

(b) Second conviction: Class B misdemeanor constituting a fine not to exceed \$250 and/or up to 90 days in jail.

(2) For any conviction, in addition to any other costs or fees imposed by law, the person convicted of an offense under §§ 130.15 to 130.19 shall pay the costs of law enforcement services as defined herein.

(Ord. 81-8, passed 5-27-1981; Ord. 2010-7, passed 4-14-2010; Ord. 2011-2, passed 2-15-2011)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. FIRE PREVENTION AND PROTECTION

152. FLOOD DAMAGE PREVENTION

153. DEVELOPMENT AND SUBDIVISION REGULATIONS

154. COUNTY DEVELOPMENT

155. ZONING CODE

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 Kentucky Building Code adopted by reference

150.02 Building permits

150.03 Permit fees

Electrical Code

150.15 National Electric Code adopted

150.16 Standards for wiring and materials; jurisdiction

150.17 Violations declared a nuisance

150.18 Electrical inspector; office created; appointment; duties

- 150.19 Qualifications of electrical inspector
- 150.20 Inspections required
- 150.21 Application for inspection; payment of fees
- 150.22 Concealed wiring
- 150.23 Inspector to detail violations
- 150.24 Duplicate inspection reports to be supplied to building inspection office
- 150.25 Power not to be supplied without certificate of approval
- 150.26 Fees
- 150.27 Hazardous conditions; discovery and report by inspector; corrective action
- 150.28 Liability for damages

150.99 Penalty

GENERAL PROVISIONS

§ 150.01 KENTUCKY BUILDING CODE ADOPTED BY REFERENCE.

The latest addition of the One- and Two-Family Code for the state is hereby adopted by the County Fiscal Court to apply to all areas of the county outside of the corporate limits of the City of Winchester, and the contents of the code are incorporated herein by reference the same as if set forth in full herein.

(Prior Code, § 70.001) (Ord. 85-2, passed 1-23-1985)

§ 150.02 BUILDING PERMITS.

(A) *Adoption.* No person, firm, or corporation shall commence the construction, remodeling, or major repair of any structure except as exempt as hereinafter set forth in this order within the unincorporated areas of the county, without first securing from the Building Inspector's office, a permit for the construction, remodeling or major repair of any structure. The Building Inspector's office shall prepare, at the county's expense, such forms as it may deem necessary to ascertain the location of the structure which is to be constructed, remodeled, or repaired and shall ascertain from the applicant for said permit the costs of said construction, remodeling, or repair. No permit shall be issued for the construction, remodeling, or repair of any structure which may lie within the floodplain as designated by the County Fiscal Court in previous orders of the court, unless the structure meets all of the requirements as set forth by any governmental agency, whether, local, state, or federal.

(B) *Agricultural land use exceptions.* Notwithstanding any other provision of this order, meeting the State Building Code definition of "agricultural property" shall qualify for the State Building Code exemption as outlined in the State Building Code, unless the property lies within the floodplain as designated on the maps heretofore adopted by the Federal Emergency Management Agency (FEMA) and the County Fiscal Court, in which event no permit shall be issued unless the construction, remodeling, or repair meets all requirements which may be imposed by any governmental agency, whether local, state, or federal. A residence constructed, remodeled, or repaired upon agricultural land shall not be deemed an agricultural building and a permit must be secured for any such work.

(Prior Code, § 70.002) (Ord. 76-22, passed 4-7-1976) Penalty, see §150.99

§ 150.03 PERMIT FEES.

(A) *Permit fees.*

(1) The following fee schedule shall apply for all permits issued for construction, remodeling, or repairing.

Total Valuation	Fee
Less than \$1,000	None
Each additional \$1,000 or fraction thereof through \$25,000	\$3 per thousand
Each additional \$1,000 or fraction thereof through \$50,000	\$2.50 per thousand
Each additional \$1,000 or fraction thereof through \$100,000	\$1.50 per thousand
Each additional \$1,000 or fraction thereof through \$100,000	\$1 per thousand

(2) Notwithstanding the fees provided for in this section, no fee shall be required for any agricultural building for which a permit must be obtained because the building lies within the floodplain.

(B) *Fees deposited to General Fund.* All fees received for permits under this section shall be deposited to the General Fund of the county to be used for purposes provided for by orders of the County Fiscal Court.

(Prior Code, § 70.003) (Ord. 76-22, passed 4-7-1976)

ELECTRICAL CODE

§ 150.15 NATIONAL ELECTRIC CODE ADOPTED.

There is hereby adopted for the purpose of establishing rules and regulations for the installation, maintenance, and repair of electrical wiring, apparatus, or equipment of light, heat, or power inside of or attached to buildings, except farm buildings, within the county, or attached to the service companies' lines, a certain code known as the National Electrical Code, latest edition, sponsored by the National Fire Protection Association, of which three copies shall be on file in the office of the County Clerk. **FARM BUILDINGS** are defined as all buildings erected or agriculturally zoned land which are not intended or used for human housing.

(Prior Code, § 70.100) (Ord. 78-6, passed 10-3-1978)

§ 150.16 STANDARDS FOR WIRING AND MATERIALS; JURISDICTION.

All electric wiring and appliances installed or attached to any building or structure, except farm buildings, or added to any existing electrical wiring, within the county, shall be sufficiently insulated, supported, protected, free from hazards to life or property caused by overloading or short-circuiting, and installed in accordance with the rules, regulations, and requirements of the National Electrical Code and the standards of safety promulgated by the State Commissioner of Public Safety and adopted by § 150.15. All materials, flexible cords, fittings, or devices shall be of an approved type, and all electric wiring shall be maintained in accordance with the codes and standards.

(Prior Code, § 70.101) (Ord. 78-6, passed 10-3-1978)

§ 150.17 VIOLATIONS DECLARED A NUISANCE.

Any installation or revision of electrical wiring and services violating any of the provisions of this subchapter within the county is hereby declared to constitute a public nuisance and a fire hazard, and the electrical inspector shall have authority to enforce this subchapter.

(Prior Code, § 70.102) (Ord. 78-6, passed 10-3-1978)

§ 150.18 ELECTRICAL INSPECTOR; OFFICE CREATED; APPOINTMENT; DUTIES.

(A) There is hereby created the office of electrical inspector, who shall be appointed by the County Judge/Executive upon recommendation of the Fire Chief and subject to the approval of the Fiscal Court.

(B) It shall be the duty of the electrical inspector to inspect all electrical wires, conduits, subways, and apparatus, to see to the enforcement of all provisions of this subchapter and all laws, rules, and regulations relating to the installation of electrical wires and apparatus in public and private buildings in the county not herein exempted, and to issue certificates of approval for all such installations found to be in compliance with the codes and standards.

(Prior Code, § 70.103) (Ord. 78-6, passed 10-3-1978)

§ 150.19 QUALIFICATIONS OF ELECTRICAL INSPECTOR.

The electrical inspector shall meet all of the qualifications established by the state for electrical inspectors.

(Prior Code, § 70.104) (Ord. 78-6, passed 10-3-1978)

§ 150.20 INSPECTIONS REQUIRED.

Every installation required by this subchapter to be inspected shall be inspected at least twice with the two required inspections being the "rough" inspection to be made when the basic wiring has been installed and before the fixtures have been connected, and the final inspection to be made when the installation is ready to be connected to the power supply.

(Prior Code, § 70.105) (Ord. 78-6, passed 10-3-1978)

§ 150.21 APPLICATION FOR INSPECTION; PAYMENT OF FEES.

It shall be the duty of any person installing work under this subchapter to file with the electrical inspector an application for inspection when the work is ready for inspection and to pay the fees prescribed in § 150.26 prior to the inspection.

(Prior Code, § 70.106) (Ord. 78-6, passed 10-3-1978)

§ 150.22 CONCEALED WIRING.

It shall be unlawful for any person to conceal electrical wiring until after the wiring shall have been inspected and a certificate of approval issued, and no work so concealed shall be accepted, except no inspection or approval shall be necessary where another governmental agency approved by the state has approved the wiring of any mobile home, modular

home, or other type residence constructed off the premises and so constructed so as to conceal certain wiring.

(Prior Code, § 70.107) (Ord. 78-6, passed 10-3-1978) Penalty, see §150.99

§ 150.23 INSPECTOR TO DETAIL VIOLATIONS.

Upon the inspection, if the electrical inspector shall find any work that is not in compliance with the standards prescribed, he or she shall issue to the party being inspected a detailed list of the violations required to be corrected.

(Prior Code, § 70.108) (Ord. 78-6, passed 10-3-1978)

§ 150.24 DUPLICATE INSPECTION REPORTS TO BE SUPPLIED TO BUILDING INSPECTION OFFICE.

The electrical inspector shall, at least once each month, turn over to the building official a duplicate of each electrical inspection report, including re-inspections for that month.

(Prior Code, § 70.109) (Ord. 78-6, passed 10-3-1978)

§ 150.25 POWER NOT TO BE SUPPLIED WITHOUT CERTIFICATE OF APPROVAL.

It shall be unlawful for any electric light or power company to connect with or furnish current to any electric installation coming within the ambit of this subchapter until after the electric installation shall have been subjected to a final inspection and a certificate of approval issued.

(Prior Code, § 70.110) (Ord. 78-6, passed 10-3-1978) Penalty, see §150.99

§ 150.26 FEES.

(A) Fees for electrical inspections for all electrical work with a cost of less than \$50,000 per unit shall be as follows.

<i>Type of Inspection</i>	<i>Fee</i>
<i>Type of Inspection</i>	<i>Fee</i>
Construction service	\$30
Final	\$30 (For the first unit plus \$1 per circuit exceeding 20 circuits and \$10 for each additional attached unit)
Mobile home	\$30
Reinspection (due to turndown, concealment of work, unapproved materials, or for any other reason)	One reinspection fee allowed – all additional re-inspections \$30
Rough in	\$30 (For the first unit and \$10 for each additional attached unit)
Service change only	\$30
Temporary on permanent (turn on water)	\$30
All other inspections	\$30

(B) Fees for electrical inspections for all electrical work with a cost of greater than \$50,000 per unit shall be as follows.

<i>Cost of Work</i>	<i>Percent</i>
<i>Cost of Work</i>	<i>Percent</i>
\$50,000 – \$100,000	1.00
\$101,000 – \$200,000	0.95
\$201,000 – \$300,000	0.90
\$301,000 – \$400,000	0.80
\$401,000 – \$500,000	0.70
\$501,000 – \$1,000,000	0.60
Over \$1,000,000	0.50

(C) Inspection fees for pre-constructed or pre-fabricated structures which are not affixed with a state electrical inspection certificate shall be the amount of \$100.

(D) In addition to the fees hereinabove provided, there shall be a fee of \$20 for every re-inspection made necessary by concealment of work, unapproved materials, or for any other reason.

(Prior Code, § 70.111) (Ord. 78-6, passed 10-3-1978; Res. passed 1-22-1997)

§ 150.27 HAZARDOUS CONDITIONS; DISCOVERY AND REPORT BY INSPECTOR; CORRECTIVE ACTION.

(A) Should the electrical inspector, at any time, discover an electrical condition constituting an immediate threat to the life or of injury to any person, the inspector shall notify the owner or custodian of the premises involved who shall proceed immediately with corrective action.

(B) Should the owner or other person responsible for correcting such conditions refuse to take immediate corrective action, or if the identity of such person is not immediately ascertainable, or if the hazardous condition cannot be corrected immediately, the electrical inspector shall notify the Fire Chief, in writing, of the condition, the hazard created thereby, and that the condition constitutes an immediate danger. Upon receipt of such notice, the Fire Chief may, in his or her discretion, issue a written order to the supplier of electrical power to the premises involved to disconnect all electric power from the premises until the hazardous condition is corrected.

(Prior Code, § 70.112) (Ord. 78-6, passed 10-3-1978)

§ 150.28 LIABILITY FOR DAMAGES.

This subchapter shall not be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling, or installing any electric wiring, electric devices, or electric material or furnishing electric current, for damages to person or property caused by any defect therein by reason of the inspection authorized herein, or certificate of inspection issued as herein provided.

(Prior Code, § 70.113) (Ord. 78-6, passed 10-3-1978)

§ 150.99 PENALTY.

(A) Any property owner or other person subject to the provisions of §150.27 who refuses or negligently fails to take the corrective action required by that section within ten days after receipt of notice shall, upon conviction, be fined not less than \$100 nor more than \$500 or jailed for not less than one month nor more than six months, or both.

(B) Any person who violates any other provision of §§150.15 to 150.28 shall, upon conviction, be fined not less than \$10 nor more than \$100 for each offense.

(C) It shall be unlawful for any person, firm, or corporation to violate the terms and provisions of this chapter and it shall be deemed a violation of this order for any person, firm, or corporation to commence construction, alteration, or repair of any building not exempted herein without first obtaining a permit providing for such work, and any person, firm, or corporation convicted of violating any provision of this order shall be fined not less than \$10 nor more than \$100 and each day that any such violation occurs or is continued shall constitute a separate offense

(Prior Code, § 70.999) (Ord. 76-22, passed 4-7-1976; Ord. 78-6, passed 10-3-1978)

CHAPTER 151: FIRE PREVENTION AND PROTECTION

Section

General Provisions

- 151.01 Standards of Safety adopted by reference; enforcement
- 151.02 Open burning
- 151.03 Sprinkler systems
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Hazardous Substances

- 151.15 Definitions
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GENERAL PROVISIONS

§ 151.01 STANDARDS OF SAFETY ADOPTED BY REFERENCE; ENFORCEMENT.

(A) The state's Fire Prevention Code (Standards of Safety) as promulgated in 815 KAR 10:060 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, by reference, and made a part of this code of ordinances. Copies of the Standards of Safety are available through the Department of Housing, Buildings, and Construction, 1047 U.S. South 127 South, Frankfort, Kentucky 40601.

(B) The County Fire Marshal shall be designated as the local enforcement agent/agency for the Standards of Safety as appointed by the Fiscal Court.

(1) Subject to the limitations and conditions stated in 815 KAR 10:060, it shall be the duty of the Fire Marshal to inspect or to cause to be inspected as often as he or she may deem necessary or appropriate all buildings, structures, and premises within his or her jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion or endanger life from fire or explosion or any violations of the provisions of this subchapter.

(2) The Fire Marshal or his or her appointee may, without delay or advance notice and at all reasonable hours of the day or night, enter in or upon any property to make an inspection or investigation for the purpose of preventing fire loss.

(3) Upon attempting to inspect a structure three times and being denied entry, the Fire Marshal may order the structure closed to the public, or vacated until such time as the structure can be inspected.

(4) The Fire Marshal shall have the discretion to determine the time frame to bring deficiencies into compliance. Reasonable time shall be granted not to exceed 30 days.

(C) The requirements for permits and required fees shall be as provided by the Fiscal Court.

(D) All final decisions of the fire code official of the county shall be appealable to a local appeals board pursuant to the procedures adopted by the County Fiscal Court.

(Prior Code, § 72.001) (Ord. 96-21, passed 12-17-1996; Ord. 2016-6, passed 5-11-2016)

§ 151.02 OPEN BURNING.

(A) Whenever the state's Division of Forestry notifies the county that an extraordinary fire hazard exists in the county as determined by the National Fire Danger Rating System and Fire Occurrence, the County Judge/Executive, in his or her discretion, may proclaim an executive order that such a condition exists in the county.

(B) No person shall, when a proclamation as provided for in division (A) above has been issued, light or maintain an open fire at any location in the county, while such proclamation is in effect. Any person violating this section shall be subject to the fines and penalties provided in § 151.99.

(C) Notice of the proclamation provided for in division (A) above shall be published in the *Winchester Sun*.

(D) Guidelines for individuals who desire to open burn:

(1) All persons desiring to burn must call the county's Fire Department to request permission to do so;

(2) An officer from the county's Fire Department may refuse the request to burn based on weather conditions;

(3) Burning shall not be permitted within 150 feet of any wooded area or within 50 feet of any structure, except for the burning of piles of leaves;

(4) An officer of the county's Fire Department may inspect and extinguish, or cause to be extinguished, any fire that is deemed unsafe or a hazard to the health or safety of the public;

(5) All debris piles that are permitted to burn shall:

(a) Have adequate access for fire and emergency vehicles;

(b) Be attended at all times; and

(c) Attendant must have equipment on hand to prevent the spread of fire.

(6) Restrictions during fire hazards seasons shall be observed per KRS 149.400;

(7) The only allowable burning is that stated as permissible in 401 KAR 63:005; and

(8) The Fire Department may recover the cost for suppression of fires started in violation of this section.

(Prior Code, § 72.002) (Ord. 87-3, passed 2-25-1987; Ord. 2016-6, passed 5-11-2016)

§ 151.03 SPRINKLER SYSTEMS.

All newly installed sprinkler systems or sprinkler systems that are renovated or retrofitted in any manner shall provide for one, four and one-half inch connection with national standard male threads and cap instead of and in lieu of the two and one-half inch connections that have previously been used in such installations.

(Prior Code, § 72.003) (Ord. 99-9, passed 8-25-1999)

§ 151.04 KEY LOCK BOX.

(A) The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the County Fire Chief and/or Fire Marshal which shall contain a key to the structure or building:

- (1) Commercial or industrial structures that are constructed and issued a certificate of occupancy after the effective date of this section;
- (2) Structures utilized for public assembly;
- (3) Commercial or industrial properties which are in existence at the effective date of this section but which obtain or seek to obtain a building permit for construction and/or modification of the existing structure greater than 2,000 feet gross floor space. Commercial centers, malls, or strip malls shall be allowed to discharge this requirement by a single lock box for said center, of adequate size to hold keys to all occupancies located within;

(4) Governmental structures and nursing care facilities; and

(5) Educational facilities.

(B) All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of a certificate of occupancy.

(C) The County Fire Chief and/or Fire Marshal shall designate the type of key lock box system to be implemented within the county and shall have the authority to require all structures affected by this section to use the designated system.

(D) The owner or operator of any structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure.

(E) The Fire Chief and/or Fire Marshal shall be authorized to implement rules and regulations for the use of the lock box system.

(Ord. 2008-4, passed 2-27-2008)

HAZARDOUS SUBSTANCES

§ 151.15 DEFINITIONS.

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

DISASTER AND EMERGENCY SERVICE (DES) DIRECTOR. The official appointed by the Mayor and County Judge/Executive pursuant to KRS 39B.020.

EMERGENCY RESPONSE PERSONNEL. Any public employee, including, but not limited to, any firefighter or emergency response personnel, who responds to any condition caused in whole or in part by a hazard that jeopardizes or could jeopardize public health or safety of the environment.

FIRE CHIEF. The Fire Chief of the City of Winchester or Clark County, or the next in command.

HANDLER. Any person who transports or stores a hazardous substance(s).

HAZARDOUS SUBSTANCE(S). As in KRS 224.01-400, as amended.

HAZARDOUS WASTE. A defined in KRS 224.01-010, and supporting regulations, as amended.

MSDS. A Material Data Safety Sheet prepared pursuant to state law or pursuant to regulations of the Occupational Safety and Health Administration of the United States Department of Labor.

OWNER or **OPERATOR.** Any person having ownership, control, or executive authority of a facility where a hazardous substance(s) is handled or used.

PERSON. Any individual, trust, limited liability company, firm, company, society, corporation, joint stock company, partnership, consortium, association, cooperation, joint venture, city, county, special district, state, or any department or agency or political subdivision thereof, United States government, or other commercial or legal entity.

PREPLANNING. A joint assessment by persons storing or handling hazardous substances and the Fire Chief of the risks associated with the hazardous substance(s), and may include inspections, joint training, and practice.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing, into the environment of a hazardous substance(s) in quantities which meet or exceed the reportable quantity amounts established by state or federal regulation.

THREATENED RELEASE. A condition creating a substantial probability of a release when the probability and potential extent of a release make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

USER. Any person who uses a hazardous substance(s).

(Prior Code, § 72.100) (Ord. 96-17, passed 10-15-1996)

§ 151.16 FIRE CHIEF RESPONSIBILITY.

The Fire Chief shall be responsible for administering and enforcing the provisions of this subchapter and shall be responsible for the city's or county's compliance with all applicable state and federal laws and regulations. The Fire Chief shall further give full access to, and availability of, information submitted under this subchapter to emergency response personnel and other appropriate governmental entities on a 24-hour basis. At no time will the Fire Chief relinquish command and control of the Fire Department during an emergency response.

(Prior Code, § 72.101) (Ord. 96-17, passed 10-15-1996)

§ 151.17 DES DIRECTOR RESPONSIBILITY.

The DES Director is authorized and directed to coordinate and cooperate with the Fire Chief on all hazardous material responses and follow-up.

(Prior Code, § 72.102) (Ord. 96-17, passed 10-15-1996)

§ 151.18 PREPLANNING REQUIRED.

(A) Any handler or user of hazardous substances who stores or handles hazardous materials for any length of time shall immediately notify the Fire Chief, through the use of a MSDS or other documentation, that a hazardous substance(s) is being stored.

(B) When the storage of such substance(s) is planned to or does exceed 30 days, the responsible person storing, handling, or using that substance(s) shall notify the Fire Chief and shall engage in preplanning with the Fire Chief.

(C) This section does not apply to storage of hazardous substances at fixed facilities for less than 30 days, provided those facilities comply with the other provisions of this subchapter. The 30-day time period set out in this section continues to run as long as there is a hazardous substance(s) at the facility and does not require any particular substance(s) to be handled or stored for over 30 days.

(Prior Code, § 72.103) (Ord. 96-17, passed 10-15-1996)

§ 151.19 HANDLER OR USER RESPONSIBILITY.

(A) The owner or operator of any facility at which a hazardous substance(s) is handled or used shall notify the Fire Chief, through the use of a MSDS or other documentation, of the substances being stored at the site of the owner or operator by providing the Fire Chief with a complete inventory and location of such hazardous substances.

(B) The owner or operator shall also implement emergency response plans and procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment as may be necessary for a particular incident and implement evacuation plans and procedures, including the immediate notice to the Fire Department and to persons within the immediate site and adjacent properties.

(C) The owners and operators shall also provide training for all employees as required by state and federal OSHA standards and regulations.

(D) The owner or operators shall also allow periodic inspections by the Fire Chief of the storage site.

(Prior Code, § 72.104) (Ord. 96-17, passed 10-15-1996)

§ 151.20 RESPONSE.

The city and county fire departments are authorized to respond to and abate the effects of any release or threatened release of hazardous substances into the environment, pursuant to the existing preplanning agreement, when requested to do so by the handler or user or when, in the judgment of the Fire Chief, there exists an imminent hazard to human health or the environment.

(Prior Code, § 72.105) (Ord. 96-17, passed 10-15-1996)

§ 151.21 COST RECOVERY.

Any person causing an unauthorized release of any hazardous substance(s) or hazardous waste(s) shall be responsible for its clean-up and all expenditures pursuant thereto. Any person causing an unauthorized release of any hazardous substance(s) or hazardous waste which results in the city or county expending public funds for the response to the release, its abatement, or the cleanup or removal of such hazardous substance(s) or hazardous waste shall be liable to the city or county for all recoverable costs as outlined below.

(A) In the event of a hazardous substance(s) release or threatened release involving materials in transit, the shipper (carrier), the owner of the substances, and all other persons whose activities caused or contributed to a release or threatened release, jointly and severally, shall be responsible for all direct costs including, but not limited to, personnel costs of the City of Winchester and County Fire Department and other dispatched emergency workers responding to the release or threatened release, replacement costs of supplies and equipment contaminated as a result of the incident, the costs of proper disposal of contaminated materials, the cost of cleanup, evacuation, and administrative and other expenses, including legal expenses, incurred in recovering these costs. The City and County Attorney are hereby authorized and directed to initiate such proceedings, in the name of the City of Winchester and the County Fiscal Court, in any court having jurisdiction over such matters as are necessary to recover costs of the city or county.

(B) In the event of a hazardous substance(s) release or threatened release involving a fixed facility, the operator, owner, and all other persons of the facility responsible for the presence of hazardous substances shall be responsible for all direct costs including, but not limited to, personnel costs of the City and County Fire Departments and other dispatched emergency workers in responding to the release or threatened release, including replacement of supplies and equipment contaminated as a result of the incident, the cost of proper disposal of contaminated materials, the cost of cleanup, evacuation, administrative, and other expenses including legal expenses, incurred in recovering these costs. The City and County Attorney are hereby authorized and directed to initiate such proceedings, in the name of the City of Winchester and the County Fiscal Court, in any court having jurisdiction over such matter as are necessary to recover costs of the city or county.

(C) Any hazardous substance(s) or material release shall be considered a public health hazard and for those responses made by the Winchester or Clark County Fire Departments and other emergency response personnel involving a fixed facility within the city or county, the city or county shall have a lien against the property for the recoverable costs as stated above. The affidavit of the Fire Chief shall constitute *prima facie* evidence of the amount of the lien and the regularity of the proceedings and shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding. The owner of a property upon which a lien has been attached shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city or county shall have the same remedies as provided for the recovery of a debt owed.

(Prior Code, § 72.106) (Ord. 96-17, passed 10-15-1996)

§ 151.22 ENFORCEMENT.

(A) The Fire Chief will have primary responsibility for enforcement of the provisions of this subchapter.

(B) Upon notification or discovery of any violation of the provisions of §§151.15 to 151.22, the Fire Chief or his or her next in command shall investigate the site, and if a violation is found, issue a notice of violation to the person responsible for the facility. This notice shall provide for immediate abatement if a release or threatened release is occurring. This notice shall also provide abatement periods of other violations.

(Prior Code, § 72.107) (Ord. 96-17, passed 10-15-1996)

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates the provisions of §151.02 may be fined not less than \$10 nor more than \$500 for each offense.

(C) Any person who owns or operates a building, business, and/or structure and does not comply with §151.04 shall be subject to a minimum fine of \$100 each day and a maximum fine of \$500 each day the violation persists. Each day the violation persists shall constitute a separate offense.

(D) Any person who violates the provisions of §151.19 may be fined not more than \$5,000. Each day the violation continues to exist shall be considered a separate offense.

(E) Any person who fails to comply with the provisions of §§151.18 or 151.21 may be fined not more than \$500. Each day the violation continues to exist shall be considered a separate offense.

(Prior Code, § 72.999) (Ord. 87-3, passed 2-25-1987; Ord. 96-17, passed 10-15-1996; Ord. 2008-4, passed 2-27-2008)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The State Legislature has in KRS Chapter 100 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Fiscal Court hereby adopts the following floodplain management ordinance as follows.

(Ord. 2012-4, passed 4-11-2012)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the county are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

(Ord. 2012-4, passed 4-11-2012)

§ 152.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

- (A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;
- (B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;
- (D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and
- (E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

(Ord. 2012-4, passed 4-11-2012)

§ 152.04 OBJECTIVES.

The objectives of this chapter are to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines; streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;
- (G) Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area; and
- (H) Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

(Ord. 2012-4, passed 4-11-2012)

§ 152.05 DEFINITIONS.

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

A ZONE. Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are not determined.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds.

ACCESSORY USE. A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter or height of a structure.

AE ZONES. Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

AH ZONE. An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are determined.

AO ZONE. An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are determined.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

AR/A1-30, AR/AE, AR/AH, AR/AO, AND AR/A ZONES. Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

A99 ZONE. The part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a

federal flood protection system under construction. No base flood elevations are determined.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. A flood which has a 1% chance of being equaled or exceeded in any given year (also called the **100-YEAR FLOOD**). **BASE FLOOD** is the term used throughout this chapter.

BASE FLOOD ELEVATION (BFE). The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, ARA, AR/AE, AR/A1-30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

BASEMENT. Any area of a structure having its floor sub-grade (below ground level) on all sides.

BUILDING. See definition for **STRUCTURE**.

COMMUNITY. A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY FLOOD HAZARD AREA (CFHA). An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare. This includes areas downstream from dams.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives to those communities in the regular program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

CRITICAL FACILITY. Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. **CRITICAL FACILITIES** include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during, and after a flood; public and private utility facilities important to maintaining or restoring normal services before, during, and after a flood; and those facilities or installations which produce, use, or store volatile, flammable, explosive, toxic, and/or water-reactive materials, hazardous materials, or hazardous waste.

D ZONE. An area in which the flood hazard is undetermined.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

ELEVATED STRUCTURE. For insurance proposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELEVATION CERTIFICATE. A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

EMERGENCY PROGRAM. The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

ENCLOSURE. The portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

ENCROACHMENT. The physical advance or infringement of uses, plant growth, fill, excavation, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING CONSTRUCTION. Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as existing structures.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

500-YEAR FLOOD. The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the **500-YEAR FLOOD** have a moderate risk of flooding.

FLOOD or **FLOODING**. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source;
- (3) Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; and/or
- (4) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). A map on which the Federal Emergency Management Agency (FEMA) has delineated the areas of flood hazards and the regulatory floodway.

FLOOD HAZARD BOUNDARY MAP (FHBM). A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

FLOOD INSURANCE RATE MAP (FIRM). A map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas and risk premium zones.

FLOOD INSURANCE STUDY. The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

FLOODPLAIN or **FLOOD-PRONE AREA**. Any land area susceptible to being inundated by flood waters from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed by the community to administer and enforce the floodplain management ordinances.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state, and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-PROOFING CERTIFICATE. A certification by a registered professional engineer or architect, the FEMA form in effect at the time of certification stating that a nonresidential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; also referred to as the **REGULATORY FLOODWAY**.

FLOODWAY FRINGE. The area of the floodplain on either side of the regulatory floodway.

FRAUD AND VICTIMIZATION. As related in § 152.14, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the County Fiscal Court will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. **FREEBOARD** must be applied not just to the elevation of the lowest floor or flood-proofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, and the like.

FUNCTIONALLY DEPENDENT USE FACILITY. A facility, structure, or other development which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

GOVERNING BODY. The local governing unit (i.e., county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety, and general welfare of its citizenry).

HAZARD POTENTIAL. The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The **HAZARD POTENTIAL** classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

INCREASED COST OF COMPLIANCE (ICC).

(1) Includes under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are flood-proofing (nonresidential), relocation, elevation, demolition, or any combination thereof.

(2) **ICC** coverage is available on residential and nonresidential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

LETTER OF MAP CHANGE (LOMC). An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. **LOMCs** include the following categories.

(1) **LETTER OF MAP AMENDMENT (LOMA).** A revision based on technical data showing that a property was inadvertently included in a designated SFHA. A **LOMA** amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

(2) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that, usually due to human-made changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) **LETTER OF MAP REVISION - BASED ON FILL (LOMR-F).** A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LIMITED STORAGE. An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

LOWEST ADJACENT GRADE. The lowest elevation of the sidewalk, patio, attached garage, deck support, basement entryway, or grade immediately next to the structure and after the completion of construction.

LOWEST FLOOR. The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term **MANUFACTURED HOME** does not include a “recreational vehicle”. (See **RECREATIONAL VEHICLE**.)

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP. The Flood Hazard Boundary Map (FHB) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

MAP PANEL NUMBER. The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

MARKET VALUE. The property value (as agreed between a willing buyer and seller), excluding the value of the land as established by what the local real estate market will bear. **MARKET VALUE** of the structure can be established by independent certified appraisal; replacement cost depreciated by age of structure (actual cash value) or adjusted assessed values.

MEAN SEA LEVEL (MSL). The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the **MSL** is used as a reference for establishing various elevations within the floodplain as shown on the community's FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is twofold: to protect people and structures; and to minimize the costs of disaster response and recovery.

MUDSLIDE (MUDFLOW). Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A **MUDSLIDE (MUDFLOW)** may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

MUDSLIDE (MUDFLOW) AREA MANAGEMENT. The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e., mudflow) damage, including, but not limited to, emergency preparedness plans, mudslide control works, and floodplain management regulations.

MUDSLIDE (MUDFLOW) PRONE AREA. An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRMs. Refer to FIRM legend panel for correct datum.)

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NONRESIDENTIAL. Structures that are not designed for human habitation, including, but is not limited to, small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than six months duration.

NORTH AMERICAN VERTICAL DATUM (NAVD). As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRMs and Digitally Referenced FIRMs (DFIRMs). (Refer to FIRM or DFIRM panel legend for correct datum.)

OBSTRUCTION. Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across, or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

100-YEAR FLOOD. The flood that has a 1% or greater chance of being equaled or exceeded in any given year. Any flood

zone that begins with the letter A is subject to inundation by the **100-YEAR FLOOD**. Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA. (See **BASE FLOOD**.)

PARTICIPATING COMMUNITY. A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

PRE-FIRM CONSTRUCTION. New construction or substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

POST-FIRM CONSTRUCTION. New construction or substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

PROBATION. A FEMA imposed change in community's status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

PROGRAM DEFICIENCY. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle that is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable to a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and flood elevations determined in the FIS.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See **BASE FLOOD**.

REMEDY A VIOLATION. The process by which a community brings a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impact of noncompliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

REPAIR. The reconstruction or renewal of any part of an existing structure.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred.

REPETITIVE LOSS PROPERTY. Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A **RL** property may or may not be currently insured by the NFIP.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SECTION 1316. The section of the National Flood Insurance Act of 1968, being 42 U.S.C. § 4023, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Floodplain Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SEVERE REPETITIVE LOSS STRUCTURE.

- (1) Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:
 - (a) Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
 - (b) Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.
- (2) In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the

same location within ten days of each other are counted as one loss, with the payment amounts added together.

SHEET FLOW AREA. See **AREA OF SHALLOW FLOODING**.

SPECIAL FLOOD HAZARD AREA (SFHA). The portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1-30, AH, AO, or AR.

START OF CONSTRUCTION. (Includes substantial improvement and other proposed new development.) The date a building permit is issued, provided the actual **START OF CONSTRUCTION**, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

STRUCTURE. A walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBDIVISION. Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, of any tract or parcel of land into two or more lots or parcels.

SUBROGATION. A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a one-year period in which the cumulative percentage of improvements equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS. Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

SUSPENSION. Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP.

UTILITIES. Includes, but is not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

VARIANCE. Relief from some or all of the requirements of this chapter.

VIOLATION. Failure of a structure or other development to fully comply with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which water flows at least periodically.

WATERSHED. All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

X (SHADED) AND B ZONES. Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood

X (UNSHADED) AND C ZONES. Areas determined to be outside the 500-year floodplain.

ZONE. A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the

severity or type of flooding in the area.

(Ord. 2012-4, passed 4-11-2012)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the County Fiscal Court from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the County Fiscal Court which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of the county.

(Ord. 2012-4, passed 4-11-2012)

§ 152.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Clark County, dated June 5, 2012, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data, and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the Fiscal Court by the Floodplain Administrator and are enacted by the Fiscal Court pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of the county and are on file and available for review by the public during regular business hours at the Office of Planning and Community Development located in City Hall at 32 Wall St., Winchester, Kentucky.

(Ord. 2012-4, passed 4-11-2012)

§ 152.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 152.26 for instructions and explanation. Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

(Ord. 2012-4, passed 4-11-2012)

§ 152.09 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Fiscal Court from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 2012-4, passed 4-11-2012)

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2012-4, passed 4-11-2012)

§ 152.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2012-4, passed 4-11-2012)

§ 152.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the County Fiscal Court, any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2012-4, passed 4-11-2012)

§ 152.13 ENFORCEMENT, NOTICE OF VIOLATION.

(A) *Civil offense.* If, at any time, development occurs which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications, such development shall constitute a civil offense.

(B) *Notice of violation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See below.

(C) *Notice of citation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter, including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation, or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(Ord. 2012-4, passed 4-11-2012)

§ 152.14 APPEALS AND VARIANCE PROCEDURES.

(A) Nature of variances.

(1) The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

(2) It is the duty of the County Fiscal Court to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(B) *Designation of variance and Appeal Board.* The County Fiscal Court designates the Winchester/Clark County Board of Zoning Adjustments as the Board that shall hear appeals for variances to this chapter.

(C) Duties of the Winchester/Clark County Board of Zoning Adjustments

(1) The Winchester/Clark County Board of Zoning Adjustments shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(2) Any person aggrieved by the decision of the Winchester/Clark County Board of Zoning Adjustments may appeal such decision to the Circuit Court, as provided in Kentucky Revised Statutes.

(D) *Variance procedures.* In passing upon such applications, the Winchester/Clark County Board of Zoning Adjustments shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the:

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger to life and property due to flooding or erosion damage;
- (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- (4) Importance to the community of the services provided by the existing or proposed facility;

- (5) Necessity that the facility be located on a waterfront, in the case of functionally dependent use;
- (6) Availability of alternative locations which are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

(E) *Conditions for variances.* Upon consideration of the factors listed above and the purposes of this chapter, the Winchester/Clark County Board of Zoning Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(1) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. **MINIMUM NECESSARY** means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the Winchester/Clark County Board of Zoning Adjustments need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the Winchester/Clark County Board of Zoning Adjustments believes will both provide relief and preserve the integrity of the local ordinance.

(3) Variances shall only be issued upon:

- (a) A showing of good and sufficient cause;
- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section), or conflict with existing local laws or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.

(5) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request

(6) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use, provided that the provisions of division (D) above are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(F) *Variance notification.* Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

(3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance or denial, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(G) *Historic structures.* Variances may be issued for the repair or rehabilitation of "historic structures" (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. 2012-4, passed 4-11-2012)

ADMINISTRATION

§ 152.25 DESIGNATION OF LOCAL ADMINISTRATOR.

The County Fiscal Court hereby appoints the Director of Planning and Community Development to administer, implement, and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 2012-4, passed 4-11-2012)

§ 152.26 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 152.07. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of the Floodplain Administrator is required before a state floodplain construction permit can be processed.

(B) Specifically, the following information is required.

(1) *Application stage.*

- (a) Proposed elevation in relation to mean sea level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade;
- (b) Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;
- (c) All appropriate certifications from a registered professional engineer or architect that the nonresidential flood-proofed structure will meet the flood-proofing criteria in §§ 152.41(B) and 152.43(B); and
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) *Construction stage.*

(a) Upon placement of the lowest floor, and before construction continues, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the state a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. In AE, A1-30, AH, and A Zones where the Community has adopted a regulatory base flood elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(b) When flood-proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. 2012-4, passed 4-11-2012)

§ 152.27 DUTIES AND RESPONSIBILITIES OF LOCAL ADMINISTRATOR.

(A) The Floodplain Administrator and/or staff is hereby appointed, authorized, and directed to administer, implement, and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(B) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following.

(1) *Permit review.* Review all development permits to ensure that:

- (a) Permit requirements of this chapter have been satisfied;
- (b) All other required state and federal permits have been obtained; review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C § 1334;
- (c) Flood damages will be reduced in the best possible manner; and
- (d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, **ADVERSELY AFFECTS** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) *Review and use of any other base flood data* When base flood elevation data has not been provided in accordance with § 152.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the provisions of §§ 152.40 to 152.46. Any such information shall be submitted to the County Fiscal Court for adoption.

(3) *Notification of other agencies.*

- (a) Notify adjacent communities, the state's Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;
- (b) Submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
- (c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) *Documentation of floodplain development.* Obtain and maintain for public inspection and make available as needed the following:

- (a) Certification required by § 152.41(A) (lowest floor elevations) as shown on an accurately completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, in accordance with § 152.26(B);
- (b) Certification required by § 152.41(B) (elevation or flood-proofing of nonresidential structures) as shown on an accurately completed and certified FEMA flood-proofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new and substantially improved structures have been flood-proofed, in accordance with § 152.26(B);
- (c) Certification required by § 152.41(C) (elevated structures);
- (d) Certification of elevation required by § 152.44(A) (subdivision standards);
- (e) Certification required by § 152.41(E) (floodway encroachments);
- (f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- (g) Review certified plans and specifications for compliance; and
- (h) Take action to remedy violations of this chapter as specified in §152.13.

(5) *Map determinations.* Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

- (a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.14(C);
- (b) When base flood elevation data and floodway data have not been provided in accordance with §152.07, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of §§ 152.40 to 152.46;
- (c) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 152.41(B), a flood-proofing certificate;
- (d) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(6) *Right of entry.*

- (a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Floodplain Administrator and/or support staff has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure, or premises unsafe, dangerous, or hazardous, the Floodplain Administrator and/or support staff may enter such building, structure, or premises at all reasonable times to inspect the same or perform any duty imposed upon the Floodplain Administrator and/or support staff by this chapter.
- (b) If such structure or premises are occupied, the Floodplain Administrator and/or support staff shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.
- (c) If entry is refused, the Floodplain Administrator and/or support staff shall have recourse to every remedy provided by law to secure entry.
- (d) When the Floodplain Administrator and/or support staff shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Floodplain Administrator and/or support staff for the purpose of inspection and examination pursuant to this chapter.

(7) *Stop work orders.* Upon notice from the Floodplain Administrator and/or support staff, work on any building, structure, or premises that is being done contrary to the provisions of this chapter shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person performing the work,

and shall state the conditions under which work may be resumed.

(8) *Revocation of permits.*

(a) The Floodplain Administrator and/or support staff may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator and/or support staff may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(9) *Liability.* Any officer, employee, or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer, employee, or member because of such act performed by him or her in the enforcement of any provision of this chapter shall be defended by the Department of Law until the final termination of the proceedings.

(10) *Expiration of floodplain construction permit* A floodplain development permit, and all provisions contained therein, shall expire if the "start of construction" has not occurred within 180 calendar days from the date of its issuance.

(Ord. 2012-4, passed 4-11-2012)

FLOOD HAZARD REDUCTION REGULATIONS

§ 152.40 GENERAL CONSTRUCTION STANDARDS.

In all special flood hazard areas, the following provisions are required:

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(F) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures;

(G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(J) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and

(K) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(Ord. 2012-4, passed 4-11-2012)

§ 152.41 SPECIFIC STANDARDS.

(A) *Residential construction.* In all special flood hazard areas where base flood elevation data have been provided, as set forth in § 152.07, the following provisions are required.

(1) New construction and substantial improvement of any residential structure (including manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on walls shall be provided in accordance with standards of division (C) below.

(2) In an AO zone, the lowest floor shall be elevated above the highest adjacent grade to a height equal to or higher than the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified. In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, the Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include, but are not limited to, detailed hydrologic and hydraulic analyses, use of existing data available from other sources, approximate methods, use of historical data, and best supportable and reasonable judgement in the event no data can be produced. The lowest floor shall be elevated no lower than two feet above such base flood elevation. Title 401 KAR 4:060, § 5(6)a, states as a part of the technical requirements for a state floodplain permit: the applicant shall provide cross-sections for determining floodway boundaries (and thereby base flood elevations) at any proposed construction site where FEMA maps are not available. All cross-sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than plus five-tenths foot. Cross-sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross-section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross-sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other zones, elevated two feet above the base flood elevation. Upon the completion of the structure, the elevation of the lowest floor (including basement) shall be certified by a registered professional engineer or surveyor, and verified by the Community Building Inspection Department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes used for nonresidential purposes) shall be elevated to conform with division (A) above or together with attendant utility and sanitary facilities:

(1) Be flood-proofed to an elevation two feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and debris;

(3) A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification along with the design and operational maintenance plans shall be provided to the Floodplain Administrator.

(4) Manufactured homes shall meet the standards in division (D) below.

(5) All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that are usable solely for parking of vehicles, building access, or storage, and which are subject to flooding, shall be constructed of flood resistant materials to an elevation of two feet above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Openings for meeting this requirement must meet or exceed the standards of division (C) below.

(C) *Elevated structures.* New construction and substantial improvements of elevated structures on columns, posts, or pilings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Openings for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

(3) The interior portion of such enclosed areas shall not be finished or partitioned into separate rooms.

(D) *Standards for manufactured homes and recreational vehicles.*

(1) All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

(a) On individual lots or parcels;

(b) In expansions to existing manufactured home parks or subdivisions;

- (c) In new manufactured home parks or subdivisions;
- (d) In substantially improved manufactured home parks or subdivisions;
- (e) Outside of a manufactured home park or subdivision; and
- (f) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.

(2) All such manufactured homes must be:

- (a) Elevated on a permanent foundation;
- (b) Have its lowest floor elevated no lower than two feet above the level of the base flood elevation; and
- (c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(3) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, so that either the:

- (a) The lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation; or
- (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

(4) (a) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use; or
3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for "manufactured homes".

(b) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the state's motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(E) *Floodways.* Located within areas of special flood hazard established in §152.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge; and

(2) If this division (E) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of §§ 152.40 to 152.46.

(Ord. 2012-4, passed 4-11-2012)

§ 152.42 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

Located within the special flood hazard areas established in §152.07, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply.

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction and substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with § 152.07.

(Ord. 2012-4, passed 4-11-2012)

§ 152.43 STANDARDS FOR SHALLOW FLOODING AREAS.

- (A) Located within the special flood hazard areas established in §152.07 are areas designated as shallow flooding areas.
- (B) These areas have flood hazards associated with base flood depths of one to three feet where a clearly defined

channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply.

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade; and

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(b) Together with attendant utility and sanitary facilities be completely flood-proofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 152.41(B).

(Ord. 2012-4, passed 4-11-2012)

§ 152.44 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In areas where base flood elevation and floodway data is not available, base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided.

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(Ord. 2012-4, passed 4-11-2012)

§ 152.45 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER "A".

For all accessory structures in special flood hazard areas designated "A", the following provisions shall apply:

(A) Must be non-habitable;

(B) Must be anchored to resist floatation and lateral movement;

(C) Must be provided with flood openings in accordance with the standards of §152.41(C);

(D) Must be built of flood resistant materials to two feet above the base flood elevation;

(E) Must elevate utilities two feet above the base flood elevation;

(F) Can only be used for storage or parking; and

(G) Must not be modified for a different use after permitting.

(Ord. 2012-4, passed 4-11-2012)

§ 152.46 CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the base flood elevation at the site. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 2012-4, passed 4-11-2012)

§ 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor

civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$100 or imprisoned for not more than 365 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2012-4, passed 4-11-2012)

CHAPTER 153: DEVELOPMENT AND SUBDIVISION REGULATIONS

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PURPOSE, AUTHORITY, AND JURISDICTION

§ 153.001 PURPOSE.

(A) Approval of a development plan and subdivision of property are the first steps in the process of community development. Once plans have been approved and land has been divided into lots, streets, and open spaces, a pattern has been established that determines how well community needs for residence, business and industry will be met. It also determines to a great extent, how well the community will be able to meet the demand for home sites, and how efficiently and economically it will be able to provide the many required services.

(B) After plans have been approved, land has been subdivided, and lots recorded, it is very difficult and costly to correct defects and deficiencies in the development layout and in the facilities provided. In addition, a developed area sooner or later becomes a public responsibility since roads and streets must be maintained and public services must be provided. The welfare of the entire community is affected in many important aspects. The guidance of land development in harmony with community objectives is a matter of serious public concern. It is in the interest of the public, the developer, and the future property owners that development is designed and constructed in accordance with sound rules and proper standards. These development and subdivision regulations are designed to provide for the harmonious development of the community by ensuring the coordinated layout of streets and utilities, convenient open space for recreation, access for emergency equipment, adequate water, drainage, sewer facilities, and reduction of potential flood damage.

(Prior Code, § 74.100) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.002 SHORT TITLE.

The full title of these subdivision regulations shall be the "Development and Subdivision Regulations of the Winchester/Clark County Planning Commission of Winchester and Clark County, Kentucky". As a short title, these regulations shall be known and may be cited as the "development and subdivision regulations".

(Prior Code, § 74.110) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.003 AUTHORITY AND ADMINISTRATIVE AGENCY.

These regulations were prepared and approved by the Winchester/Clark County Planning Commission pursuant to the authority, KRS Chapter 100, and shall be administered by the Winchester/Clark County Planning Commission upon their adoption.

(Prior Code, § 74.120) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.004 AREA OF JURISDICTION.

The Winchester/Clark County Planning Commission shall have jurisdiction and control over the development and subdivision of all land in the City of Winchester, Kentucky, and the County of Clark, Kentucky, which area also shall be designated the planning area of said Planning Commission.

(Prior Code, § 74.130) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.005 AMENDMENTS.

The Planning Commission may amend or modify these regulations from time to time by holding a public hearing on the proposed changes after giving notice as required by KRS Chapter 424.

(Prior Code, § 74.140) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.006 FEE SCHEDULE.

The Planning Commission shall adopt a fee schedule to cover the cost of reviewing development plans and plats, inspections, and other costs to the Planning Commission related to the development and subdivision of land.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

DEFINITIONS

§ 153.020 DEFINITIONS.

The purpose of this subchapter is to define certain words and phrases commonly used in development and subdivision of land. The words and terms expressed in the present tense include the future tense. The words and phrases expressed singular in number include the plural number. The word **MAY** is permissive, while **SHALL** and **WILL** are mandatory.

(Prior Code, § 74.200)

AGENCIES, GOVERNMENTAL AND PRIVATE. Governmental and private agencies referred to herein mean those agencies having regulations relating to or having an effect upon subdivision and development of land. These **AGENCIES** include, but not exclusively, Winchester/Clark County Planning Commission, City of Winchester, Clark County Fiscal Court, Winchester Municipal Utilities, and similar agencies.

ARCHITECT, LANDSCAPE. A person licensed by the State Board of Examiners and Registration of Landscape Architects of Kentucky to practice landscape architecture as defined by KRS 323A.010 in the Commonwealth of Kentucky.

BUILDING. Any human-made physical structure, or part thereof, affixed to the land and intended for a person's work, residence, or other use.

BUILDING SETBACK LINE. A line within the boundaries of a lot which determines the minimum distance the primary structure may be located from the property line.

CITY. City means City of Winchester, Kentucky.

CITY ENGINEER. Licensed engineer appointed by or employed by the City of Winchester.

CLARK COUNTY CONSERVATION DISTRICT. The body of local government created by KRS Chapter 262.

COUNTY. The County of Clark, Kentucky.

DEVELOPER. An individual, partnership, corporation, or other legal entity or agent thereof, which undertakes the activities covered by these regulations. In as much as the subdivision plan drawings are merely a necessary means to the

end of assuring satisfactory development, the term **DEVELOPER** includes "subdivider", "owner", "builder", and the like, even though the persons and their precise interests may vary at different project stages.

DEVELOPMENT PLAN. The written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, lots, parking facilities, signs, drainage of surface water, access points, screening or buffering, utilities, existing human-made and natural conditions, and all other conditions agreed to by the applicant.

ENGINEER. Any person licensed to practice as an engineer in the Commonwealth of Kentucky.

GRADE. The inclination, with the horizontal of a road, unimproved land, and the like, which is generally expressed by stating the vertical rise or fall as a percentage of the horizontal distance.

GREEN INFRASTRUCTURE. Infrastructure and storm water design approaches and technologies that mimic the natural hydrologic cycle by a network of natural ecosystem processes of rainfall infiltration, evapotranspiration and reuse with an emphasis on interconnectivity to support long-term sustainability.

IMPLEMENTATION DEVICES. The zoning ordinance, development and subdivision regulations of Winchester/Clark County, FEMA floodplain maps, office maps, and the like, adopted or established by the Planning Commission and/or governmental units of Winchester and Clark County to implement the Comprehensive Plan as set forth in KRS Chapter 100.

IMPROVEMENTS. Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more usable for human activities. Typical **IMPROVEMENTS** in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, utility lines of all types, street name signs, property number signs, and the like.

INFRASTRUCTURE. The large scale public systems, services, and facilities of a community that are necessary for economic activity, including power and water supplies, public transportation, telecommunications, drainage and sewer, roads, and schools.

JURISDICTION, AGENCY WITH. Agencies having their own regulations relating to certain phases of development and subdivision of land. These include, but are not limited to, City of Winchester, Clark County Fiscal Court, Winchester Municipal Utilities, Clark County Health Department, Kentucky Transportation Cabinet, Federal Emergency Management Agency, and the Environmental Protection Agency.

LAND SURVEYOR. Any person currently licensed as a land surveyor by the Commonwealth of Kentucky.

LOT. A portion of a subdivision plat or the basic unit thereof, intended for transfer of ownership or for development.

LOT AREA. The amount of land contained within the designated property lines of a lot, which may include utility easements, but shall not include street right-of-way.

LOT, CORNER. A lot abutting upon two or more streets at a street intersection, or abutting upon two adjoining and deflected lines of the same street and thereby forming an interior angle of less than 135 degrees. The depth of a lot is the maximum horizontal distance between the front and rear property lines of a lot.

LOT, DOUBLE FRONTAGE. Any lot having two or more of its non-adjacent property lines abutting upon separate streets.

LOT, REVERSE FRONTAGE. A double frontage lot having its vehicular access point limited to the street which is not faced by the building situated thereon.

LOT WIDTH. The width of a lot is the distance measured between the two side property lines of a lot at the front yard building setback line.

LOW IMPACT DEVELOPMENT. A storm water management planning approach for commercial and residential development that emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small scale hydrologic controls to replicate the pre-development hydrologic regime of a watershed through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source.

PAVED STREET/ROAD. A street or road that is constructed on compacted subsoil with a minimum of eight inches of dense grade aggregate (DGA), a minimum of two and one-half inches of asphalt base, and a minimum of one and one-half inches of asphalt surface.

PLANNER, COMMUNITY. Any person who shall be either a member or associate member in good standing of the American Planning Association.

PLAN, COMPREHENSIVE. The plan, or parts thereof, adopted by the Winchester/Clark Planning Commission to implement the future physical development of the City of Winchester and the County of Clark, Kentucky in regard to transportation, land use, community facilities, utilities and other physical needs, as defined in KRS 100.187.

PLANNING COMMISSION. The Winchester/Clark County Planning Commission.

ROADWAY. That portion within the street right-of-way consisting of the street pavement, curb and gutter (or open ditches), which is accordingly used as a channel for vehicular movement and water drainage.

SECRETARY. That person designated or appointed as such by the Planning Commission.

SOIL SURVEY. The report developed by USDA - SCS in cooperation with UK Experiment Station and the Clark County Conservation District (Series 1961, No. 11, issued October 1964).

STORMWATER MANUAL. A document to provide standards for the design and construction of stormwater infrastructure as well as describe the approval process for stormwater infrastructure. This manual is adopted by the Planning Commission by reference. When the manual is cited by these development and subdivision regulations, the current edition or latest revision shall be referenced.

STREET. In its general sense herein, is an area of land designated for public use within defined limits in order to provide a means for vehicular and pedestrian movement. The right-of-way limits of any street shall include the street pavement, curb and gutter (or open ditches), sidewalks, and may provide space for the location of utilities. The right-of-way limits of any street shall be coincident to the property line of the adjacent or the abutting lot. **STREETS** are classified specifically herein as follows:

(1) *Expressways.* Expressways rank first in the classification of streets and are used only for vehicular movement without access to abutting properties. Interchange of traffic between expressways and other streets (only arterial streets when possible) is accomplished by grade separated interchange with merging deceleration and acceleration lanes.

(2) *Arterials.* Arterial streets rank second in the classification of streets, and are used primarily for vehicular movement and are used secondarily for vehicular access to abutting properties. Access to abutting properties, if permitted, should be provided by means of a marginal access street in order to serve several abutting properties, rather than allowing each abutting property to have its own individual access thereto. Arterial streets are the link between expressways and collector streets, and generally rank next to expressways in traffic volume, speed limit control and right-of-way limits.

(3) *Collector streets.* Collector streets rank third in the classification of streets and are principally used for vehicular movement; however, access to abutting properties are planned and controlled so that minimum disturbance is made to the traffic flow on said collector street. Collectors are the link between arterial and minor streets, and generally rank next to minor streets in right-of-way widths, and speed control.

(4) *Minors.* Minor streets rank fourth in the classification of streets and are used primarily for providing access to abutting properties. Vehicular movement on minor streets should have an origin or destination in the immediate vicinity, whereas all types of through traffic should be eliminated. Minor streets are the primary link between generator points (homes, offices, stores, and the like) and collector streets. Minor streets require the least amount of vehicular movement and may be further classified into five categories as follows:

(a) Continuing streets have two open ends; each end generally connects with different streets. One or more other streets may intersect such a street between its two open ends, and property abuts both sides of such a street.

(b) Marginal access streets generally have two or more access points to the major street system by connecting to a street of higher classification. Marginal access streets are sometimes called access or frontage roads.

(c) Loop streets have two open ends each and generally connect with the same street. No other streets intersect between the two ends and property abuts on both sides of the street.

(d) Cul-de-sacs have only one open end that provides access to another street and a closed end that provides a turn-around circle for vehicular movement. No streets of this type shall dead-end at the closed end, unless future plans provide for its continuation for an open end or a turn-around circle. Temporary turn-around circles may be required when deemed necessary by the Planning Commission.

(e) Alleys generally have two open ends with each end connecting to different streets. Alleys generally provide service and access to the rear of abutting properties on both sides of the alley.

SUBDIVISION. The division of land into two or more parcels for the purpose of sale, use or building development, whether immediate or future, and includes re-subdivision of existing subdivided land. For platting purposes, subdivisions are classified herein under minor and major subdivisions. For physical improvement purposes, major subdivisions are further classified into special classes in §§ 153.115 through 153.121 of this chapter.

SUBDIVISION PLAT. A document, drawn to scale, that maps the location and boundaries of individual parcels of property along with the streets, alleys, easements, and rights of use over the land. A subdivision plat must be recorded at the county courthouse to become a legal document. All major subdivision plats must be approved as final development plans by the Planning Commission prior to being recorded.

(Prior Code, § 74.210)

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

DEVELOPMENT PLAN PROCEDURES

§ 153.035 PURPOSE.

The purpose of this subchapter is to establish the procedures which shall be followed by the developer and the Planning Commission in preparing, reviewing and approving all development plans. The overall purpose of this subchapter is to foster and encourage better physical design in the transformation of open land to developed areas. Developers must work closely

with the Planning Commission, its staff, and with qualified planning and design professionals to arrive at the most efficient and pleasing physical design which resolves potential land use, circulation, and other design issues related to development.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.036 PRE-APPLICATION CONFERENCE PROCEDURES.

The purpose of the pre-application conference is to afford the developer an opportunity to obtain advice and assistance from the Planning Commission staff before making formal application for development plan approval. The developer should consult with potentially interested parties, such as attorneys, engineers, land surveyors, landscape architects, lenders and community planners, in an effort to reach firm conclusions as to the type of market demand to be served, the suitability of the location of the proposed development, and the general arrangement of streets, lots and other features proposed. For Planning Commission purposes, there are only two steps involved at the pre-application conference.

(A) *Development plan.* The developer should prepare a development plan indicating the boundaries of the tract, streets, lot patterns and other physical information relating to the proposed development.

(B) *Office visit.* The developer should visit the Planning and Community Development Office to discuss the development plan with the staff. This informal discussion shall not constitute a formal application and will be considered confidential. The developer should also consult with utility companies and other local agencies at this stage.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.037 GENERAL DEVELOPMENT PLAN PROCEDURES.

The following shall be the procedures for Planning Commission consideration of any development plan (preliminary and final).

(A) *Formal application and submission.* To secure formal action on the development plan, the developer shall submit a complete application to the Planning and Community Development Office by the monthly deadline for Planning Commission public hearings. The deadline is the first Tuesday of each month to be placed on the agenda for the first Tuesday of the following month. Holidays and elections may alter the day; check with staff for specific dates.

(B) *Design plans.* The developer shall have an engineer, land surveyor or landscape architect licensed to practice in the Commonwealth of Kentucky prepare the development plan in conformance with the format, design, and improvement requirements of §§ 153.090 through 153.131 of this chapter. All engineering data shall be supplied by a licensed engineer. Utility companies and other concerned city and county agencies should be consulted before these are prepared. The complete application shall contain the following at a minimum:

- (1) Development plan: 19 copies including four full sets and 15 sets containing the site plan and grading plan;
- (2) Drainage report: two complete sets including computations; and
- (3) Plans for stormwater, erosion and sediment control: four complete sets.

(C) *Technical Review Committee.* Copies of the development plan shall be distributed by staff to the Technical Review Committee. The Technical Review Committee shall review and make its own recommendation to the Planning Commission for approval, conditional approval (with conditions noted), postponement, or disapproval. It is recommended that the developer or a representative attend the Technical Review Committee meeting to discuss specific aspects of the plan being considered. A copy of the Technical Review Committee's recommendations shall be given to the developer in order that the necessary changes can be made to the development plan. Three copies of the revised development plan shall be submitted to the staff for review in advance of the Planning Commission meeting. Technical Review Committee meetings are held on the second Tuesday of each month. Holidays and elections may alter the day; check with staff for specific dates.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.038 PRELIMINARY DEVELOPMENT PLAN PROCEDURES.

Development plans may receive their first official consideration by the Planning Commission as "preliminary" development plans. Preliminary development plans are less detailed than final development plans. The developer may choose this option to gain approval for the concept prior to finalizing the details required to begin construction. The Planning Commission may take any of the following actions after reviewing a preliminary development plan.

(A) Approval means a grading permit may be issued by the Engineering Department if all stormwater documentation has also been approved. No developer shall proceed with any construction work on the proposed development, including grading, before obtaining approval from the Planning Commission and a grading permit from the Engineering Department. Lots shall not be sold at this time. Sale of lots shall occur only after a final development plan has been approved by the Planning Commission and a subdivision plat has been recorded at the county courthouse.

(B) Conditional approval means the developer may not proceed as outlined in division (A) above until the specified conditions have been met. A revised plan may be required but no completely new application is required.

(C) Postponement means action is delayed for definite reasons which shall be noted by the Planning Commission. Certain specified changes may have to be made to the preliminary development plan but no new application is required.

(D) Disapproval means denial of the preliminary development plan. For further action, the developer must rework the preliminary development plan. The reworked preliminary development plan must be re-submitted as a completely new plan.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.039 FINAL DEVELOPMENT PLAN PROCEDURES.

(A) Development plans shall receive their last review by the Planning Commission as "final" development plans. The developer may choose to bypass the preliminary development plan review by initially submitting an application that meets the more stringent requirements of a final development plan.

(B) No developer shall sell or agree to sell any lot until after a final development plan has been approved by the Planning Commission and, where required, a subdivision plat has been recorded at the County Courthouse. The Planning Commission may take any of the following actions after reviewing a final development plan:

(1) Approval means the developer may apply for a grading permit, building permit, and/or begin the process of recording a subdivision plat. Planning Commission approval shall not be deemed to constitute or effect an acceptance of the dedication of any street or other proposed space offered for dedication since such acceptance is the prerogative of the city and county legislative bodies;

(2) Conditional approval means the developer may not proceed as outlined in subsection (1) above until the specified conditions have been met. A revised plan may be required but no completely new application is required;

(3) Postponement means that the Planning Commission has deferred action until some future Planning Commission meeting in order that clarifications can be made in regard to the final development plan. The Planning Commission may require specific changes to the development plan, but no new application is required; and

(4) Disapproval means denial of the final development plan. The developer must re-work the final development plan to conform to Planning Commission requirements and re-submit it as a completely new final development plan.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.040 AMENDMENTS TO DEVELOPMENT PLANS APPROVED BY THE PLANNING COMMISSION.

(A) Amendments to approved development plans can be made only by official Planning Commission action. Content, format, and procedures shall be the same as those for the original submission. Amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved by the Planning Commission staff without further action by the Planning Commission.

(B) Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments shall not:

- (1) Decrease the overall land area in yards, or other open spaces;
- (2) Increase building footprint or height; or increase the number of dwelling units;
- (3) Increase the number or size of signs; and

(4) Change the location of any street and shall not increase the number, or change the location of, street access points; except that shifts in the approved access location not exceeding 25 feet may be approved as a minor amendment where the access point is not located on an arterial street.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

CONTENT AND FORMAT OF DEVELOPMENT PLANS

§ 153.055 PURPOSE.

The purpose of this subchapter is to describe the content and format of development plan materials and the information which must be placed thereon. Conformance to these requirements provides maximum capability for thorough review and expedient processing. All development plans shall adhere to these specifications unless the Planning Commission grants permission for modifications due to unusual and special circumstances. Development plans which are flagrantly or repeatedly lacking specified data shall be returned to the developer immediately after review by the staff without waiting for review by the Technical Review Committee or the Planning Commission.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.046 BASIC INFORMATION REQUIREMENTS FOR ALL DEVELOPMENT PLANS.

(A) Application form: this form may be obtained from the Planning and Community Development office or from the website www.winchesterky.com. One copy shall be filled out completely and accurately, and submitted as part of the development plan materials.

(B) Stormwater pollution protection plan: four copies must accompany the development plan if the applicant wishes to apply for a grading permit following Planning Commission approval.

(C) Paper prints of development plan: 19 sets of prints (four complete sets and 15 partial sets containing the site plan and grading plan) shall be submitted, and the sheet size shall be 24" x 36" unless the staff approves another size due to unusual or special circumstances. If necessary, more than one sheet may be used as long as a key is provided that relates each sheet to the entire planned area. The development plan should include, at a minimum, the following information:

(1) Title block: the title should be placed on the bottom right-hand corner of the plan and shall contain the following information:

(a) Development name: the proposed name of the development, which shall not duplicate nor closely approximate (phonetically or in spelling) the name of any other development in the county. The plan shall be titled "Development Plan of";

(b) Property identification: the record name and mailing address of the property being developed;

(c) Identification: the name, mailing address, and phone number of the property owner, developer, engineer, and anyone else directly involved in the development; and

(d) Date of preparation, prepared by, and date of revisions.

(2) Vicinity map showing the location of the proposed development (in relation to the surrounding area) shall be placed on the sheet in the upper, right-hand corner. The vicinity map shall be drawn at a scale large enough to show the proposed development's relationship to existing and proposed community features such as shopping areas and industrial areas. Typically one inch should not exceed 2,000 feet;

(3) Legend;

(4) The written scale between (1" = 10' and 1" = 50');

(5) North arrow;

(6) Design engineer's certification should be signed, dated, stamped and read as follows: "This development plan was prepared by me or under my direction and has been designed to meet the requirements of the Winchester/Clark County Zoning Ordinance and this chapter;"

(7) Owner's certification shall be signed, dated, and witnessed as follows: "I (we) do hereby certify that I am (we are) the only owner(s) of record of the property platted hereon, said property being the same (or a portion of) property conveyed to me (us) by ____, dated ____, and recorded in Deed ____ Book ___, Page ___, in the Clark County Clerk's Office; and I (we) do hereby adopt this as my (our) development plan for this property;"

(8) Planning Commission certification to be signed and dated by the Planning Commission secretary if the development plan is approved: "I do hereby certify that this development plan was approved by the Planning Commission;"

(9) Existing conditions on and adjacent to the tract: the following information detailing existing conditions shall be shown (property and other lines off the tract should be shown as dashed lines):

(a) The boundary lines of the tract should be shown by a special line style and weight (such as, heavy solid line) which will provide quick and easy distinction between the developer's property and any adjacent property;

(b) Existing easements: location, width, and purpose of all easements;

(c) Names of all adjacent property owners;

(d) All buildings, parking lots, sidewalks, access points from public right-of-ways, fences and the like;

(e) Zoning classification of site and all adjacent properties;

(f) Streets: location, name, pavement width, and right-of-way width;

(g) Utilities: the location of sanitary and storm sewers; water mains, gas lines, fire hydrants, electric lines, communication towers fiber optic lines;

(h) Other conditions: water courses, marshes, rock outcrops, wooded areas, isolated trees of six inch caliper or greater, houses, barns, and other significant features. Indicate which will be retained and which removed; and

(i) FEMA flood plain areas and base flood elevations on and adjacent to the tract. Flood map number shall be referenced.

(Ord. passed 3-1995; Ord. passed 10-2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1-2020)

§ 153.057 PRELIMINARY DEVELOPMENT PLAN REQUIREMENTS.

In addition to the basic information requirements for all development plans (as detailed in §153.056 of this subchapter), the following information for proposed development shall be shown on preliminary development plans:

(A) Building locations and dimensions;

(B) Access points from public right-of-ways;

(C) Parking lots and sidewalks;

- (D) Streets: the proposed names (which shall not be the same or approximate the name of any other street in the county), pavement widths, and right-of-way widths;
- (E) Easements: include the location, width and purpose;
- (F) Utilities; and
- (G) Public sites: the name, acreage, and use of any sites proposed for public use such as parks, playgrounds, and the like.

(Ord. passed 3-1995; Ord. passed 10-2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1-2020)

§ 153.058 FINAL DEVELOPMENT PLAN REQUIREMENTS.

In addition to the basic information requirements for all development plans (as detailed in §153.056 of this subchapter), the following information shall be shown on final development plans:

- (A) Existing conditions on and adjacent to the tract: the following information detailing existing conditions shall be shown (property and other lines off the tract should be shown as dashed lines):
 - (1) Accurate survey data for all boundary lines: seconds, lineal dimensions to hundredths of feet, radii, internal angles, points of curvature, tangent bearing, lengths of arcs, lengths of chords;
 - (2) Streets: classification of street, locations of culverts and gutters, elevations and locations of centerlines, elevations of curbs;
 - (3) Utilities: the location, size and invert elevations of sanitary and storm sewers; location and size of water mains; gas lines; fire hydrants; utility poles and lines; and street lights. If water mains and sewers are not adjacent to the tract, indicate the direction and distance to them, provide size of nearest ones; and
 - (4) Sinkholes: provide the location of all sinkholes. If sinkholes are present, staff and/or the Technical Review Committee may require the developer to provide technical information about subsurface conditions. The required information may include, but not be limited to, subsurface soil, rock, and ground water conditions.
- (B) The following information detailing proposed development shall be provided:
 - (1) Drainage report including all calculations: two copies;
 - (2) Building locations, dimensions, and finished floor elevations;
 - (3) Access points from public right-of-ways;
 - (4) Parking lots and sidewalks: provide calculations for required parking, slope, ADA compliant provisions such as handicap parking and ramps, signage, directional arrows, dimensions of spaces and drive lanes, calculations for interior landscape requirements;
 - (5) Streets: the proposed names (which shall not be the same or approximate the name of any other street in the county), right-of-way and roadway widths; grades, traffic calming devices, signage, and directional arrows (where needed). All street design shall be in accordance with § 153.128(A) of this chapter;
 - (6) Easements: include the location, width and purpose;
 - (7) Utilities: alignment and location of all utilities;
 - (8) Benchmarks: location and elevation of all benchmarks; there shall be at least one per development;
 - (9) Public sites: the name, acreage, and use of any sites proposed for public use such as parks, playgrounds and the like;
 - (10) Drainage structures and facilities: all design shall be in accordance with §153.130 of this chapter;
 - (11) Landscape plan showing location of landscape materials, a planting schedule indicating species, size, and number. Provide location of street and parking lot lights to insure no conflict exists between lights and trees. Provide planting details and notes detailing maintenance and warranty responsibilities; and
 - (12) Construction drawings:
 - (a) Street profiles: the plan and profile of each proposed street (indicating the existing ground surface and proposed street grade surface) at a horizontal scale equal to the horizontal scale of the plan/plat and a vertical scale of ten times the horizontal scale, with finish grades indicated;
 - (b) Street cross sections: a cross section of each proposed street at 50-foot intervals, at a scale of one inch equals ten feet (or less), showing the width of pavement, the location and width of sidewalks, and rights-of-way;
 - (c) Sewers and storm water drainage: the plans and profiles of proposed sanitary sewers and storm water sewers or other drainage ways, at a horizontal scale equal to the horizontal scale of the plan/plat and at a vertical scale of ten times the horizontal scale, with grades and sizes indicated. If a piped system of sewers is not proposed, then an alternate system including green infrastructure and low impact development shall be properly illustrated as required by the City Engineer;

- (d) Other utilities: plans and line sizes of other proposed utilities shall be shown; and
- (e) ADA handicap compliant details indicating materials, slopes and the like.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

MAJOR AND MINOR CLASSES OF SUBDIVISION ESTABLISHED FOR PROCESSING PURPOSES

§ 153.075 PURPOSE.

The purpose of this subchapter is to establish different classes of land subdivisions on the basis of their relative importance to the community's overall development. This will then permit the establishment of requirements for subdivision plat preparation and approval which varies for the different classes.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.076 PROCESSING CLASSES FOR SUBDIVISIONS.

(A) In accordance with the definition found in KRS 100.111, a **SUBDIVISION OF LAND** within the county and the City of Winchester means: the division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one acre occurring within 12 months following a division of the same land shall be deemed a subdivision within the meaning of this section.

(B) The statutes further provide that no land shall be subdivided, transferred, sold, or agreed to be sold until after a plat of such land is prepared and approved in conformance with requirements established by the Planning Commission. Metes and bounds descriptions of the land shall not be used on contracts for the above purposes in order to replace the required plats. All plats must be reviewed, approved, and recorded before it can be used as a basis for subdivided land to be transferred or sold. All division of land shall comply with the area and dimension requirements as described in the zoning district for which the property is located, as found in the Winchester/Clark County zoning ordinance. Thus, these regulations are intended as the requirements established by the Planning Commission for the preparation and approval of subdivisions of land.

(C) In order to proceed towards establishing such requirements, subdivisions shall be further classified as follows.

(1) *Major subdivisions.* Any subdivision of land for multi-family residential, commercial, industrial, or professional uses; or into four or more single-family residential lots; or any subdivision of land, including agricultural uses, that requires the construction, improvement, extension, or widening of streets; or that requires new off-site utility easements.

(2) *Minor subdivisions.* Those subdivisions of land which are generally of minor planning significance to the community's future development and include only the subdivisions as described below. The division of a tract of land into three or fewer single-family residential lots. Such minor subdivisions shall conform specifically to the requirements established in §§ 153.090 to 153.093 in addition to any other applicable regulations.

(a) Consolidation minor subdivisions shall be solely for the purpose of transferring a portion of the subdivided land to an adjoining property with which it is to be consolidated. Such adjoining property shall have a common boundary with the portion of the subdivision intended for transfer and no new, buildable lots are created.

(b) Rural minor subdivisions shall be those single-family subdivisions characterized by the following conditions:

1. Division of land taking place in the Agricultural Zoning District (A-1) which results in property(s) containing less than five acres. The resulting divisions shall contain at least one acre (43,560 square feet) of land;

2. The resulting divisions shall be used for residential and/or agricultural purposes only and shall contain three or fewer single-family residential lots;

3. All resulting divisions shall front on a paved street or road dedicated to and maintained by the public. No new streets or roads shall be permitted. When parcels of less than five acres are created, a common entrance onto a public street or road shall be required and so indicated on the plat. Divisions approved as "family farm home sites" are exempt from the frontage requirement subject to an access easement placed on the plat and an accompanying note that states a private entrance is granted in accordance with § 155.132;

4. The subdivision shall be in conformance with the Comprehensive Plan, implementation devices, and other applicable regulations, including any necessary dedication for street rights-of-way. Where existing streets or roads do not meet current standard requirements for the proposed development, the developer may be required to bring the street or road into compliance with all current requirements. Any subdivision of land, including agricultural uses, that require the construction, improvement, extension, or widening of streets will be reviewed by the Planning Commission as a major subdivision plat; and

5. All plats for property not served by a sanitary sewer system must have the following note: no residential construction is permitted until sanitary sewer approval is given by the County Health Department.

(3) *Division of land for agricultural use.* Property located in the Agricultural Zoning District (A-1) that is divided into lots or parcels of five or more acres and not involving a new street shall not be deemed a subdivision. The property(s) involved

shall be divided and shown on a record plat drawn and signed by a licensed engineer or surveyor, signed by the property owner(s), reviewed by Planning Staff, and signed by the Planning Commission Secretary. When the Secretary is not available, the Chair or Vice-Chair of the Planning Commission may sign the record plat. The signed record plat will need to be recorded at the County Court House, one copy of the recorded plat will be given to the applicant and one copy of the recorded plat will be filed in the Planning Office.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

SUBDIVISION PLAT PROCEDURES, FORMAT AND CONTENT

§ 153.090 PURPOSE.

The purpose of this subchapter is to establish procedures for plat submittal and review. The requirements for the format and content of subdivision plats are included in order that the plats may be prepared and processed efficiently.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.091 PROCEDURES FOR SUBMITTAL AND REVIEW OF SUBDIVISION PLATS.

The step-by-step procedures listed below shall apply to all subdivision plats unless otherwise indicated. Major subdivision plats shall only be submitted following Planning Commission approval of a final development plan for the property.

(A) *Plat preparation.* The developer shall have a licensed land surveyor prepare a record plat in conformance with these regulations.

(B) *Submission.* The developer shall submit two prints of the original plat, a completed application, a fee for review, and a fee for recording to the Planning and Community Development office.

(C) *Staff review.* The staff shall review the plat for conformance to these regulations, mark both prints with any necessary changes, return one print to the developer, and retain one for office files. As soon as the plat conforms to these regulations, four final prints and one digital formatted copy (Appendix D) shall be submitted to be recorded. The four prints must be signed and stamped by the surveyor and signed by the owner(s).

(D) *Secretary's signature.* The Secretary of the Planning Commission shall sign the Planning Commission's certification on all four plats to signify the Planning Commission's approval and make it eligible to be recorded. One copy shall be kept for the office files, one returned to the developer, one retained with the County Clerk, and one retained by the County Property Valuation Administrator.

(E) *Recording.* The signed plat shall be recorded in the exact form as previously approved.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.092 FORMAT FOR SUBDIVISION PLATS.

The plat shall be drafted in a manner that will produce a print that contains dark, stable lines that cannot be smudged or removed by ordinary handling. Four prints shall be submitted and the sheet size shall be 17" x 22".

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.093 CONTENT REQUIRED FOR SUBDIVISION PLATS.

(A) New parcels shall be assigned addresses by County Geographical Information System (GIS). The e-mail address is stephenberrv@ccgisonline.com.

(B) The subject property shall be placed in the center of the plat with the boundaries of the subdivision shown in a heavy, solid line; the boundaries of the remainder of the parent tract shall be shown in a lighter dashed line;

(C) Provide a 3" x 3" space in the bottom, right corner labeled "County Clerk" for the recording date and time stamp.

(D) The title block shall be placed along the right side of the plat. It shall include the name of the subdivision as record plat of (name of property). The plat shall also show the mailing address of the property being subdivided, the owner, and the surveyor. The title block shall show the date of preparation and all dates of revisions.

(E) The plat shall have a north arrow, legend, written and graphic scale (between 1" = 10' and 1" = 100') and provide the source of title.

(F) A vicinity map shall be placed in the upper, right corner of the plat and show the relationship of the subject property (drafted in solid black) to a sufficient number of streets or highways in the area to enable one to quickly identify the section of the county. An appropriate scale is typically one inch equals 2,000 feet (or less).

(G) All divisions shall have their acreage and a number or letter designation marked thereon.

(H) Lot layout and building setbacks: the location and distances for lot lines; lot numbers and block numbers; building setback lines with dimensions.

(I) The plat shall provide the name of the owner(s) of adjoining property(s) or the name of an adjacent major subdivision including the recorded plat and deed information.

(J) The name, and right-of-way width, and typical cross sections of all streets dedicated to public use which abut, adjoin or are included within the subdivision.

(K) Where the tract shown on a subdivision plat represents only a portion of the developer's entire holding, an additional sketch shall be required as a means of showing the proposed street layout for the remainder of the tract.

(L) The purpose, width, location and full extent of all easements shall be provided.

(M) A dedicated right-of-way of at least 30 feet shall be required for existing roads.

(N) All boundaries shall be surveyed in the field; accurate bearings and distances shall be placed on each property line.

(O) On consolidation plats, land consolidation hooks shall be shown on the parcel which is to be transferred and consolidated. In addition, the plat shall have the following notation: "Parcel # ___ shall be consolidated with adjoining parcel # and not conveyed as a separate parcel".

(P) The plat shall show all existing major physical improvements including, but not limited to, existing utilities, structures, property corners, as required to meet the state "Standards of Practice for Land Surveyors";

(Q) Proposed and existing roadway entrances shall be indicated on the plat along with certification that the proposed entrance(s) have been approved by the agency having jurisdiction.

(R) Where any property lying partly in the county and partly in an adjoining county is divided into two or more parcels, any parcel resulting from such division that lies partly within the county shall be subject to these regulations.

(S) All plats for property not served by a sanitary sewer system must have the following note: no residential construction is permitted until sanitary sewer approval is given by the County Health Department.

(T) Protective covenants: when the developer intends to regulate land use in the subdivision and otherwise protect the development, one copy of the final protective covenants shall be submitted as part of the final plan/plat materials.

(U) Certifications required on all plats:

PLANNING COMMISSION CERTIFICATION

"I do hereby certify that this record plat conforms to regulations of the Winchester/Clark County Planning Commission, and that it has been approved to be recorded by the Clark County Court Clerk."

LAND SURVEYOR'S CERTIFICATION

"I do hereby certify that the survey shown hereon was performed by me, or under my direction, by the method of random traverse and all monuments indicated hereon actually exist and their size, location, and material are correctly shown. The unadjusted mathematical error of closure ration of the random traverse was _____ and the bearings and distances shown hereon have been adjusted for

closure. The survey as shown hereon is a Class survey and the accuracy and precision of said survey meets all the specifications of this class. The basis of the bearings shown hereon is in relation to .

Land Surveyor's Signature

Date

INCLUDE SURVEYOR'S ORIGINAL SEAL

OWNER'S CERTIFICATION

"I (we) do hereby certify that I am (we are) the only owner(s) of record of the property platted hereon, said property being the same (or a portion of) property conveyed to me (us) by _____, by _____ dated ___, and recorded in Book _____ Page _____, in the Clark County Clerk's Office; and do hereby adopt this as my (our) record plat for this property."

Owner(s) Signature and Address Date

Witness Signature and Address

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

DESIGN STANDARDS

§ 153.105 PURPOSE AND SUITABILITY OF LAND.

The purpose of this subchapter is to establish the basic and minimum design standards which will be required for lots, streets, and other physical elements on land proposed to be developed. If the Planning Commission finds that it is in the best interest of the public that the land should not be developed for the purpose proposed due to flooding, high water table, topography, inadequate water supply, transportation facilities, schools, or other conditions which may endanger life or health, the Planning Commission shall not approve the proposed development unless adequate methods are proposed by the developer for solving the problems that will be created by the development.

§ 153.106 STREET DESIGN STANDARDS.

All streets which are designed primarily for the movement of vehicular traffic shall conform to the following requirements at the minimum.

(A) *Classification of streets.* Four basic street classifications shall be observed by developers: expressways; arterials; collectors; and minor streets. Each class is fully defined in § 153.020.

(B) *Street standards.* The following standards shall apply to street design elements.

(1) *Relation to topography.* Streets shall be logically related to the topography so as to produce the most usable and properly situated lots, provide proper drainage for storm water, and produce proper grades.

(2) *Street continuity.* Streets in proposed subdivisions shall generally provide for the continuation of existing or dedicated streets in adjoining or nearby tracts, and provide for connection to adjoining unsubdivided tracts.

(3) *Street names.* Streets which are obviously in alignment with existing streets shall bear the names of the existing streets. Street names shall not duplicate or closely approximate the names of existing streets in the county. Street name signs of a type in use throughout the city and county shall be erected by the developer at all intersections. Temporary street signs and lot addresses shall be erected on all streets and lots under construction to facilitate first responders in the event of an emergency. Permanent street signs shall be required when the first building on the street obtains a certificate of occupancy.

(4) *Partial subdivision.* Where a development plan includes only a site plan for part of the tract owned or intended for development by the developer, an overall plan of the proposed street system for the remaining portion shall be prepared by the developer and submitted to the Planning Commission for review and action.

(5) *Planning for conflicting traffic or land use.* Whenever the proposed development contains, or is adjacent to a railroad, arterial street, or other conflicting land use, the Planning Commission may require marginal access streets, reverse frontage lots, lots with rear service alleys, lots with additional depth, or other such treatment as may be necessary for protection of abutting properties and afford separation of conflicting types of traffic or land use.

(6) *New partial streets and reserve strips.* New partial streets and reserve strips shall not be permitted, except where essential to reasonable development of a tract and where satisfactory assurance for dedication of the remaining part of the street can be secured. No reserve strips shall be permitted unless the Planning Commission gives its express permission.

(7) *Existing partial streets.* Whenever a proposed development borders an existing partial street, the other part of the street shall generally be plotted within the proposed development.

(8) *Cul-de-sacs.* Shall not be longer than 500 feet including the turnaround which shall be provided at the closed end with a right-of-way radius of 50 feet and a transition curve radius of 75 feet for connecting the turnaround with the rest of the street. Temporary turnarounds may be required at the end of stub streets.

(9) *Oversize improvements.* Whenever street rights-of-way or other improvements are required in excess of what is needed to meet the demands of the development being considered, the Planning Commission should require dedication or improvement costs of the developer only to the extent of the development requirements. The Planning Commission may encourage other appropriate entities to finance the acquisition or costs of the additional improvements.

(10) *Special street types.* Permanent dead-end streets shall be prohibited. Temporary dead-end streets shall be permitted as part of a continuing street plan only if the temporary turnaround is designed to the satisfaction of the Planning Commission.

(11) *Alleys.* Alleys may be required if other provisions cannot be made for adequate service access. The minimum widths for alleys shall be 20 feet for the right-of-way and 18 feet for the pavement width.

(12) *Private streets.* Private streets, where permitted, shall be designed and constructed according to the standards for minor streets in these regulations. Such streets shall be maintained by a mechanism which provides for equitable common responsibility for street maintenance and repair. All recorded plats with private streets shall note the details of the maintenance responsibilities of the property owners abutting the street.

(13) *Rural residential streets.* Rural residential streets shall be built to county road standards with a minimum pavement width and right-of-way that meets the standards for minor streets in these regulations. The need for curbs, gutters, and sidewalks shall be determined by the Planning Commission on a case-by-case basis depending on anticipated traffic volume and increased storm water runoff.

(C) *Street rights-of-way and grades.* Shall be as follows.

Street Classification	Min. R.O.W.*	Max. Grade**	Min. Grade
Alleys	20'	12.0%	0.5%

Arterials	80'	5.0%	0.5%
Collectors	60'	10.0%	0.5%
Expressways	120'	5.0%	0.5%
Minors	50'	12.0%	0.5%
*Additional right-of-way may be required whenever a proposed development abuts or contains an existing road of inadequate width, or to provide parking space in high density residential districts or nonresidential areas, or to provide drainage easements where streets parallel streams or drainage areas, or for other reasons to promote public safety and convenience.			
**The Planning Commission may increase these maximum grades whenever they feel special topographic or other conditions justifies such increase.			

(D) *Street alignment.* The minimum horizontal and vertical alignment on all streets shall be as determined by accepted engineering practice and as follows:

Street Classification	*Horiz. Curve Radius	**Stop Sight Dist.	Crest Curves	Sag Curves
Street Classification	*Horiz. Curve Radius	**Stop Sight Dist.	Crest Curves	Sag Curves
Arterials	573'	325'	L = 50A	L = 50A
Collectors	500'	250'	L = 45A; 100' min	L = 60A; 100' min
Expressways	1,146'	550'	L = 80A	L = 70A
Minor, continuing	100'	150'	L = 22A; 100' min	L = 35A; 100' min.
Alleys	100'	N.A.	N.A.	
Cul-de-sac	100'	1500'	L = 22A; 100' min.	L = 35A; 100' min
Marginal Access	150'	150'	L = 22A; 100' min	L = 35A; 100' min
*Whenever street centerlines are deflected in excess of one degree, connection shall be made by horizontal curves with a minimum radius at the centerline as noted. A 55 mph design speed was assumed for expressways, 40 mph for arterials, 30 mph for collectors, and 20 mph for all minor streets. Design must comply with the most recent AASHTO policy: "A Policy on Geometric Design of Highways and Streets".				
**A minimum safe stopping sight distance, measured from driver's eye level of four and one-half feet above road surface along centerline of driver's path to top of object four inches high above road surface, shall be provided as noted. Design must comply with the most recent AASHTO policy: "A Policy on Geometric Design of Highways and Streets".				
***All changes in street grades, having an algebraic difference exceeding 0.5%, shall be connected by vertical curves of a minimum length as noted. In the formula, L = minimum length of vertical curve; A = algebraic difference in grades in percent; 100' min. means minimum acceptable length of curve.				

(E) *Street intersections.* The following standards shall be the minimum for intersection designs.

(1) *Number of approaches.* Intersections involving more than four basic street legs or approaches shall be prohibited. Merging lanes, deceleration lanes, "Y" intersections, and the like are not included in this prohibition, but are considered as being parts of one street leg or approach.

(2) *Angle of street intersection.* For a tangent distance of at least 100 feet, measured from the intersection of right-of-way lines, all streets shall intersect at an angle of 90 degrees, where practical, but in no case shall be less than 75 degrees.

(3) *Intersection offset.* Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of 125 feet between their centerlines. For minor and collector streets, consideration should be given to "T" intersections.

(4) *Intersection spacing.* All minor streets intersecting with, and entering the same side of, arterial and collector streets shall be located at least 800 feet apart, measured between centerlines, except that in plans for entire neighborhoods such intersections may be spaced at closer intervals up to 200 feet. All minor streets intersecting with, and entering the same side of minor streets shall be located at least 200 feet apart, measured between centerlines. Access points from marginal access streets onto arterials, and collectors also shall observe the 800 feet separation. When through streets cross marginal streets and enter a collector or arterial, the marginal access road may be required to be bowed outward at the intersection in order to provide storage space of 100 feet or more to the arterials or collector streets.

(5) *Excessive grades at intersections.* Where the grade of any street exceeds 3% at the approach to an intersection, a leveling area of 3% or less shall be provided for a distance of 50 feet from the intersection of street centerlines. Vertical curves shall then be used to connect the intersecting grades.

(6) *Intersection sight triangle for crossing.* At all intersections, sight triangles shall be provided which will permit vehicles on the designated "stop" street to safely cross, or turn into, the through street. The sight triangles shall be formed by measuring along and from the intersection of, the street centerlines, and connecting the measured points. The resulting triangles must lie wholly within the street rights-of-way.

Street Classification	Distance Along Through Street	Distance Along Stop Street
Street Classification	Distance Along Through Street	Distance Along Stop Street
Arterials	625'	35'
Collectors	500'	30'
Expressways	N.A.	N.A.
All minors, ex. below	250'	25'
Alleys	N.A.	N.A.
Cul-de-sacs	200'	25'
Marginal access	200'	25'

(7) *Minimum property line radii.* For street intersections, the minimum radius at property line shall be 20 feet for all streets, unless sound engineering practice dictates otherwise.

(Prior Code, § 74.710) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.107 LOT DESIGN STANDARDS.

The following shall be required standards to be observed for the design of lots in a subdivision.

(A) *Corner lots.* Lots shall be of sufficient width to permit compliance with the minimum building setback lines on all property lines which abut streets. In order to comply with the additional width requirement and continue the same size homes as are on adjoining lots, residential corner lots shall be increased to necessary width.

(B) *Lot lines.* Side lot lines should be at right angles to straight street centerlines, radial to curved street centerlines, and extensions of the center point of cul-de-sacs. Rear lot lines should consist of straight lines with a minimum number of deflections.

(C) *Lot shape.* Excessive depth in relation to width should be avoided. A proportion of two and one- half to one is normally considered a desirable maximum for lot widths of 60 feet or greater. Pointed or very irregular shaped lots should be avoided where possible. Additional depth may be required on lots which back up to railroads, major streets, or other conflicting land uses.

(D) *Access.* All lots shall abut a paved, public street and shall have readily apparent physical means of pedestrian and vehicular access from the lot onto the street.

(E) *Double frontage lots.* Double frontage lots shall be prohibited except where employed to prevent excessive vehicular driveway access to streets, or to separate residential areas from other areas of conflicting land or traffic use.

(F) *Land remnants.* If remnants of land exist after subdividing, and have no apparent future use which can be properly controlled, they shall be incorporated into the lots of the proposed lots to eliminate unusable parcels.

(G) *Lot area, width, and minimum building setback line.* Lots shall meet the minimum standards required by the zoning ordinance. All lots permitted with septic tanks shall be of at least 43,560 square feet in size, as covered by § 153.128(D).

(Prior Code, § 74.720) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.108 EASEMENT DESIGN STANDARDS.

The following shall be the required standards to be observed for the design of easements.

(A) *Utilities.* An easement for utilities may be required along side and/or rear property lines, or wherever necessary to form a continuous right-of-way. Easement location shall be determined by the affected utility.

(B) *Slope/grading easement.* Whenever a proposed development affects an existing or proposed road in such a way that present or future grading of such road's full right-of-way width will necessitate cuts and fills in adjoining property, a slope/grading easement on such adjoining property shall be required.

(C) *Storm water drainage easement.* Wherever a development has a watercourse on it, a drainage easement shall be provided. This drainage easement shall have adequate width for workers to install, maintain, or repair drainage facilities with necessary equipment. When required for creeks or streams, such drainage easements shall be dedicated to the city or

county and recorded on a plat. All requirements of Part II, Section F of the Stormwater Manual shall be met.

(D) *Connection to existing easements.* Where necessary, utility and drainage easements shall connect with written and recorded easements already established on adjoining properties.

(Prior Code, § 74.730) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.109 COMMUNITY FACILITIES DESIGN STANDARDS.

The following shall be the required standards to be observed for the design and provision of community facilities and related elements.

(A) *Assessing needs for community facilities.* In reviewing development plans, the Planning Commission shall consider the adequacy of existing or proposed community facilities which must serve the additional population to be housed in the proposed development. Developers shall also give earnest consideration to dedicating or reserving land for those facilities which will be needed by the people who buy homes in residential developments, such as public buildings, schools, recreational areas, and shopping centers.

(B) *Adequacy of community facilities areas.* Areas provided or reserved for such community facilities should be adequate for building sites, landscaping, and off-street parking for the proposed use.

(C) *Preservation of existing physical assets.* Existing features which are assets to the community shall be preserved as much as possible through harmonious design of the isolated development. Examples of such features are stone fences, groupings of trees or isolated outstanding trees, watercourses, vacant historical ground, historical buildings, and similar irreplaceable physical, cultural and/or historical assets.

(D) *Flood hazards.* Development shall be prohibited in areas designated to lie within the 100-year flood plain on the flood insurance rate maps (FIRM's) produced by the Federal Emergency Management Agency (FEMA). Land subject to flooding or otherwise uninhabitable shall not be platted for residential use or for any other use which may increase danger to health, life, property or aggravate erosion or flood hazards. Such land within a development shall be set aside on the plat for uses that will not be endangered by flooding and will not result in conditions contrary to the public welfare. Some of those uses include, but are not limited to, open space, extensive recreation use, and conservation purposes. The Planning Commission shall require the developer to provide elevation and flood profiles for questionable lots. It is the responsibility of the developer to document that all proposed, buildable lots will be located on flood-free sites (as determined by FEMA). Where appropriate, notes shall be placed on lots that restrict the construction of basements. If fill is proposed within areas designated as floodplain, the developer shall include approval from the Kentucky Division of Water for the proposed fill as part of a complete application to be reviewed by the Planning Commission.

(1) *Stream easement.* The recorded plat shall provide a storm water easement for a floodway of at least 20 feet when a stream flows through, or adjacent to, the proposed development. For smaller streams, the recorded plat shall provide channel improvements with the capacity to carry 100-year frequency rainfall within the stream banks.

(2) *Streets.* Approval shall not be given for streets within a development which would be subject to inundation, flooding, or culverts which are inadequate to handle the 50-year frequency storm, unless the culvert is being used as a part of the stormwater retention/detention plan.

(Prior Code, § 74.740) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.110 PUBLIC SITES AND OPEN SPACE STANDARDS.

The purpose of this subchapter is to establish minimum recommended standards that developers must conform to when providing and constructing public sites and open space in a development.

(A) *Reservation of land for public use.* The Planning Commission may require a reservation of up to 10% of the gross area of a development for a period of two years from the date of approval by the Planning Commission for parks, playgrounds, schools or other public uses. The Planning Commission may recommend acquisition of the reserved area to the appropriate public agency. After the two-year period has elapsed, if the public agency affected has not begun negotiations for acquisition for the area, full rights shall revert to the owner.

(B) *Capital improvement land reservation.* If the city has adopted an official map and a short term capital improvement program (as provided for in KRS 100.293 to 100.311) which includes parks, recreational areas, school sites, or other public grounds, the Planning Commission may require a reservation up to five years, for the purchase of the public grounds by the appropriate public agency. If the public agency affected has not begun negotiations for acquisition for the area within the designated time, full rights shall revert to the owner.

(C) *Open space program.* Every developer of land for residential developments that do not contain public sites shall be required to provide land or payment in lieu thereof, for that portion of benefits from public sites accruing to the proposed development as determined by the Planning Commission.

(D) *Buffer zones.* Buffer zones of landscape plantings or other appropriate screening shall be required where incompatible land uses abut. The plant species, size, and quantity shall be provided on the development plan and the plantings shall be in accordance with the landscaping and buffer guidelines in the Zoning Code and may include green

infrastructure practices.

(Prior Code, § 74.750) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.111 LOW IMPACT DEVELOPMENT DESIGN STANDARDS.

(A) Low impact development (LID) is a planning and design approach to site development that is gaining popularity throughout the Commonwealth of Kentucky. Its attractiveness lies in its potential to lessen on-site and off-site stormwater impacts, reduce infrastructure costs to developers and municipalities, and promote development that is "softer on the land" compared with typical traditional development. This approach, which is applicable to residential, commercial and industrial projects, and scalable to urban, suburban and rural settings, often is linked with efforts by citizens and municipalities to foster more sustainable, livable communities.

(B) Low impact development mimics pre-development hydrology, treats stormwater as close to its source as possible, provides opportunities for groundwater recharge, preserves natural drainage systems and open space, and incorporates small-scale controls that replicate natural processes in detaining and filtering stormwater. Low impact development uses the divide and conquer theory to treat relatively small amounts of stormwater and utilize it in beneficial ways. This contrasts with conventional stormwater management approaches geared to concentrating and collecting runoff and exporting it off-site as a waste product.

(C) Low impact development techniques provide many benefits to a wide variety of stakeholders. Municipalities can often increase collaborative public/private partnerships and potentially reduce the cost of municipal infrastructure and maintenance (streets, curbs, gutters, and storm sewers). Municipalities may also reduce or eliminate nonpoint source pollutants from reaching waterways. The reduction of stream bank erosion protects regional flora and fauna. Balancing growth needs with environmental protection can potentially enhance both physical health (by increasing opportunities to walk and exercise outside) and mental health (by improving the visual quality of the environment which can reduce stress and mental fatigue).

(D) Developers can potentially reduce the costs of clearing and grading land, infrastructure (streets, curbs, and gutters), storm water management, and impact fees. They also can potentially increase lot yield and marketability. Low impact development potentially protects the environment by preserving the integrity of ecological and biological systems. Preservation of trees and natural vegetation reduces impacts to plants and animals. Water quality is improved when sediment, nutrient, and toxic loads to water bodies are reduced.

(1) Green infrastructure is an approach to stormwater management that integrates systems that mimic natural processes in order to infiltrate, evaporate, and/or reuse stormwater. Green infrastructure uses soils, topography, and vegetation in a way that minimizes the impact of human disturbance and maintains the pre-development hydrology and water quality of urban environments. The goal of green infrastructure is to design a built environment that functions as part of an ecosystem rather than apart from it. This is an innovative approach to urban stormwater management that strategically integrates stormwater controls throughout the urban landscape and does not rely solely on conventional end-of-pipe structural practices.

(2) Green infrastructure practices have the potential to address one or more of the following stormwater related issues: reduce runoff volume, reduce peak discharge, and improve water quality. A site may contain several green infrastructure practices that work together to capture, infiltrate and/or harvest rain water. The following section describes nine of the most common green infrastructure practices divided into three categories: capture, infiltration and harvest/reuse. Each green infrastructure practice has its advantages and appropriate applications. This section assesses those and describes each practice in terms of suitability, limitations, land area demands, relative costs, and maintenance.

(a) *Capture.*

1. Permeable pavement is available in the form of pervious concrete, porous asphalt, permeable pavers (concrete and brick).



Pervious concrete – during placement



Pervious concrete – after rain event –
LFUCG South Elkhorn Pump Station



Permeable concrete pavers – Ronald
McDonald House Charities of Bluegrass



Previous asphalt – Ronald McDonald House
Charities of Bluegrass

2. Vegetative roofs/vegetative walls are separated into two types based on the depth of growing media: extensive (2"-6") and intensive (6"-4').



Green roof example – Bernheim Forest



Green wall example – New York City

3. Tree box filters have mini filtration areas beneath trees or shrubs and are contained within an in-ground unit.



Tree box filter – Gainesway Pond,
Lexington, KY



Tree box filter – Gainesway Pond,
Lexington, KY

1. Downspout disconnection directs rain water away from buildings and allows it to flow over permeable surfaces such as grass.



Downspout disconnection



Downspout disconnection

2. Vegetative swales are planted with grasses or native plantings designed to accept rain water flow then allow it to infiltrate the ground and be filtered.



Rain garden, Cincinnati, Ohio



Vegetative grass swale

3. Rain gardens and bio-retention areas are amended with soils that allow rainwater infiltration. They are planted with native grasses and wildflowers that move water from the soil into the air through evapotranspiration.



Vegetative grass swale, Lexington, KY



Rain garden, Cincinnati, Ohio

4. Street trees reduce storm water runoff and heat island effects through evapotranspiration.



New street trees



Mature street trees

(c) *Harvesting/reuse.*

1. Rain barrels and cisterns are appropriate for residential, commercial and industrial sites. Rainwater reuse includes irrigation for lawns, planting beds, and nonportable water uses.



Rain barrel - residential



Rain barrel - commercial

2. Underground storm water storage systems can be used to meet storm water detention requirements.



Underground stormwater storage



Underground stormwater storage-detail

(d) *Incentives.*

1. Incentives to implement green infrastructure practices potentially include the following: reduction of infrastructure costs for storm water management, increase in development marketability, reduction in land clearing and grading costs, potential synergies for meeting storm water quality, quantity and landscape requirements for the City of Winchester and the county.

2. The EPA has produced two green infrastructure reports entitled "Green Infrastructure Case Studies: Municipal Policies for Managing Stormwater with Green Infrastructure" August, 2010, and "Reducing Stormwater Cost through Low Impact Development (LID) Strategies and Practices" December, 2007. These highlight case studies from across the United States that demonstrate the benefits of green infrastructure practices.

(c) *Resources.*

1. EPA Low Impact Development: <http://water.epa.gov/polwaste/green/>;
2. EPA Green Infrastructure: <http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm>;
3. Low Impact Development Center: www.lowimpactdevelopment.org/; and
4. Green Roofs for Healthy Cities: www.Greenroofs.org/.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

PHYSICAL IMPROVEMENTS

§ 153.125 PURPOSE.

The purpose of this subchapter is to establish the minimum standards to which developers must conform in providing and constructing the subdivision's physical improvements.

(Prior Code, § 74.800) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.126 COMPLETION OF IMPROVEMENTS.

(A) All of the required improvements shall be completed in accordance with, and under the supervision of, the officials or agencies having jurisdiction, prior to the filing with the Commission of the final plans for approval.

(B) In the alternative, with the Commission's approval, the developer, in lieu of completing the improvements as stated above, shall furnish the Commission with a performance guarantee bond running to the Winchester/Clark County Planning Commission for and on behalf of the City of Winchester and the county, whichever is appropriate. The bond shall be sufficient to cover the cost, plus 10% of all the improvements required to be installed by the subdivider and approved by the appropriate planning Commission Engineer, thereby to secure the actual construction and installation of such improvements immediately after approval of the final plat or at a time as may be established by the Commission. All physical improvements (including all utilities) shall be installed under the direction, supervision, and coordination of the developer's engineer.

(Prior Code, § 74.810) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.127 IMPROVEMENTS CLASSIFICATION OF SUBDIVISIONS.

Each proposed subdivision, or portions thereof, shall be designated as falling in one or more of the classifications noted below, and improvements shall then be required in accordance with such designated classification. The subdivision's classification shall not necessarily be determined by its zoning ordinance district, even though reference to such districts is noted below.

<i>Proposed Use of Land in the Subdivision</i>	<i>Subdivision Classification</i>
Business use, of a business zone character	"E"
High density urban residential, an R-3, R-4, or R-5 character	"D"
Industrial use, of an industrial zone character	"F"
Rural residential, generally county homes of an A-1 Zone character	"A"
Suburban residential R-1 Zone character	"B"
Urban residential, generally of an R-2 Zone character	"C"

(Prior Code, § 74.820) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.128 GENERAL DESCRIPTION OF REQUIRED IMPROVEMENTS.

The following shall be the minimum required improvements to be installed by the developer at his or her expense in accordance with the specifications of the officials or agencies having jurisdiction unless otherwise noted. Improvements exceeding these minimum requirements may be provided by the developer, or may be required by the Commission or other agencies having jurisdiction. The detailed construction specifications for each improvement shall be supplied to the developer by the official or agency having jurisdiction. A subdivision's "classification" shall determine the character of the minimum improvements as shown in the following.

(A) Streets.

<i>Type of Improvement</i>	<i>Subdivision Classification</i>	<i>R.O.W.</i>	<i>Pavement¹</i>	<i>Curb</i>	<i>Gutter</i>	<i>Sidewalk²</i>

Type of Improvement	Subdivision Classification	R.O.W.	Pavement ¹	Curb	Gutter	Sidewalk ²
Alleys	ABCDEF	20'	*3	*3	*3	No
Arterials	A	80'	*3	Yes	Yes	On both sides
	B	80'	*3	Yes	Yes	On both sides
	CDE	80'	*3	Yes	Yes	On both sides
Collectors	A	60'	36'	Yes	Yes	On both sides
	B	60'	36'	Yes	Yes	On both sides
	C	60'	36'	Yes	Yes	On both sides
Cul-de-sac ⁴	ABCDE	50'	30'	Yes	Yes	Yes
Minors continuing	A	50'	24'	Yes	Yes	On both sides
	B	50'	30'	Yes	Yes	On both sides
	CDE	50'	30'	Yes	Yes	On both sides
	F	50'	24'	No	No	On both sides
Miscellaneous	ABCDEF	Widening, or other improvements to existing streets shall be as required by the Commission with the advice of the Planning Commission Engineer and as required in § 153.129(C). Sidewalks shall be maintained by the property owner.				
<p>1 Dimension of pavement width alone with no curbs; but back of curb to back of curb when curbs are used.</p> <p>2 Sidewalks shall be constructed on both sides of any street whenever the Commission finds such necessary for pedestrian protection. See §§ 153.128(J) and 153.129(D) for specifications.</p> <p>3 As determined by the Commission with advice of Planning Commission Engineer or State Department of Highways.</p> <p>4 Cul-de-sac turnarounds shall have a 40' radius pavement within a 50' right-of-way radius. Temporary turn-arounds may be required at the end of stubbed streets and contained within the straight street right-of-way.</p> <p>The Planning Commission and/or DOT Engineer has jurisdiction over review of this element</p>						

(B) *Grading.* All streets shall be excavated and graded for the full width of their typical section. The City or County Engineer and State Department of Highways have jurisdiction over this element.

(C) *Water supply system.* Every subdivision shall be provided with a complete water distribution system adequate to serve the area being platted, including a connection for each lot. Where fire protection service is provided by the water supplier, fire hydrants shall be installed and spaced in accordance with the guidelines established by the fire officials having jurisdiction. The entire water system shall be designed to meet the approval of the officials having jurisdiction. Winchester Municipal Utilities Company, the relevant Water District, city or county fire departments, and the state's Department of Health have jurisdiction over this element.

(D) *Sanitary sewage disposal system.* In every subdivision, provision shall be made for the satisfactory disposal of sanitary sewage as pursuant to the Planning Commission Engineer, County Health Department, and Winchester Municipal Utilities or other utilities having jurisdiction over this:

(1) On all lots of less than 43,560 square feet, a public sanitary sewer main is required; the subdivision shall be provided with a complete sanitary sewer system connected to the existing sewer main, with lateral connections for each lot, and manholes spaced as approved by the utility having jurisdiction;

(2) When the Commission feels that a public sanitary sewer main is not reasonably accessible, the Commission may consider permitting the use of individual disposal systems for each lot of 43,560 square feet or greater, if such lot fully conforms to the requirements of the officials having jurisdiction; and

(3) Whenever a complete sewer system is provided, all lines shall be constructed as approved by the utility having jurisdiction.

(E) *Gas supply system.* Columbia Gas and other gas companies have jurisdiction over this.

(F) *Electric supply system.* In every subdivision, provision shall be made for a satisfactory electric supply system. In all cases (except existing aboveground lines and new 3 phase service) all necessary wires shall be placed underground, rather than on poles and towers.

(G) *Telephone, cable and communication supply system.* In every subdivision, provision shall be made for a satisfactory communications supply systems. In all cases (except existing aboveground lines) all wiring shall be placed underground, rather than on poles or towers.

(H) *Street and sidewalk lighting.* In every subdivision in the city, provisions shall be made for a satisfactory street and walkway lighting system. In the city, these shall be installed at the city's expense in locations predetermined by Kentucky Utilities and approved by the county. The underground service to the streetlights shall be provided for at the expense of the developer.

(I) *Street name signs.* In every subdivision, the developer shall provide street name signs at all street intersections.

(J) *Pedestrian sidewalks.* When required by the Commission sidewalks shall be of concrete, at least four feet wide, four inches thick, and located on the right-of-way line. All sidewalks shall be ramped at street intersections and in all other respects comply with American with Disabilities Act Guidelines. The Planning Commission Engineer has jurisdiction over this.

(K) *Curb cuts for private driveways.* All private driveway access points shall be constructed so as not to divert storm water away from the curb and gutter. The driveway shall not extend into any portion of the curb, gutter or paved area of the street. Prior to the construction of any such access point along any state and/or federal roads, and as required by local jurisdictions, an encroachment permit shall be required.

(L) *Driveway approaches.* All areas of the private driveway constructed in the public right-of-way shall be of concrete.

(M) *Monuments.* In all subdivisions, iron pin monuments one-half inch in diameter and at least 18 inches long, shall be placed at all points on subdivision boundary lines where there is a change of direction, and at all rear lot corners and behind the curb at the lot line extended. These pins shall be placed only after all area grading and sidewalk construction have been completed. A guard stake shall be placed next to each pin with the lot number and the number of the adjoining lot plainly lettered on the flat faces of the stake. The Planning Commission Engineer has this jurisdiction.

(N) *Street trees.* In all residential developments regardless of classification, street trees are required to be planted on both sides of all streets in accordance with Appendix F.

(Prior Code, § 74.830) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.129 SPECIFICATIONS FOR STREET AND DRAINAGE CONSTRUCTION.

The following shall be the minimum specifications for construction of streets and storm water drainage improvements.

(A) *General.*

(1) Storm sewer design shall be made a part of the plans and the details thereon shall be adhered to except as otherwise stated herein. All storm sewer pipe shall be 15 inches or greater in diameter and shall meet Kentucky D.O.T. specifications.

(2) Materials for all items of construction of any description or nature shall conform to standards set out in the Kentucky D.O.T. specifications, except as herein set out and described.

(3) Portland cement concrete for all items of construction of any description or nature shall conform to requirements for 3,500 pound per square inch compressive strength. In cases of disputes arising relating to construction methods, or materials, the *Kentucky Standard Specifications for Road and Bridge Construction* (1994 or the most recent edition) shall govern.

(B) *Street construction.* Streets shall be constructed in conformance with the *Kentucky Standard Specifications for Road and Bridge Construction* (1994 or the most recent edition) and the following requirements.

(1) *Grading and embankments.* The area on which streets are to be constructed should be cleared of all vegetation for a depth of at least six inches and disposed of outside of the limits of the typical section. Prior to the construction of embankments, any unsuitable materials, on which the embankment will be superimposed, should be removed and the area should be stabilized by conventional methods. The embankments shall be formed by placing material in successive horizontal layers of not more than 12 inches in thickness, loose depth. Each layer shall be thoroughly compacted.

(2) *Cut section excavation.* Cut sections should be excavated to the required typical section and any unsuitable material encountered shall be removed and the area backfilled in six inch horizontal layers and thoroughly compacted before successive layers are placed.

(3) *Solid rock excavation.* If solid rock is encountered in connection with the grading operation, the solid rock shall be removed to a depth of six inches below subgrade elevation and back filled to meet the requirements of § 153.129(B)(1).

(4) *Subgrade preparation.* Prior to the construction of either rigid or flexible type surface course construction, the

subgrade shall be shaped to the required typical section and thoroughly compacted. Any subgrade found to be unstable or irregular shall be corrected ahead of the various types of base or pavement construction.

(5) *Concrete street paving.* Portland cement concrete (rigid) street pavement is not permitted.

(6) *Bituminous concrete (asphalt) on macadam base.* The macadam base shall consist of dense graded aggregated limestone compacted to a finished depth of not less than eight inches, to be laid in two, four-inch compacted courses. The aggregate base shall be pugmilled and contain sufficient moisture to obtain maximum compaction. Upon this base shall be placed a binder course consisting of bituminous concrete Class 1; placed as follows, based on Kentucky (KM 64-501) CBR (California Bearing Ratio) test results performed at the proposed road location every 500 feet or fraction thereof; applied and finished to the requirements of the *2000 Kentucky Standard Specifications for Bridge and Road Construction* (see Appendix C).

(7) *Street crown.* Streets measuring 30 feet from back of curb to back of curb shall have a three-inch crown between pavement edge of concrete gutter. Street measuring 30 feet from back to back of curb shall have a three and one-half inch crown between pavement edge of concrete gutters. Streets measuring 36 feet from back to back of curb shall have a four-inch crown between pavement edge of concrete gutters.

(8) *Concrete mountable curb and gutter (see Exhibit 8-1 below).* Concrete curbs shall measure 24 inches from back of curb to outer edge of gutter. The back form shall be not less than ten inches in depth. The outer edge of the gutter (next to the street paving) shall be a full seven inches in depth and shall have a one-inch slope toward the curb except at street intersections where adjustments may be necessary to alter or eliminate the slope for practical reasons. The form at the edge of the gutter shall be full seven inches in depth. Concrete shall comply with state DOT standards.

(9) *Concrete box curb and gutter (see Exhibit 8-1 below).* Concrete box curb and gutter shall measure 24 inches from back of curb to the outer gutter. The back curb form shall be a full 12 inches in depth. The curb shall be a full seven inches in thickness for its entire width. The gutter shall slope one inch toward the curb. Subgrade, for curb and gutter shall be four inches thick. Concrete shall comply with state DOT standards.

(10) *Concrete lip curbs and bituminous curbs.* Concrete up curbs and bituminous curbs are not permitted (see *Exhibit 8-1 below*).

(11) *Testing of subgrade and macadam base.* The owner shall be required to have an independent agency test the subgrade prior to installation of the base utilizing a proof roll test and the base shall also be tested to insure compliance with the referenced standards.

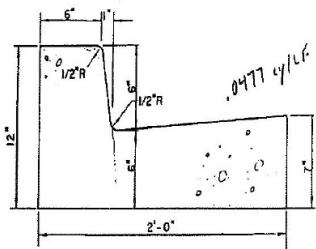
(C) *Requirements for development adjoining existing roadways.* Whenever a subdivision is proposed abutting an existing public roadway which does not meet the right-of-way and pavement width standards contained herein for the functional classification of the street, and the Commission finds that development of the subdivision will increase the volume of traffic on such street to a significant degree, the following requirements shall apply:

(1) The developer shall be required to dedicate right-of-way width necessary to comply with the standards contained herein. It is assumed that the same right-of-way dedication will be required on the opposite side of the roadway at such time as that property develops, thereby providing the full necessary right-of-way width.

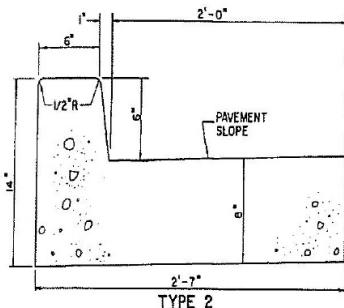
(2) Roadway widening improvements (including paving, curb, gutter, and sidewalk where appropriate) shall be required as necessary to bring the roadway up to the full cross section requirements contained in these subdivision regulations. The physical construction of such improvements by the developer shall be required; however, in certain cases, the Commission may require a cash payment or long term performance bond or letter of credit in lieu of construction if recommended by the Commission Engineer.

(3) The maximum liability of any developer under this section shall not exceed right-of-way and improvements as for collector streets contained herein. In cases where the ultimate proposed cross section would be a four lane arterial highway, developers may be required to dedicate excess right-of-way above the collector standard. In consideration of such dedication, widening improvements usually shall not be required in such cases for full road frontage, but rather, improvements such as turn lanes shall generally be required in association with new intersecting streets or other access points when necessary to provide as safe a situation as possible under the circumstances.

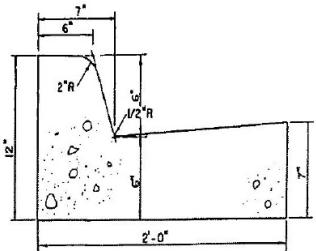
(D) *Concrete sidewalks.* Concrete sidewalks to be constructed a minimum width of four feet and in accordance with the current standards and specifications of the Kentucky Transportation Cabinet. Sidewalks shall be placed on the edge of the street right-of-way line. The slope toward the curb shall be one-quarter of an inch to the foot. The concrete shall comply with state DOT standards.



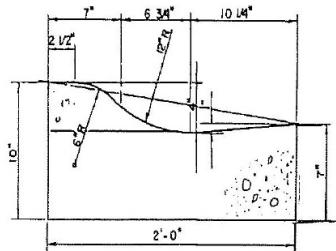
TYPE 1



TYPE 2



TYPE 3



TYPE 4
(RESIDENTIAL LOCAL STREETS ONLY)

CONCRETE SHALL BE CLASS "A" WITH A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 3500 P.S.I.

SAWED CONTRACTION JOINTS SHALL BE CONSTRUCTED EVERY 20 FEET.

- ③ EXPANSION JOINTS SHALL BE CONSTRUCTED AT ALL BREAKS IN ALIGNMENT, AT ALL DRAINAGE INLETS, AT THE BEGINNING AND ENDING POINTS OF CURVES, AND NOT TO EXCEED 300' MAXIMUM SPACING.
- ④ ALL CONCRETE SHALL BE CURED WITH WHITE DIBUTYTED MEMBRANE ENDURANCE CUREMIX LIQUID

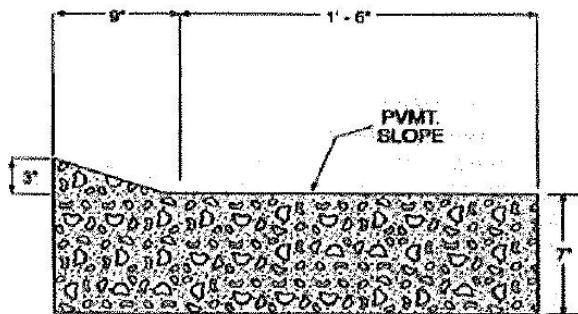
DIVISION OF ENGINEERING

CURB & GUTTER

EXHIBIT 8-1

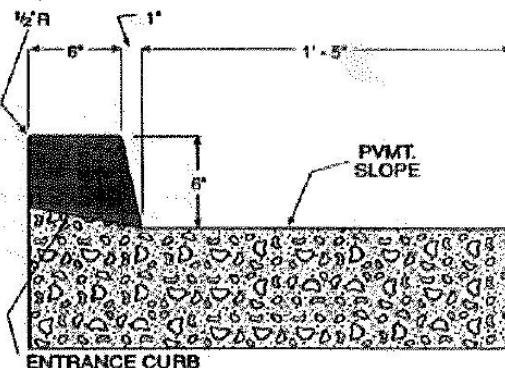
INCORRECT

LIP CURB & GUTTER

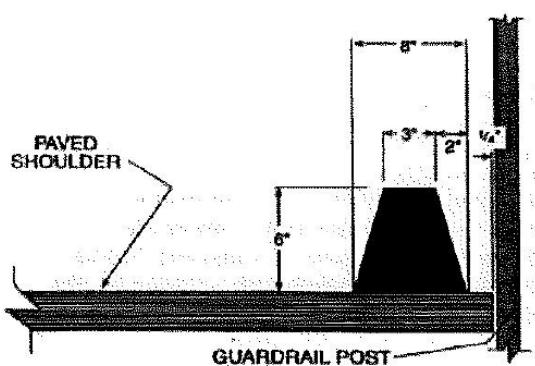


CORRECT

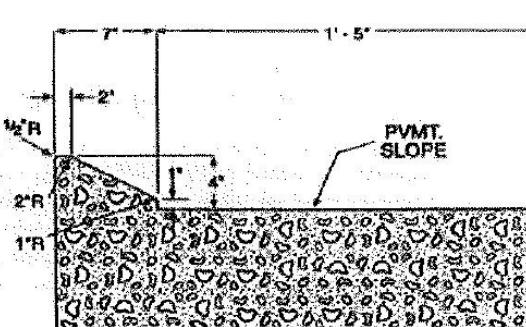
STANDARD CURB & GUTTER



BITUMINOUS WEDGE CURB



OUNTABLE CURB & GUTTER



The graphics above have not been drawn to scale.

E) *Stormwater drainage construction.* The following shall apply .

- (1) *Manholes.* Manholes shall be constructed of precast concrete with a concrete foundation.
- (2) *Inlets or catch basins.* Nets or catch basins shall be constructed of reinforced concrete. The type of manholes, inlets, and other drainage structures shall be indicated on the plats for the proposed work and approval obtained before the final processing of the plat.
- (3) *Box culverts.* Any drainage requiring box culvert construction shall be constructed of reinforced concrete. Structures shall be designed for adequate loading. The back filling of any box culvert shall be done in layers not exceeding six inches and each layer shall be thoroughly compacted.
- (4) *Trenching.* Drainage shall be constructed as per the plat for the proposed work. The Planning Commission Engineer may approve field changes from the plat; however, record ("as-built") plans must then be furnished to the Planning Commission Engineer and the Planning Commission. Trenches for sewers shall be excavated to a minimum depth of three

inches below the outside diameter of the pipe if in solid rock and properly back-filled before the pipe is installed. Trenches not in solid rock shall be excavated to a uniform grade. During the trenching operations if unsuitable material is found it shall be removed to a sufficient depth and back-filled in layers of not more than six inches. Each layer of the back-filled material shall be compacted. After the trenching has been completed, the pipe shall be laid to a uniform grade and back-filled in layers not exceeding six inches in depth and thoroughly compacted by mechanical or hand methods.

(5) *Retention structures.* Where required to be included in the subdivision design, retention and detention basins shall be provided by the developer. The Planning Commission Engineer shall approve all designs for such facilities. Such facilities shall be designed so that no standing water will remain in the basin during dry weather, unless a permanent pond is to be constructed of sufficient size that the standing water will not stagnate and present health hazards. In certain cases, other non-basin retention/detention techniques such as underground vault storage may be utilized when approved by the Planning Commission.

(Prior Code, § 74.840) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.130 STORM WATER DRAINAGE.

(A) A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part.

(B) The following requirements and methods shall be followed.

(1) *Storm drainage.*

(a) A subdivision plat shall not be considered for preliminary approval until the subdivider shall submit to the Planning Commission a written report by a professional engineer as to the ability of existing watercourse channels, storm sewers, culverts, and other improvements pertaining to drainage or flood control within the subdivision, to handle the additional run-off for the storms noted below which would be generated by the planned future development of the land within the area according to long range plan. There shall be no increase in the rate of run-off as a result of new construction.

(b) Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. This report shall also include:

1. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision on each inlet;

2. Quantities of flow at each pick-up point (inlet);

3. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances. This shall be recorded on the preliminary plan as well as the design calculation of the following factors for each culvert or channel: drainage area discharge-Q; amount of D.A. imperviousness-C; intensity of rainfall-I; time concentration-TC; amount of head-H; length of runoff-L; and D.A. in acres-A; and the design-Q for each structure, and the resulting velocity; and

4. The basic standard for design of drainage systems for subdivisions will be to keep run-off characteristics after development at the same level as existed prior to development. No excess stormwater runoff is permitted to occur. To achieve these objectives, storm water retention and/or detention systems will be required in most cases. The analysis used for the design of the required retention/detention systems shall consider impact on downstream properties for a ten-year/24-hour storm, a 25-year/24-hour storm, and a 100-year/24-hour storm. Likewise, where conditions and engineering calculations indicate benefit would not occur, storm drainage detention facilities may be deleted from the development requirements in favor of channel improvements, off-site improvements to improve flow, or other alternative wherein the alternate is less burdensome to the developer than providing detention facilities. In computing storm water run-off and designing the drainage system, the developer's engineer shall use standard engineering practice which shall be approved by the Planning Commission Engineer.

(2) *Drainage requirements (grading).*

(a) No final grading or sidewalk or pavement construction or installation of utilities shall be permitted in any proposed street until the preliminary plan has been approved by the Planning Commission.

(b) The subdivider shall grade each subdivision in order to establish street, block, and lot grades in proper relation to each other and to topography as follows.

1. *Street grading plan.* A grading plat shall be prepared for the streets along with street improvement details. The grading of the roadway shall extend the full width of the right-of-way. Planting strips shall be graded at a gradient of not less than 2% upward from the curb to the sidewalk or property line.

2. *Lot grading.* Lots shall be graded so that water drains away from each building at a minimum grade of 2%. Surface drainage swales shall meet the standards and specifications of the county's Conservation District and shall be designed so that the surface water will drain into a driveway, street gutter, storm sewer, drain inlet, or natural drainage way. Contractors shall return lots to approved grade if disturbed during building construction.

3. *Top soil.* If upgrading results in the stripping of top soil, the top soil shall not be removed from the site or used as spoil and shall be uniformly spread over the lots as grading is finished.

4. *Trees.* As many trees as can be reasonably utilized in the final development plan shall be retained and the grading adjusted to the existing grade of the trees where practicable.

(3) *Drainage system requirements.*

(a) The design criteria for storm drainage systems shall be based on information from the *Manual of Instruction for Drainage Design* prepared by the state's Department of Highways.

(b) Culverts shall be designed for 50-year storm frequency unless the culvert is a part of the stormwater retention/detention system. Storm sewers in all streets shall be designed for a 25-year storm frequency.

(c) For curbs and gutters, curb and gutter inlets and open channels an intensity of four inches per hour shall be used in all computations.

(d) A minimum of "TC" of eight minutes shall be used as well as the "C" valve shall be based on the planned future development of the watershed area according to the Comprehensive Plan.

(4) *Road drainage system.*

(a) All roadways shall be provided with an adequate storm drainage system.

(b) The road storm sewer system shall serve as the primary drainage system and shall be designed to carry roadway, adjacent land, and building storm water drainage. No storm water shall be permitted to be run into the sanitary sewer system within the proposed subdivision. Since the road drainage is a major contributing factor to excess surface runoff, it must be routed through the storm water retention facilities.

(c) Curb drainage box inlets shall be type A or B (unless otherwise approved by the Commission) and provided at intervals along roadways. Inlet spacing shall be adequate to limit the spread of water to two feet into the roadway. Storm drain inlets will be placed so that crosswalks will not be flooded during the design storm intensity of four inches per hour.

(5) *Off-road drainage systems.* The design of the off-road drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage.

(a) When the drainage system is outside of the road right-of-way, the subdivider shall make provisions for dedicating an easement to provide for the future maintenance of said system.

(b) If a watercourse or ditch is left open it may be required to be protected by a fence as determined by the Planning Commission. The watercourse or ditch easement shall be wide enough to contain said ditch slope with ample clearance for the operation of maintenance equipment. The side slopes of the ditch shall not be greater than three to one.

(6) *Drainage easement.* Easements for drainage purposes shall be a minimum of 20 feet in width. Where the watercourse is large, easement widths shall be increased as determined by the Planning Commission. Where watercourses cross platted lots diagonally, the subdivider shall straighten such courses where practicable and shall substantially follow sub-lot lines. Easements shall be shown on the record plat and shall cover all existing or reconstructed watercourses.

(7) *Protection of drainage system.*

(a) The subdivider shall adequately protect all ditches to the satisfaction of the Planning Commission. Ditches and open channels shall be seeded, sodded, or paved depending on grades (slopes) and types of soils.

(b) As a general rule, ditches and channels with grades up to 1% shall be seeded, with grades from 1% to 4% shall be sodded and with grades over 4% shall be paved. Paving operations shall be in compliance with the state's Department of Highways, Division of Design, *Guidance Manual* issued by the state's Department of Highways. Seeding and sodding operations shall be in accordance with the recommendations of the county's Conservation District.

(8) *Material specifications.* Material and construction specifications for all drainage projects (i.e., pipe, tile, seed, sod) shall be in compliance with the "Standard Specifications for Road and Bridge Construction" issued by the state's Department of Highways.

(Prior Code, § 74.850) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.131 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION.

(A) In the event that any developer shall intend to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon the same shall only be accomplished after the owner of said land or his or her agent has submitted to the Planning Commission for approval a plan for erosion and sedimentation control. No topsoil or other construction products will be allowed to wash from the site under development onto adjacent roadways or public or private property (see Appendix E).

(B) Such plans shall contain adequate measures for control of erosion and siltation where necessary, using the guidelines and policies contained herein and in accordance with recommendations of the county's Conservation District. If recommendations are not incorporated into said plan, the person, firm, or corporation or its agent who submitted said plans shall set forth in writing the reason for not incorporating any of the recommendations of the county's Conservation District.

(C) The Planning Commission shall review these plans as submitted, and shall take necessary steps to ensure compliance by the developer with these plans as finally approved.

(1) *Requirements.*

(a) Two sets of plans for the control of erosion and sedimentation shall be submitted to the Planning Commission at the time the final plat drawings are submitted.

(b) Measures to be taken to control erosion and sedimentation shall be described and provided for in the construction agreement and the estimated cost of accomplishing such measures shall be covered in the performance guarantee provisions of these regulations. In addition, the developer shall be required to provide a cash escrow guarantee in an amount determined by the Planning Commission which would ensure the city that emergency measures could be taken at the developer's expense, if he or she did not initiate corrective action determined to be needed by the Planning Commission.

(c) At the building permit application site, a review will be conducted to ensure conformance with the plan as approved.

(d) During the planning phase, technical conservation planning assistance may be furnished, if necessary, by the Planning Commission, or by the local representative of the Soil Conservation Service through the county's Conservation District. The Planning Commission shall enforce compliance with the approved plans.

(e) The Planning Commission shall make a continuing review and evaluation of the methods used and the overall effectiveness of the erosion and sedimentation control program.

(f) All erosion control measures must meet the guidelines of the county's Conservation District.

(2) *Suggested control measures.* The following control measures should be used for an effective erosion and sediment control plan.

(a) The smallest practical area of land should be exposed at any one time during development.

(b) When land is exposed during development, the exposure should be kept to the shortest practical period of time.

(c) Where necessary, temporary vegetation, erosion fencing, and/or mulching should be used to protect areas exposed during development.

(d) Sediment basins (debris basins, desilting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development.

(e) Provisions should be made to effectively accommodate the increased runoff caused by changed sod and surface conditions during and after development.

(f) The permanent final vegetation and structures should be installed as soon as practical in the development.

(g) The development plan should be fitted to the topography and soils so as to create the least erosion potential.

(h) Wherever feasible, natural vegetation should be retained and protected.

(3) *Erosion plan.* The report shall include but not be restricted to the following provisions:

(a) The areas of said premises that may be exposed at any one time;

(b) The type of temporary vegetation and/or mulching that will be used to protect exposed areas of said described premises during the construction of any improvements thereon, or changes being made in the contours thereof, or in removal or destruction of topsoil, trees, and other vegetation located thereon;

(c) The locations, construction, and maintenance of sediment basins or other control measures on said premises;

(d) The type of permanent and final vegetation and water control structures or features (e.g., swales, diversions) that should be planted and installed on the said described premises and the time within such vegetation and structures are to be planted and installed;

(e) Description of the type of soil comprising the described premises and physical properties of each type; and

(f) Description of the soil comprising the area immediately adjacent and within the general vicinity of the described premises, and physical properties thereof.

(4) *Construction inspections.*

(a) *Responsible official.* The Planning Commission shall be responsible for the inspection of all improvements. The Planning Commission Engineer shall make a minimum of three inspections to ensure compliance with these regulations not under the jurisdiction of any conflicting agency or utility. The Commission shall adopt a fee schedule to cover the cost of said inspections.

(b) *Authority and duties of inspectors.* Inspectors employed by the Planning Commission shall be authorized to inspect all work done and all materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector shall not be authorized to revoke, alter, or waive any requirements or the specifications of plans. He or she shall be authorized to call the attention of the contractor to

any failure of the work or materials to conform to the specifications and contract. He or she shall have the authority to reject materials which do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to and decided by the Planning Commission.

(c) *Final inspections.* Upon completion of all the improvements, the subdivider shall request, in writing, a final inspection by the Planning Commission Engineer. The Planning Commission shall make a final inspection of streets, sidewalks, curbs and gutters, storm sewers, and other improvements required in these regulations, and copies of final inspections of other agencies.

(Prior Code, § 74.860) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

GENERAL PROVISIONS

§ 153.145 PURPOSE.

These subdivision regulations are designed to encourage the development of sound, healthful, and economically stable residential, commercial, industrial, and public areas; to provide for safe, convenient, and efficient traffic circulation; to coordinate land developments in order to ensure that our future physical growth shall be orderly, efficient, and conducive to the minimum outlay of public and private expenditures in providing services to new growth areas; to minimize fire hazards and to provide for heat and air in habitable structures, and to provide for the overall harmonious development of our entire community.

(Prior Code, § 74.900) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.146 VARIANCES.

These land subdivision regulations are adopted only as minimum requirements, and all developers should consider developing their subdivisions at higher standards. Thus, the developer is encouraged to go beyond the standards of these regulations and the Commission may require standards above the minimum contained herein whenever it feels that public health, safety, or welfare purposes justify such increases. The Commission also may reduce or otherwise vary the requirements of these regulations whenever it encounters the situations described below. In granting such variances, the Commission may attach and require whatever conditions it feels are necessary to secure the basic objectives of the varied regulations. Any variances granted by the Commission shall be noted in its official minutes along with reasons which justified the granting of the variance.

(A) *Exceptional and undue hardship.* Where the Commission finds that strict compliance with these regulations would create an undue hardship because of exceptional and unique topographic or other physical conditions encountered on the particular land, the Commission may modify these regulations to the extent necessary to relieve the undue hardship; provided, however, that such resulting variances may be granted without detriment to the public good, and without impairing the desirable general development of the neighborhood and the community as proposed in the Comprehensive Plan. If such modification is determined to be a substantial departure from these regulations, a public hearing may be required prior to Planning Commission action.

(B) *Design innovation and large scale development.* These regulations may be modified by the Commission in the case of plans for complete neighborhoods or other design innovations which, in the Commission's opinion, still achieve the basic objectives of these regulations. The Commission shall require those conditions, such as covenants or other legal provisions, which it feels are necessary to assure conformity to, and achievement of, the proposed subdivision plat.

(C) *Approval of dimensional variances by Planning Commission.* In conjunction with the review and approval of subdivision plans/plats, the Planning Commission is authorized by KRS Chapter 100 to grant dimensional variances upon finding that:

(1) The variance is a result of customary design standards or innovative design which, in the Commission's opinion, still achieve the basic objectives of the zoning laws and subdivision regulations; or

(2) Strict compliance with the regulations would create an undue hardship because of exceptional and unique topographic or other physical conditions encountered upon the particular land, and the resulting variance may be granted without detriment to the public good.

(Prior Code, § 74.910) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.147 AMENDMENTS.

The Commission may, from time to time, revise or modify or amend these regulations by action taken at a regularly scheduled meeting after the required notice, and holding, of a public hearing.

(Prior Code, § 74.920) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

§ 153.148 VIOLATIONS.

The following violations and penalties are hereby cited from KRS Chapter 100 and incorporated herein.

(A) *No subdivision of land before approval* No person or his or her agent shall subdivide any land before securing the Planning Commission's approval of a plat designating the areas to be sold.

(B) *No selling of land before approval* No subdivider owning land composing a subdivision, or his or her agent, shall transfer or agree to sell any lot or parcel of land located within such a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has been approved by the Commission. Any such instrument of transfer, sale, or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved.

(C) *Metes and bounds descriptions no exception* The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from the penalties provided, or deprive the purchaser of any rights or remedies he or she may otherwise have.

(D) *Injunctions* The City of Winchester, the county, or the Planning Commission may bring action in the circuit court to prevent, correct, or abate the unlawful sale or use of land in violation of these regulations.

(Prior Code, § 74.930) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020) Penalty, see § 153.999

ADDRESSING PROPERTIES

§ 153.160 NUMBERING REQUIREMENT.

(A) All properties within the county shall be numbered for the purposes of public safety, taxation, and provision of services.

(B) All principal buildings and leasable/salable portions of said buildings which have separate and direct outside entrances shall have the site number permanently and prominently displayed, at the expense of the owners or occupants thereof, so as to be clearly visible and identifiable at all times during daylight hours to persons in vehicles traveling in both directions of the street upon which the structure is located.

(C) The property number shall be a minimum of three inches in height and shall be affixed to the structure at a point at least three feet above ground level. If the structure is not visible from the public or private right-of-way upon which the structure is located, the site number may also be displayed in such a manner that satisfies the visibility requirements in division (B) above. Notwithstanding the above, where more than one principal building is located upon a property and where the site number is clearly displayed at the street entrance to the property, each principal building shall not be required to display the site number so long as each building is clearly identified by a building number or letter.

(D) Structures with multiple units shall have each major doorway labeled with a range of numbers, letters, or other authorized unit designations when said doorway leads to more than one leasable/salable unit of a building. Such designations shall be used to distinguish individual suites, units, rooms, or apartments within the same building or structure and served by a single door. No more than five characters may be used in such unit designations. Such designations shall contain only letters or numbers. If abbreviations are used, they must follow the United States Postal Service's Standards for Secondary Address Unit Designators.

(E) The Winchester/Clark County Planning and Community Development Department, with assistance from the Director of the Winchester/Clark County Public Safety Answering Point (PSAP), on existing roadways, shall solely be authorized to assign or cause to be assigned a property number, site number, and/or a building number where appropriate so as to ensure no duplication of numbers or street names. The Winchester/Clark County Planning and Community Development Department, city Clerk, and County Clerk shall maintain a street index file containing the official list of valid street names.

(F) No private access easement shall be named without the prior approval of the Winchester/Clark County Planning Commission. All private access easements that are named with the approval of the Winchester/Clark County Planning Commission shall have a regulation street sign, purchased and erected at the expense of the owners, placed at each intersection of the named easement and any other named easement or street.

(Ord. 2014-7, passed 5-28-2014)

§ 153.161 NUMBERING REGULATIONS.

(A) All addresses must contain a number. No number may contain more than five digits. Only whole numbers may be used in addresses. All addresses on a street shall have sequential numbers.

(B) All addresses must contain a street name. Such names may contain a maximum of 20 letters; however, such names shall not contain fewer than two letters. The following are prohibited in new street names:

- (1) Numerical digits or numerical names;
- (2) Leading single letter phrases;
- (3) Confusing, obscene, or irregularly spelled words;

(4) Duplicate or closely approximate names of other streets; and

(5) Use of the words "service", "street", "drive", or "avenue".

(C) An address shall not contain a duplication of the type of street within its name (i.e., Veterans Park PK). When an address contains the names of two types of streets, the first type becomes part of the street name and second type must be abbreviated.

(D) Streets having the same name, but designated as different types of streets, are acceptable only when the streets are contiguous and have unique number sequences.

(E) Structures must have frontage or an entrance to the street on which their address is assigned.

(F) Separate streets which are capable of ultimate connection shall have the same name until it is determined that their connection will not likely occur. Once the roadways are deemed unconnectable, the addresses shall be changed to assign unique street names for all affected segments.

(Ord. 2014-7, passed 5-28-2014)

§ 153.162 RENUMBERING ADDRESSES.

(A) Renumbering of properties and assignment of new street names shall be the task of the Director of the Winchester/Clark County PSAP. The renumbering of addresses and assignment or renaming of street names shall be for the purposes of public safety.

(B) Nothing in this section shall prohibit either the Board of Commissioners or the Fiscal Court from renumbering properties or naming/renaming streets or hearing appeals of readdressing should either body deem it in the public interest to do so, independent of any staff recommendation, within their respective areas of responsibility identified in this subchapter.

(C) The Director of the Winchester/Clark County PSAP shall notify the residents and property owners of the intent to renumber properties in person or by certified letter. The property owner may appeal to the County Fiscal Court or the City of Winchester Board of Commissioners. The property owner shall have 30 days from the proof of service date of the letter of notification to request an appeal of the renumbering action. The County Fiscal Court and Winchester City Commission shall notify the Director of the Winchester/Clark County PSAP of any action taken to appeal the address change. If the property owner does not appeal within the 30-day period, then the addresses will be renumbered as directed by the Director of the Winchester/Clark County PSAP.

(D) Upon implementation of an address change, notification will be sent to the residents, property owners, and the following agencies (depending on jurisdiction) informing them of the address change:

- (1) City of Winchester;
- (2) County Fiscal Court;
- (3) Clark County PVA;
- (4) Clark County Sheriff;
- (5) Winchester Police Department;
- (6) Winchester Fire-EMS;
- (7) Clark County Fire Department;
- (8) Winchester Postmaster;
- (9) Winchester/Clark County Planning and Community Development Department;
- (10) Winchester Municipal Utilities;
- (11) AT&T;
- (12) Kentucky Utilities;
- (13) Kentucky American Water;
- (14) East Clark Water District; and
- (15) Clark Energy Cooperative.

(Ord. 2014-7, passed 5-28-2014)

§ 153.163 ENFORCEMENT.

(A) The codes or law enforcement personnel for the city and county governments shall have the power to require the owner or occupant of any business or residential structure within the county to affix and maintain building, site, and/or property numbers as required in this subchapter.

(B) Any owner or occupant of a business or residential structure who, upon being notified by the code enforcement

personnel of the city and county governments to affix a number upon a structure or other device, shall fail to do so within five days of notification, shall be subject to a fine of \$25 for each day thereafter until he or she complies with the order of the code enforcement personnel.

(C) Any person who unlawfully defaces, moves, removes, or causes to be moved or removed any building, site, or property number affixed upon a structure or other device such as a street sign in such a way that it is not clearly visible and identifiable at all times during daylight hours, shall be subject to a fine of \$50 for each offense.

(D) Any person who places or causes to be placed any sign bearing a name not approved by the Winchester/Clark County Planning Commission upon any private access easement shall be subject to a fine of \$100 plus a fine of \$100 for each day the sign remains after being given notice by the code enforcement personnel for the city and county governments to remove such sign.

(Ord. 2014-7, passed 5-28-2014)

§ 153.999 PENALTY.

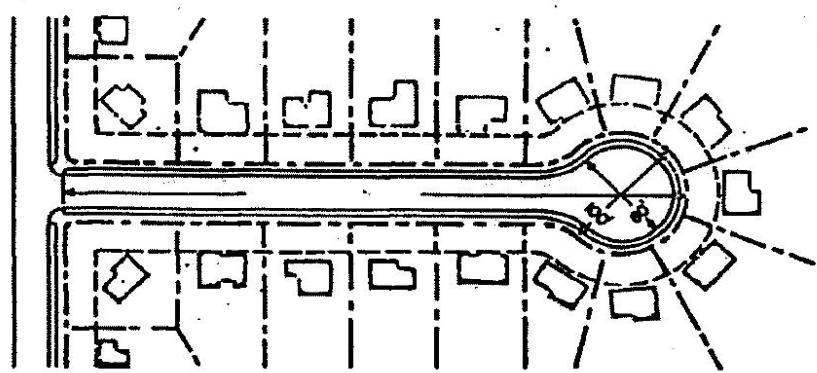
(A) Any person or entity who violates any of the provisions of KRS Chapter 100 or any of the regulations adopted pursuant thereto for which no other penalty is provided, shall upon conviction be fined not less than ten but no more than \$500 for each conviction. Each day of violation shall constitute a separate offense.

(B) Any person, owner or agent who violates this chapter shall, upon conviction, be fined not less than \$100 nor more than \$500 for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

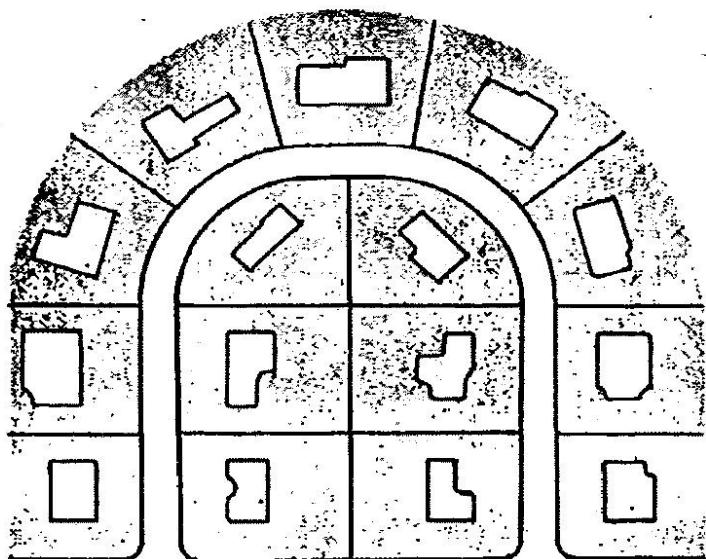
(C) Violations of §§ 153.160 to 153.163 shall be subject to penalties under the jurisdiction of the Administrative Hearing Board (City of Winchester, Kentucky Code of Ordinances, Article IV and Clark County, Kentucky Ordinance 2011-07).

(Prior Code, § 74.930) (Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2014-7, passed 5-28-2014 Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

APPENDIX A: EXAMPLES



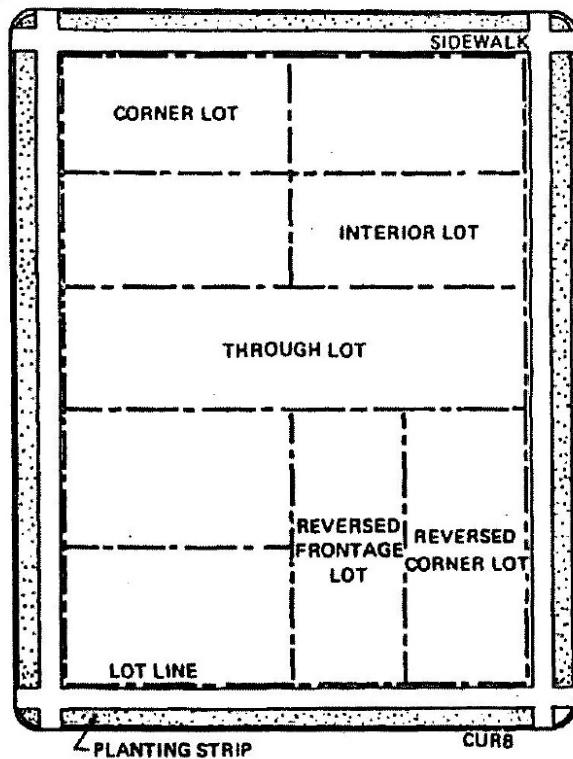
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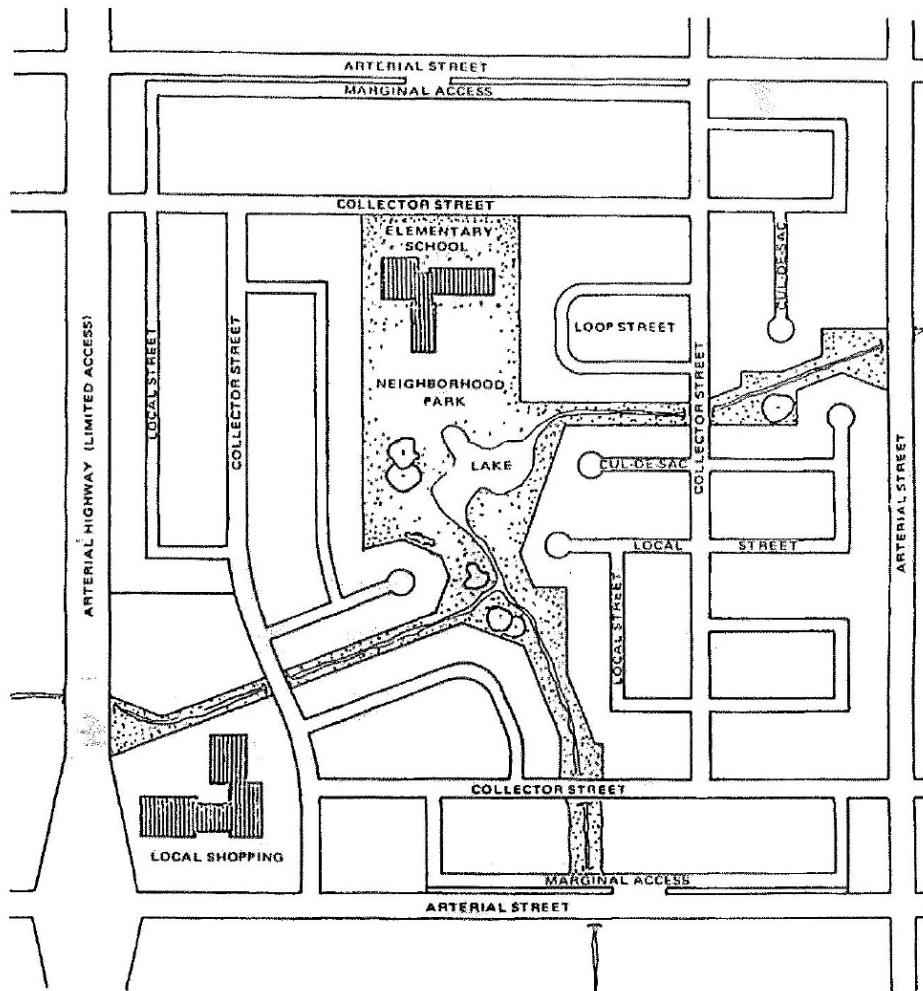
LOOP STREET

Types of Lots

STREET



Classification of the Thoroughfare System



Lot Terms

(Ord. passed 3- - 1995; Ord. passed 10- -2005; Ord. 2018- 03, passed 2-14-2018; Ord. passed 1- - 2020)

APPENDIX B: FORMS

Form 1

PRELIMINARY PLAN CHECKLIST

Date _____ Application Number _____

Subdivision _____

The following item(s) (does, does not) conform with the requirements of the Winchester/Clark County Subdivision Regulations. All preliminary development plans shall conform with the requirements of the Winchester/Clark County Subdivision Regulations. All preliminary plans shall conform with the requirements of the Winchester/Clark County Subdivision Regulations.

Does Does Not Item

1. _____ Name of subdivision (no duplication permitted)
2. _____ Scale of 1" = 50' or less
3. _____ Date of preparation, north arrow, written scale
4. _____ Names of adjacent subdivisions and owners
5. _____ Zoning classification of all major parcels and proposed changes
6. _____ Topography at two-foot intervals

7. _____ Location, width, and names of existing streets, right-of-ways, easements
8. _____ Location of existing utilities including sewers, water lines, and communication lines or poles
9. _____ Layout, names and widths of proposed streets or easements and proper dedications
10. _____ Layout and approximate dimensions of all lots
11. _____ Building setback lines
12. _____ Survey monuments of adjacent properties
13. _____ Proposed use of lots
14. _____ Sewage treatment and percolation test results
15. _____ Adequate preliminary improvement plans
16. _____ Required certifications
17. _____ Stormwater study and drainage calculations
18. _____ Design based on CBR test results for every 500 lf oft.
19. _____ Type A or B drainage box inlets provided

Date _____

Title of Position _____

Signature

Form 2

FINAL PLAT CHECKLIST

Date _____ Application Number _____

Subdivision _____

The following item(s) (does, does not) conform with the requirements of the Winchester/Clark County Subdivision Regulations. All final development plans shall conform with the requirements of the Winchester/Clark County Subdivision Regulations. All final plats shall conform with the requirements of the Winchester/Clark County Subdivision Regulations.

Does	Does Not	Item
1. _____		Submitted within 12 months of preliminary approval
2. _____		Conforms to preliminary plan and incorporates suggested changes
3. _____		Name of subdivision
4. _____		Written scale, date and north arrow
5. _____		Property identification
6. _____		Name and address of owner, surveyor, and engineer
7. _____		Accurate survey data-seconds, lineal dimensions to hundredths of feet; radii internal angles, points of curvature; tangent bearing; lengths of arcs; lengths of cords
8. _____		Closure
9. _____		Bearings and distances to permanent monuments
10. _____		Lot numbers, dimensions and addresses
11. _____		Location and description of monuments
12. _____		Building setback lines
13. _____		Final deed restriction
14. _____		Required final certifications
15. _____		Special notes
16. _____		Acreage on plat

17. _____ Thirty-foot dedicated right-of-way
18. _____ All proposed and existing roadway entrances indicated and certification that proposed entrance(s) have been approved by the agency having jurisdiction
19. _____ Existing improvements, structures and utilities
20. _____ Health Department approval
21. _____ Flood plain elevation or appropriate notation
22. _____ Proof roll test
23. _____ Cluster worksheet (for ag. Divisions > 60 acres or eight tracts)

Date _____

Title of Position _____

Signature

Form 3

TECHNICAL DESIGN AND IMPROVEMENT CHECKLIST

The following item(s) (does, does not) conform with or does not apply (N.A.) to the requirements of the Winchester/Clark County Subdivision Regulations. Those items not conforming are explained on the final page:

Does Does Not N.A. Item

General

1. _____ Conformance with major street plan
2. _____ Conformance with zoning regulations
3. _____ No flood hazards
4. _____ Acceptable natural drainage and erosion control
5. _____ Steep slopes not limiting factor
6. _____ Large trees and other significant natural features
7. _____ Areas of historical or cultural significance

Streets

8. _____ Right-of-way widths
9. _____ Pavement widths
10. _____ Radius of curvature
11. _____ Horizontal visibility
12. _____ Vertical alignment and visibility
13. _____ Grades
14. _____ Cul-de-sacs
15. _____ Turn-around radius - ROW - and pavement
16. _____ Dead-end streets
17. _____ Dedication and addition of half streets
18. _____ Marginal access streets, points of access, and planting strips
19. _____ Alleys
20. _____ Alignment of intersections
21. _____ Spacing of intersection relative to different road classifications
22. _____ Avoidance of multiple intersections
23. _____ Avoidance of 4-way intersections

24. _____ Pavement and ROW of intersections
25. _____ Streets for commercial subdivisions
26. _____ Repair of pavement
27. _____ Streets for industrial subdivisions
28. _____ Crosswalks
29. _____ Street monuments
30. _____ Subgrade
31. _____ Base course
32. _____ Surface course
33. _____ Curbs and gutters
34. _____ Bridges
35. _____ Sidewalks
36. _____ Street names and numbers, signs

Lots

37. _____ Size
38. _____ Setback lines
39. _____ Corner lot size
40. _____ Avoidance of double frontage lots
41. _____ Driveway culverts and grade
42. _____ Monuments
43. _____ Grading plan

Others

44. _____ Parks and open spaces
45. _____ Type of water supply
46. _____ Test wells
47. _____ Type of sewage treatment
48. _____ Percolation test results
49. _____ Storm drainage system type
50. _____ Manholes
51. _____ Catch basins
52. _____ Headwalls
53. _____ Sufficient easements for utilities or open drainage
54. _____ Other utilities
55. _____ Underground utilities

Date _____

Title _____

Signature _____

Form 4

APPLICATION FOR PLAT APPROVAL

Winchester/Clark County

Planning Commission

Winchester, Kentucky

Date _____ Application No. _____

() Preliminary Plat

() Final Record Plat

() Minor Subdivision Plat

1. Name of Applicant _____

Address _____

Phone _____

2. Name of Surveyor or Engineer _____

Address _____

Phone _____

3. Name of Subdivision _____

4. Present Zoning District _____

5. Number of Lots _____

6. Total Area of Parcel _____

For Official Use

Date Received _____

Date of Planning Commission Action _____

Plat Fee \$ _____

() Approved

() Disapproved Additional Comments:

For Official Use

COUNTY BOARD OF HEALTH

Date Received _____

Action _____

Comments

Signature _____

PLANNING COMMISSION ENGINEER

Date Received _____

Action _____

Comments

Signature _____

PLANNING COMMISSION

Date Received _____

Action _____

Fee _____ Paid \$_____

Comments

Signature _____

Note: This form must be submitted to the County Auditor for transfer and the County Recorder for recording.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

APPENDIX C: PAVEMENT DESIGNS HOLDING DGA THICKNESS CONSTANT AT 8"

Traffic Level			
CBR	A	B	C
1	8 in. DGA 6.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 16"	8 in. DGA 7.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 17"	8 in. DGA 8.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 18"
2	8 in. DGA 5.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 15"	8 in. DGA 6.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 16"	8 in. DGA 7.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 17"
3	8 in. DGA 4.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 14"	8 in. DGA 5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 14.5"	8 in. DGA 6.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 16"
4	8 in. DGA 3.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 13"	8 in. DGA 4.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 14"	8 in. DGA 5.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 15"
5	8 in. DGA 2.5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 12"	8 in. DGA 4 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 13.5"	8 in. DGA 5 in. Asphalt Base 1.5 in. Asphalt Surface Total Depth = 14.5"

* All base depths are rounded up to the nearest one-half inch.

Traffic levels: A up to 400 adt, B up to 700 adt, C up to 1500 adt; where the adt exceeds 1500, the engineer shall submit design criteria. Where multiple CBR values are found the lowest value (higher number) shall be used.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

APPENDIX D: GEODETIC CONTROL INFORMATION

1. Geodetic Control

The City of Winchester will make available all Geodetic Control information to be used for survey purposes. All coordinate values for these survey points shall be in Latitude Longitude using the North American Datum (NAD83) with a 1997 HARN adjustment. All Points should be projected into Kentucky State Plane System using the North American Datum (NAD83) with a 1997 HARN adjustment, Kentucky North Zone, FIPS zone 1601. All measurements shall be in US Survey Feet. The City's Geodetic Control network can be accessed through the Commonwealth of Kentucky National Geodetic Survey Advisor, see <http://nas.state.ky.us>.

The surveyor or engineer preparing the plans shall tie the boundary into at least two points of the above mentioned survey control network. The basis of bearing for the plans must be in NAD83(1997) coordinate system.

If the Kentucky Geodetic Survey control points are not available and cannot be provided to the surveyor or engineer the above mentioned requirements will be waived. In these cases, the surveyor or engineer shall note and describe two reference locations. These locations will be used to tie the survey or plan to the state plane coordinate system.

2. Data Format

In addition to as-built plans submitted in hard-copy format, a digital copy of the file used to produce the hard-copy plans shall be provided in AutoCAD Drawing Format (Version 14 or greater). In addition to the AutoCAD Drawing file, a PostScript file will be created from the original software package, containing a "reproduction" of the hard-copy as-built plans.

All digital files must be mapped to scale and submitted to the city on 3.5" floppy disk or CDROM.

3. Data Layer Requirements

In order to evaluate the accuracy and promote the efficient use of the data in the City's GIS, digital file layering has been standardized. The digital data shall use the following layering scheme:

a. Parcel Data

<i>Layer Name</i>	<i>Description</i>
<i>Layer Name</i>	<i>Description</i>
PARCEL	PLAT and Taxable Parcel Lines
PARCEL_TXT	PLAT and Parcel Text (survey calls, ownership, etc.)
ROW	Plat & Condo ROW Lines
ROW_TXT	Right of Way text
Lot_Lines	Plat & Condo Lot Lines
LOT_TXT	Text for lot numbers and descriptions
Rd_Names	Road Names
Dimension	Plat & Condo Dimensions

b. Water System

<i>Layer Name</i>	<i>Description</i>
<i>Layer Name</i>	<i>Description</i>
WA_MAIN	Water Mains
W_MN_TXT	Water Main Text
WAT_MH	Water Manholes
W_MH_TXT	Water Manhole Text
WVALVE	Water Values/not with manholes
WVLV_TXT	Water Valve Text
WAT_HYD	Hydrants
W_HYD_TXT	Hydrant Text
WLAT	Water Service Laterals
WLAT TXT	Water Lateral Text

c. Sanitary Sewer

<i>Layer Name</i>	<i>Description</i>
<i>Layer Name</i>	<i>Description</i>
SAN_SMN	Sanitary Sewer Mains
SAIM_SMN_TXT	Sanitary Sewer Mains Text
SAN_SFRC	Sanitary Force Mains
SAN_SFRC_TXT	Sanitary Force Mains Text
SAN_SMH	Sanitary Manholes
SAN_SMH_TXT	Sanitary Sewer Manhole Text
SAN_SLAT	Sanitary Service Laterals
SAN_SLAT_TXT	Sanitary Service Laterals Text

d. Storm Sewer

<i>Layer Name</i>	<i>Description</i>
<i>Layer Name</i>	<i>Description</i>
ST_SMAIN	Storm Sewer Mains
ST_SMAIN_TXT	Storm Sewer Main Text
ST_SLAT	Storm Sewer feeder lines
ST_SLAT_TXT	Storm Sewer feeder line Text
RET_PND	Storm water storage facilities
RET_PND_TXT	Storm water storage facility Text
ST_SMH	Storm Water manholes
ST_SMH_TXT	Storm Water manhole Text
ST_SINL	Storm Water Inlets
ST_SINL_TXT	Storm Water Inlet Text
ST_SCB	Storm Water Catch Basins
ST_SCB_TXT	Storm Water Catch Basin Text
ST_SHWLL	Storm Sewer head walls
ST SHWLL TXT	Storm Sewer head wall Text

4. Manually Prepared Plats

Survey data (for manually prepared plats) must be submitted in an ASCII text file within a rigidly defined tabular format.

5. Adjustments to these requirements

The City of Winchester may waive or adjust requirements specified herein, upon a finding that the strict adherence of the requirements does not apply or is contrary to the long-term maintenance of the GIS of the City of Winchester.

6. Review of Digital Data

All digital data will be reviewed for the following criteria:

1. Correct layering
2. Closure of the geometry of the boundary
3. Verification that digital and hardcopy maps are consistent
4. Correct geographical position (i.e. correct coordinate values for final submission)

The Applicant will be given ten (10) working days from the day of notification of errors to correct and resubmit the correct digital file prior to final approval by the Winchester Clark County Planning Commission.

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

APPENDIX E: EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

APPENDIX F: LANDSCAPING AND TREE PLANTING STANDARDS

1-1 LANDSCAPING AND TREE PLANTING STANDARDS - The requirements for landscaping, land use buffers and tree planting shall be as follows:

1-1(a) LANDSCAPE AND LAND USE BUFFERS - All land subdivision plans shall conform to the requirements of Article 13 of the Zoning Ordinance.

1-1(b) STREET TREE PLANTINGS FOR RESIDENTIAL LOCAL AND COLLECTOR/ CONNECTOR STREETS - Street plantings shall be required on all new collector/connector and local streets in all residential subdivisions in accordance with the following provisions:

1-1(b)(1) TYPE AND NUMBER - Trees to be planted shall be of the deciduous type, and shall be of a type of root growth pattern that minimizes potential damage to street and utility facilities. A listing of approved trees shall be included in the Planting Manual. Trees shall be required at the standard of one tree per 45 feet of street frontage for large trees, 35 feet for medium trees, and 25 feet for small trees, as determined by the Planning Commission.

1-1(b)(2) LOCATION CRITERIA - Two options shall be permitted at the developer's discretion. The first option shall be to place the trees within a planting easement with a minimum width of 5', to be located immediately adjacent and parallel to the street right-of-way. The second option shall be to plant the trees within the street right-of-way between the street curb and the sidewalk in the area, commonly called the "utility strip." The developer's choice shall be shown on the appropriate subdivision and development plans, and shall be consistent on any given street. Only small trees may be planted in a utility strip with a width of five feet or less. Medium trees may be planted in a utility strip with a width of five and one-half feet or greater, and large trees may be planted in a utility strip of seven feet or greater. No street tree shall be located in the right-of-way within 50 feet of the street intersection.

1-1(b)(3) PLATTING REQUIREMENT - The cross-section to be utilized and tree species shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. Tree species shall be consistent for any given street, and at least one alternative species of the same genus shall be specified. The final plan will also indicate by symbol the number of trees required on each lot, based upon Section 1-1(b)(1) above, and their general location. The final subdivision plan shall also contain a note stating that the street trees required herein, either within the right-of-way or designated easement, shall be maintained by the property owner in accordance with Section 1-1(b)(5) herein below. A note stating that no tree may be removed without the approval of the Planning Office shall also appear on the final plan. A fee in the amount of \$10 per tree shown on the plat, payable to the Planning Commission, shall be paid by the developer and collected by the Commission at the time of the recording of the final record plan.

1-1(b)(4) PLANTING - It shall be the responsibility of the developer to plant the street trees within one year from the date of the recording of the final record plat or no later than occupancy of the residence, whichever occurs last.

1-1 (b)(5) MAINTENANCE - The developer shall maintain all trees for a period of one year from the date of their planting and shall replace any required tree that dies within one year of its planting. Upon the expiration of one year from the date of planting, the owner of the subject property shall be responsible for the continued proper maintenance of all street trees and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times. Topping trees or the severe cutting of limbs to stubs larger than three inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be permitted for the maintenance of trees required by this section.

1-1 (c) STREET PLANTINGS ON ARTERIAL STREETS - Sheet plantings shall be required for any double frontage lot in any zone that adjoins an arterial street not maintained by the state and which does not provide direct access to the adjoining property.

1-1(c)(1) TYPE, NUMBER, AND LOCATION - A continuous 6' high hedge shall be required with the same species to be used for the entire frontage of the development. Where possible, the hedge should be planted in the right-of-way, and 3' from the right-of-way fence. Trees should be planted in the right-of-way with the exact location to be approved by the Building Inspector. All trees are to be planted a minimum of 10' from the right-of-way fence. Where there is less than 10' between the right-of-way fence and the sidewalk, or where there is no sidewalk, less than 10' feet between the right-of-way fence and the curb line of the arterial street, no trees are required. No street tree shall be located in the right-of-way within 50 feet of the intersection. Trees shall be required as described in Table Band the Plant Materials List in the Zoning Ordinance shall be used to meet the minimum requirements set forth herein. Where, due to site restrictions, the planting cannot be placed in the right-of-way, the Commission may allow the landscaping to be placed on the adjacent property.

1-1(c)(2) PLATTING REQUIREMENT - The cross-section to be utilized and tree species shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. Tree species shall be consistent for any given development, and at least one alternative species of the same genus shall be specified. The final subdivision plan shall also contain a note stating that the arterial street plantings required herein shall be maintained by the developer for one year from the date of planting. Such maintenance shall include replacing required plantings that die within the first year. After the first year, the adjacent property owner shall maintain the plantings.

1-1(c)(3) COMPLETION OF THE ARTERIAL STREET PLANTINGS - The required arterial street plantings shall be considered a public improvement and, as such, shall be fully installed prior to Commission consideration of the final record plan. The Commission may, however, permit the plan to be approved and recorded prior to the completion of the plantings with the posting of a surety.

TABLE B: TYPE, NUMBER AND LOCATION OF TREES LOCATION

DESCRIPTION REQUIRED TREES

- (a) The elevation of the arterial is more than 10' above the elevation of the adjacent property
- (b) The elevation of the arterial is not more than 10' above or is below the elevation of the adjacent property
- (c) The intersection of a collector/connector street with the arterial
- (d) Culverts and other wet locations

(Ord. passed 3- -1995; Ord. passed 10- -2005; Ord. 2018-03, passed 2-14-2018; Ord. passed 1- -2020)

CHAPTER 154: COUNTY DEVELOPMENT

Section

154.01 Joint City-County Comprehensive Plan adopted by reference

§ 154.01 JOINT CITY-COUNTY COMPREHENSIVE PLAN ADOPTED BY REFERENCE.

The amended Statement of Goals and Objectives of the Comprehensive Plan of the Winchester-Clark County Planning Unit is hereby adopted by reference and made a part of this code as if fully set forth herein.

(Prior Code, § 80.001) (Ord. 91-15, passed 1-8-1991; Ord. 97-6, passed 4-16-1997)

CHAPTER 155: ZONING CODE

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GENERAL PROVISIONS

§ 155.001 ADOPTION.

The by Board of Commissioners of the City of Winchester and ordered by the County Fiscal Court hereby adopt the following provisions as the county's zoning code.

(Prior Code, § 1.1)

§ 155.002 TITLE.

This order is entitled "Revised Zoning Ordinance, City of Winchester, and Revised Zoning Order, Clark County, Kentucky", and may be referred to as the "zoning order". The zoning maps referred to herein are entitled "Zoning Map, City of Winchester," and "Zoning Map, Clark County, Kentucky" and may together be referred to as the "zoning map". The zoning map is hereby made a part of this chapter, and a certified copy of this zoning order is on file with the County Clerk.

(Prior Code, § 1.2)

§ 155.003 PURPOSE.

The purpose of the zoning order is to promote the general welfare by establishing and regulating zoning districts throughout the City of Winchester and the county for the specific purposes detailed in the Kentucky Revised Statutes. In establishing the zoning districts, this order seeks to promote the general welfare by designating sufficient space for all necessary uses of the land, by protecting the permitted uses in each district from the undesirable effects of conflicting uses, and by ensuring the stable value of all permitted development. This order further seeks to promote the general welfare by protecting the efficiency and encouraging the improvement of traffic circulation and access to the land in all districts in order that daily travel and commerce may increase in safety and may be carried forth with a minimum of delay for the benefit of all activities and persons in Winchester and the county.

(Prior Code, § 1.3)

§ 155.004 CONFLICT WITH OTHER INSTRUMENTS.

In case of conflict between the zoning order or any part thereof and the whole or part of any existing or future ordinance of the City of Winchester or order of the county or the whole or part of any existing or future private covenants or deeds, the most restrictive in each case shall apply.

(Prior Code, § 1.4)

§ 155.005 APPLICATION OF REGULATIONS.

All existing and future structures and uses of premises within the City of Winchester and the unincorporated area of the county shall conform with all applicable provisions of the zoning order. Each zoning district is established to permit only those uses specifically listed as permitted, except as provided under the nonconforming provisions, and is intended for the protection of those uses. No other uses are permitted except as provided elsewhere in this chapter.

(Prior Code, § 1.7)

§ 155.006 AGRICULTURAL LAND USE EXCEPTIONS.

Notwithstanding any other provision of this chapter, land which is used solely for agricultural, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location, or court requirements for agricultural buildings except that setback may be required for the protection of existing and proposed streets and highways and that all buildings or structures in a designated floodway or floodplain or which tend to increase flood heights or obstruct the flow of flood water may be fully regulated.

(Prior Code, § 1.8)

§ 155.007 DEFINITIONS.

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

ACCESSORY STRUCTURE OR USE. Any structure or use, other than the principal structure or use, directly incident to or required for the enjoyment of the permitted use of any premises; also as specifically designated under the zoning district regulations of the zoning order. A parked mobile home shall not be considered an **ACCESSORY BUILDING** unless specifically permitted by the provisions of the zoning order.

AGRICULTURAL STRUCTURE. Any structure or building accessory to the principal agricultural use of the land. Farm dwellings, however, are principal buildings.

AGRICULTURE. The use of land only, minus agricultural structures, for cultivation of crops, raising of animals, or preservation in its natural state. Associated terms include the following.

(1) **AGRIBUSINESS.** An enterprise that derives its revenue from sales of agricultural products or sales to agricultural producers

(2) **AGRICULTURAL USE.** The use of:

(a) A tract of at least five contiguous acres for the production of agricultural or horticultural crops, including, but not limited to, livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwelling for persons and their families who are

engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public;

(b) Regardless of the size of the tract of land used, small wineries licensed under KRS 243.155;

(c) A tract of at least five contiguous acres used for the following activities involving horses:

1. Riding lessons;

2. Rides;

3. Training;

4. Projects for educational purposes;

5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants shall be subject to local applicable zoning regulations.

(d) A tract of land used for the following activities involving horses:

1. Riding lessons;

2. Rides;

3. Training;

4. Projects for educational purposes;

5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants shall be subject to local applicable zoning regulations. This division (2)(d)6. shall only apply to acreage that was being used for these activities before July 13, 2004.

(3) **AGRITOURISM.** The act of visiting a working farm or any agricultural horticultural, or agribusinesses.

(4) **AGRITOURISM BUSINESS.** An income producing commercial enterprise at a working farm for the purpose of providing public enjoyment, education, or active involvement in the activities of the farm or operation.

(5) **VALUE-ADDED AGRICULTURAL ACTIVITIES.** Any activity or process that allows farmers to retain ownership, but that alters the original farm produced agricultural product or commodity for the purpose of gaining a marketing advantage. Value-added may include bagging, packaging, bundling, precutting, cooking, or chilling.

ALTERATION. Any change or addition to the supporting members or foundation of a structure.

AUTOMOBILE AND TRUCK REPAIR, MAJOR. Repair of vehicles including rebuilding or reconditioning of engines and transmissions, or major overhaul in which the engine, transmission, or other major components are removed entirely from the vehicle; collision services including body or frame straightening or repair, and/or automotive painting of any kind, including the use of paint booths.

AUTOMOBILE AND TRUCK REPAIR, MINOR. Incidental repair, adjustment to a vehicle's operational systems, including replacement of parts, motor service to passenger vehicles and trucks not exceeding one and one-half ton, but not including any activity contained in the definition of "Automobile and Truck Repair, Major", or any other similar activity, nor any repair requiring outside storage of a vehicle for more than 96 hours.

A-WEIGHTED SOUND PRESSURE LEVEL. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

BED AND BREAKFAST HOME. A use located in an existing structure, originally a single-family dwelling, which provides short-term transient lodging, including serving only breakfast to overnight guests, for which a fee is paid and subject to the following conditions.

(1) The use shall be secondary to the dwelling.

(2) The use shall be carried only by owners with at least a 51% ownership interest, and who reside on the premises.

(3) The use shall not require external alteration of the dwelling except as may be required to meet fire and building codes.

(4) Each room to be rented shall have no cooking facilities and be designed and intended to accommodate no more than one family unit.

(5) Each room shall be rented for no longer than seven consecutive days to a guest.

(6) The use shall not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation, noise, or lights.

(7) The owner-operator shall maintain a guest log and other records, which shall be subject to annual review and inspection.

(8) The use shall not be conducted within any accessory building except for such an accessory building at least 50 years old that was originally constructed in full or part as a dwelling.

(9) The conditional use permit shall become null and void upon the sale or transfer of the property.

(10) All off-street parking areas shall be screened from streets and adjacent property in accordance with §§155.205 to 155.209 and shall not be located in the required front or side yards.

(11) The use shall be in compliance with all applicable state and local laws, including Health Department rules and regulations.

(12) No sleeping rooms (as defined below) shall be permitted.

BREWPUB. A restaurant that brews beer as an accessory use, either for consumption on-site or in sealed containers in quantities up to one-half barrel sold directly to the consumer. Production capacity is limited to 5,000 barrels of beverage (all beverages combined) per year. The area used for brewing, bottling, and kegging shall not exceed 30% of the total floor area of the commercial space. A barrel is equivalent to 31 gallons.

BUILDING. Any structure which fully encloses space for the occupancy by persons or their activities. A mobile home is not a **BUILDING**, however.

CELLULAR TELECOMMUNICATIONS SERVICES. A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

CO-LOCATION. Location of two or more transmission antennae or related equipment on the same telecommunications tower.

COMMERCIAL FLOOR AREA. Floor area of buildings which is devoted to the storage and display of merchandise, the performance of consumer services, or the circulation and accommodation of customers.

CONDITIONAL USE. A use which must receive special approval by the Board of Zoning Adjustment if delegated, in order to be permitted in a zoning district.

CONSUMER SERVICES. Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience, and for fulfillment of their own personal needs. For example, **CONSUMER SERVICES** include the provision of the personal services such as beautician and barbering services, the provision of lodging, entertainment, specialized instruction, financial service, automobile storage, transportation, laundry and dry cleaning services, and all other similar services.

DECIBEL (dB). A unit for describing the loudness of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter). Zero decibels is the threshold of human hearing. Ten decibels is ten times as loud as zero. A unit for describing the loudness of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter). Zero decibels is the threshold of human hearing. Ten decibels is ten times as loud as zero, 20 decibels is 100 times as loud as zero, 20 decibels is 100 times as loud as zero, and 130 decibels is the threshold of pain.

DEVELOPMENT PLAN. Written and/or graphic material depicting a development of land, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing human-made and natural conditions, and all other conditions agreed to by the applicant.

DEVELOPMENT RIGHT. A simple extension of the rights normally associated with land ownership. When legally established, a development right has value separate from the land itself. It can be subject to reasonable regulations by local government under the police power. The **DEVELOPMENT RIGHT** can be transferred by the owner, by means of gift or sale, to another property. The land owner may sell the **DEVELOPMENT RIGHTS** and still retain the title to the land and the right to use the land, excluding the right of development.

DWELLING. A building providing shelter, sanitation, and amenities for permanent habitation, including Class A Mobile Homes, but excluding manufactured homes of Class B, C, and D, and temporary lodging and sleeping rooms.

DWELLING UNIT. A dwelling unit is a dwelling accommodation within a building designed for one individual or family unit maintaining separate and independent housekeeping.

HEIGHT. The vertical distance measured from the average finished grade at the front building line to the highest point of the structure.

HOME OCCUPATIONS. Occupations involving personal and professional services, subject to the following conditions:

(1) The use is clearly incidental and secondary to the principal residential use;

- (2) The use is conducted entirely within the dwelling and not in an accessory building;
- (3) The use is carried on only by residents of the dwelling;
- (4) No products, commodities, or merchandise shall be sold or stored on the premises;
- (5) The use does not require alteration of the exterior of the dwelling;
- (6) The use does not adversely affect the neighborhood by generating excessive traffic, atmospheric pollution, light flashes, glare, odors, noise, vibration, or truck or other heavy equipment traffic; and
- (7) Adequate off-street parking is provided.

HOME OFFICE. An office use conducted within a dwelling under the following conditions.

- (1) The office shall be clearly incidental and secondary to the residential use and shall occupy no more than 25% of the total area of the dwelling or 500 feet, whichever is less.
- (2) The use shall be limited to recordkeeping and administrative activities.
- (3) The office shall be located within the dwelling unit and not in an accessory building.
- (4) The office shall be operated by residents of the dwelling, and no nonresidents may be employed on the premises.
- (5) No sale of merchandise shall be conducted on the premises.
- (6) No commodities, products, or merchandise shall be stored on the premises.
- (7) No signs identifying the office shall be displayed on the premises.
- (8) Residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance thereof.
- (9) No customer traffic shall be generated.
- (10) No commercial vehicles shall be parked on the premises.

IMMEDIATE FAMILY MEMBER. Any person bearing the following relationship to grantor: parent, mother/father-in-law, child, grandparent, grandchild, brother, or sister.

INDUSTRY. The processing of products or raw materials; the two categories of industry are defined according to the following performance standards.

(1) **HEAVY INDUSTRY.** Those industries whose processing operations resulting in the outdoor storage or processing of materials or products, the emission of any atmospheric pollution, visible light flashes or glare, odors, or noise or vibration which may be heard or felt off the premises, or those industries which constitute a fire or explosion hazard.

(2) **LIGHT INDUSTRY.** Those industries whose processing operations result in none of the above conditions.

JUNKYARD. The outdoor storage of inoperative machinery.

LOT. A parcel of land under one ownership devoted to a common use or occupied by a single principal building plus accessory structures.

LOT AREA. The computed ground area inside the lot lines.

LOT, CORNER. A lot which abuts on two intersecting streets at their intersection.

LOT COVERAGE. The computed ground area occupied by all buildings within a lot.

LOT DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE-FRONTAGE. Any lot other than a corner lot which abuts on two streets.

LOT LINE. The boundary dividing a lot from a right-of-way, adjoining lot, or other adjoining tract of land. Front, rear, and side **LOTS LINES** are self-explanatory.

LOT OF RECORD. A lot which is recorded in the office of the County Clerk.

MANUFACTURED HOME. A building which is substantially constructed away from the building site, which is designed to be and is transported to such building site and permanently installed thereon for use as a dwelling. The term includes, but is not limited to, mobile home. It also includes housing built away from a building site in two or more sections or modules, commonly known as a modular home.

MANUFACTURED HOME COMPLEX. A manufactured home park in which the land is owned by the developer and not by the individual occupants.

MANUFACTURED HOME PARK. A parcel of land available to the public in which two or more lots are occupied or intended for occupancy by manufactured homes and includes service buildings, structures, enclosures, or other facilities used as a part of the park. A park may be a "complex" or a "subdivision" and the term is used interchangeably with both.

MICRO BREWERY, MICRO DISTILLERY, OR MICRO WINERY. Facility for brewing less than 15,000 barrels of alcoholic beverage per year. May include a tasting room and retail space for the sale of the alcoholic beverage and related merchandise.

MINI-WAREHOUSE. A building divided in cubicles or compartments which are rented or leased to the general public for the storage of goods.

MOBILE HOME. A transportable dwelling unit suitable for year-round occupancy, which is manufactured on a chassis or undercarriage as an integral part thereof, containing facilities for water, sewage, bath, and electrical conveniences.

MOBILE HOME PARK. A tract of land prepared and approved according to the procedures in the zoning order to accommodate ten or more mobile homes.

NOISE. Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

NONCONFORMING STRUCTURES OR USES. A structure or use of any premises which does not conform with all applicable provisions of the zoning order but which existed at the time of its designation as nonconforming by the adoption or amendment of the zoning order.

NONRETAIL COMMERCIAL. Commercial sales and services to customers who intend resale of the products or merchandise sold or handled. For example, **NONRETAIL COMMERCIAL** includes wholesaling, warehousing, truck terminals, and similar commercial enterprises.

OUTDOOR. Refers to that which is not within a building.

PARKING AREA OR STRUCTURE. An off-street area or structure for required parking or loading spaces, including driveways, access ways, aisles, parking and maneuvering space, but excluding required front yard, or public right-of-way.

PLANNED DEVELOPMENT PROJECT. A complex of structures and uses planned as an integral unit or community of development.

PREMISES. A lot or other tract of land under one ownership and all of the structures on it.

PRIVATE RECREATION AREA. An area devoted to uses such as picnic and parking areas, swimming pools, private clubhouses, tennis courts, refreshment stands, and similar or associated structures and uses.

PROCESSING. Manufacturing, reduction, extraction, packaging, repairing, cleaning, and any other similar original or restorative treatment applied to raw materials, products, or personal property. **PROCESSING** does not refer to the fabrication of structures, however.

PROPERTY LINE. An imaginary line along the surface, and its vertical plan extension, which separates the real property owned, rented, or leased by one person from that owned, rented, or leased by another person, excluding intra-building real property division.

PUBLIC SERVICE BUILDING. Any building necessary for the operation and maintenance of a utility.

RESTAURANT. An eating establishment where food is served and/or consumed only within the building.

RESTAURANT, DRIVE-IN. An eating establishment where food is generally served by employees or by self-service on the premises outside the building and generally consumed on the premises outside the building or off of the premises.

RETAIL SALES. Sale of any product or merchandise to customers for their own personal consumption or use, not for resale.

ROAD. A traffic-carrying way. As used in this chapter, a **ROAD** may be privately owned.

ROADSIDE STAND. A temporary structure designed or used for the display or sale of agricultural or other products grown or produced on the premises upon which such a stand is located.

SINGLE-FAMILY DWELLING. A dwelling designed or occupied by a single family.

SLEEPING ROOM. A single room rented for dwelling purposes but without the amenities for separate and independent housekeeping.

SOUND LEVEL METER. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument must be of type 2 or better, as specified in the American National Standards Institute Publication S1.4-1971, or its successor publications.

STREET. Any highway or other public traffic-carrying way, an arterial street is any federal, state, or county highway unless otherwise designated by the Planning Commission.

STRUCTURE. Any combination of materials fabricated to fulfill a function in a fixed location on the land; includes buildings.

TDR MULTIPLE. A method of assigning relative values to development rights when transferred from one area to another. For instance, a **TDR MULTIPLE** of one and one-half means that when a single development right is transferred from one area to another it is given a value equivalent to one and one-half development rights. As used herein, the word "value" is not

intended to suggest monetary value.

TELECOMMUNICATIONS TOWER. A structure constructed for the location of transmission antennas and/or related equipment to be used in the provision of cellular telecommunications services for personal communications services, as defined in 47 U.S.C. § 332(c), but not including such structures when used for the broadcast of television, am or fm radio station, citizens band, or amateur radio use.

USABLE OPEN SPACE. The portion of the outdoor area of a lot or tract which is designed and used for outdoor living, recreation, pedestrian access, or landscaping, but not including off-street parking and loading areas, driveways, or required front and street side yards unless separated from the street right-of-way by a fence or screen planting.

USE. Broadly refers to the activities which take place on any land or premises and also refers to the structures located thereon and designed for those activities.

UTILITY. Any person, except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation.

(KRS 278.010(3))

VARIANCE. A departure from the strict conformance with the dimension and area regulations of the zoning order which must first receive the approval of the Board of Zoning Adjustment.

VIEWSHED. The visual field presented by a particular parcel of real estate when viewed from the adjoining public road by a person of average height.

YARD, FRONT. An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinbefore specified. The depth of a **FRONT YARD** is the shortest distance, measured horizontally between any part of a building, exclusive of such parts herein excepted and the front lot line.

YARD, REAR. An open space extending the full width of a lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinbefore specified. The depth of a **REAR YARD** is the shortest distance, measured horizontally between any part of a building, exclusive of such parts herein excepted and the rear lot line.

YARD, SIDE. An open space between a building and a side lot line, unoccupied and unobstructed from the ground upward except as herein specified. The width of a **SIDE YARD** is the shortest distance, measured horizontally between any part of a building, exclusive of such parts herein excepted and the nearest side lot line.

(Prior Code, Art. 12) (Ord. 20-82, passed 9-28-1982; Ord. 29-82, passed 12-27-1983; Ord. 29-83, passed 12-27-1983; Ord. 17-86, passed 7-24-1986; Ord. 19-86, passed 9-15-1986; Ord. 36-87, passed 12-10-1987; Ord. 42-90, passed 11-27-1990; Ord. 4-92, passed 3-11-1992; Ord. 95-13, passed 7-27-1995; Ord. 97-17, passed 1-14-1998; Ord. 99-1, passed 3-24-1999; Ord. 2000-2, passed 2-9-2000; Ord. 08-2, passed 2-13-2008; Ord. 2014-5, passed 5-14-2014; Ord. 2014-17, passed 12-2-2014; Ord. 2014-18, passed 12-17-2014)

ZONING MAP

§ 155.020 ADOPTION OF ZONING MAPS.

The City of Winchester and the unincorporated area of the county are hereby divided into zones and districts as provided and described herein, and as shown on the zoning map which is hereby adopted by reference and declared to be a part of this chapter.

(Prior Code, § 2.1)

§ 155.021 MAINTENANCE OF ZONING MAPS AND AMENDMENT RECORDS.

(A) A complete and accurate copy of each of the official zoning maps shall be filed and available for public inspection in the office of the Planning Commission or the Zoning Enforcement Officer. A copy of each of the official zoning maps, as originally adopted, shall also be filed and available for public inspection in the office of the County Court Clerk and the City Clerk of the City of Winchester. All amendments to the zoning maps shall be posted on the appropriate map within 30 days after final approval of such amendment by the City of Winchester or the County Fiscal Court.

(B) The Enforcement Officer shall also maintain an accurate record of all zoning map amendments, indicating the name of the applicant, the location and area of the zoning map amendment, the date of final action by the Planning Commission, and the date of approval by the legislative body involved. A report of all zoning map amendments containing the aforementioned information shall be submitted annually and within the first 60 days of the following year. This report shall be submitted to the Planning Commission and made a part of its minute record. One copy of said annual report shall be filed in the office of the County Court Clerk.

(Prior Code, § 2.2)

§ 155.022 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

The following rules shall be used to interpret the exact location of the zoning district boundaries shown on the zoning map.

(A) Where a zoning district boundary follows an alley, a street, or railroad, the centerline of the alley, street, or railroad

right-of-way is the boundary of the district.

- (B) Where a zoning district boundary approximately follows a lot or property line, that line is the boundary of the district.
- (C) Where a zoning district boundary follows a stream or the shore of a body of water, that stream or shore line is the boundary of the district.
- (D) Where a zoning district boundary does not clearly follow any of the features mentioned above, its exact location on the ground shall be determined by measurement according to the map scale.
- (E) In any case where the exact location of a boundary is not clear, the Board of Zoning Adjustment shall use these rules to determine the exact location upon application by the Enforcement Officer for an original interpretation.

(Prior Code, § 2.3)

ADMINISTRATION

§ 155.035 ENFORCEMENT OFFICER.

The Planning Commission shall designate and appoint one or more Enforcement Officers or zoning administrators who may be members of the Commission, who shall be charged with and provided with the authority to enforce the ordinances, regulations, and orders of the Planning Commission and to issue zoning permits and certificates of occupancy. The Enforcement Officers, in the performance of their duties and functions, may enter upon any land and examination and surveys that do not occasion damage or injury to private property.

(Prior Code, § 3.1)

§ 155.036 ZONING PERMITS.

(A) *Required prior to construction or alteration.* It shall be unlawful to commence construction or alteration of any structure until the Enforcement Officer has issued a zoning permit authorizing such work, except as specified elsewhere in this chapter. The Planning Commission may establish a schedule of reasonable fees to be charged for the issuance of zoning permits, which schedule must be approved by the city and county legislative bodies. An accounting procedure shall be established by the Planning Commission and an annual report of all such fees received by the Planning Commission shall be submitted.

(B) *Exceptions.* No zoning permit or certificate of occupancy shall be required in the following cases:

- (1) Recurring maintenance work regardless of cost;
- (2) Construction or alteration of agricultural structures which conform with all setback requirements with respect to existing and proposed streets and highways;
- (3) Installation of required improvements according to an approved preliminary subdivision plat or planned development plat; and
- (4) Those structures and uses specifically exempted by the terms of this order.

(C) *Procedure.*

(1) *Application.* In applying to the Enforcement Officer for a zoning permit, the applicant shall provide the Enforcement Officer with information indicating the dimensions of the lot to be built upon, the outside dimensions of all structures to be constructed or altered and all existing structures, the use of all structures, yard depths, and any other information necessary for determining conformance with the zoning order. The County Health Officer's certificate approving proposed water and sewage facilities must accompany applications whenever such certificate is required by the terms of this chapter or such a requirement is established by the Planning Commission. Other application requirements and procedures may also be established by the Planning Commission.

(2) *Permanent file.* The Enforcement Officer shall keep a permanent file of all applications with accompanying plans and all permits issued.

(3) *Issuance.* If the proposed construction or alteration conforms with all applicable provisions of the zoning order and all other applicable orders, regulations, and codes, the Enforcement Officer shall issue a zoning permit authorizing such construction or alteration. If the proposed construction or alteration fails to conform, the Enforcement Officer shall refuse to issue a zoning permit and shall deliver written notice to the applicant stating the reasons for the refusal. The Enforcement Officer shall act upon applications for zoning permits within one week from the date of their submission.

(4) *Validity.* The issuance of a zoning permit by the Enforcement Officer shall not waive any provision of the zoning order.

(5) *Duration.* A zoning permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the construction or alteration authorized therein. A zoning permit may be reviewed without fee upon review by the Enforcement Officer before it becomes void.

(Prior Code, § 3.2) Penalty, see § 155.999

§ 155.037 CERTIFICATES OF OCCUPANCY.

(A) *Required prior to occupancy, change of use, and under other conditions* It shall be unlawful to use any newly erected or altered structure or to change the use of any premises even though no structure was erected or altered until the Enforcement Officer has issued a certificate of occupancy authorizing such use except as specified elsewhere in this chapter. The Planning Commission may establish a schedule of reasonable fees to be charged for the issuance of certificates of occupancy.

(B) *Procedure.*

(1) *Application.* In applying to the Enforcement Officer for a certificate of occupancy, the applicant shall notify the Enforcement Officer in writing of the date on which the use of any new or altered structures or the new use of any premises will be ready to commence. The County Health Officer's certificate must accompany applications according to the requirements of this chapter.

(2) *Permanent file.* The Enforcement Officer shall keep a permanent file of all applications and all certificates issued.

(3) *Issuance.* If the newly erected or altered structure and the new use of premises conform with all applicable orders, regulations, and codes, the Enforcement Officer shall issue a certificate of occupancy authorizing the use thereof. If the structure or use fails to conform, the Enforcement Officer shall refuse to issue a certificate of occupancy and shall deliver written notice to the applicant stating the reasons for the refusal. The Enforcement Officer shall inspect a new structure or the premises for which a new use is proposed and shall issue or refuse a certificate of occupancy within five days after the date on which the new use is ready to commence.

(4) *Validity.* The issuance of a certificate of occupancy by the Enforcement Officer shall not waive any provision of the zoning order.

(Prior Code, § 3.3) Penalty, see § 155.999

NONCONFORMING STRUCTURES AND USES

§ 155.050 NONCONFORMING STRUCTURES.

Nonconforming structures may remain subject to the following regulations.

(A) *Alterations.* A nonconforming structure shall not be enlarged, replaced, or structurally altered except in conformance with the zoning order. Any structure, however, may be restored to a safe condition if declared unsafe by the Enforcement Officer or other public official with jurisdiction.

(B) *Construction.* Proposed structures for which building and/or zoning permits have been issued prior to their designation as nonconforming by virtue of the adoption or amendment of the zoning order may be completed as originally intended and as indicated on said permits, provided that such structures are completed within one year after the date on which the building permit was issued.

(Prior Code, § 4.1) (Ord. 30-83, passed 1-11-1984)

§ 155.051 NONCONFORMING USES.

Nonconforming uses may be continued subject to the following regulations.

(A) *Extension.* A nonconforming use shall not be extended beyond the scope and area of its operation at the time of the adoption of the regulation which makes such use nonconforming.

(B) *Discontinuance.* Whenever a nonconforming use of any structure or premises has been discontinued for a period of 12 months, except when government action or structural damage prevents such use, said structure or premises must thereafter be used in conformance with the zoning order.

(C) *Change.* The nonconforming use of premises may be changed to another nonconforming use, provided such new nonconforming use is permitted within the same or a more restrictive zoning district.

(D) *Restoration.* Whenever the nonconforming use of any structure or premises is halted because of the damage, destruction, or demolition of the structure by any means, the structure involved may be reconstructed or repaired in conformance with the zoning order and the nonconforming use resumed, provided that such nonconforming use is not extended beyond the scope and area of its operation as it existed prior to such damage, destruction, or demolition.

(Prior Code, § 4.2)

§ 155.052 NONCONFORMING LOTS.

(A) In any case where a lot of official record or a lot which has received final plat approval by the Planning Commission, at the date of the adoption or amendment of this chapter, does not conform to the width, depth, or area requirements of this chapter with respect to such lots, it shall be considered a legal nonconforming lot.

(B) Any such lot which has received preliminary plat approval by the Planning Commission shall be reviewed by the Planning Commission and may be considered a legal nonconforming lot if it is found that such lot may reasonably be used as a building site for any structure or use permitted within the zoning district involved without requiring a dimensional variance.

(C) Any subdivision or tract of land which has been previously rezoned to a residential classification may be developed in accordance with the lot area requirements for said zoning district rather than the area requirements contained in this chapter, provided that all requirements of the subdivision regulations are observed.

(Prior Code, § 4.3)

§ 155.053 REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of structure, and on any structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, or other parts, provided that the cubic content of the nonconforming structure or portion shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof.

(Prior Code, § 4.4)

BOARD OF ZONING ADJUSTMENT

§ 155.065 APPOINTMENT AND ORGANIZATION.

The Board of Zoning Adjustment as constituted at the time of the adoption of this chapter shall continue to operate in the manner hereinafter prescribed.

(Prior Code, § 5.1)

§ 155.066 POWER AND DUTIES.

The Board shall have the following powers and duties.

(A) *Bylaws.* The Board shall adopt bylaws for its own government and shall keep minutes and records of all proceedings.

(B) *Administrative review.* The Board shall hear and decide upon appeals from decisions of the Enforcement Officer. The Board shall decide on questions involving literal interpretations of the zoning order, shall interpret the exact location of zoning district boundaries, and shall make only those other interpretations and decisions specifically delegated to it by the provisions of the zoning order.

(C) *Conditional uses.* The Board shall have the authority to approve or disapprove applications for only those conditional uses upon which it has been specifically delegated to act by the provisions of the zoning order. The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit. The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing, and other applicable regulations.

(D) *Variance.*

(1) The Board shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulation or by reason of exception topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but no population density) of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant.

(2) Before any dimensional variance is granted, the Board must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance:

(a) The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone;

(b) The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone;

(c) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation; and

(d) Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.

(E) *Other variances.* The Board is also empowered to approve, disapprove, or approve conditionally applications for the following.

(1) Variances from the requirements for noise level emission from industrial uses upon finding that bringing the source of the sound or activity for which the variance is sought into compliance would constitute an unreasonable hardship on the applicant, on the community, or on other persons. A separate application shall be filed for each source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into

one application.

(2) Variances from screening requirements of §§ 155.096(D) and 155.097(D). The Board shall utilize appropriate sections of the Landscape and Land Use Buffer Guidelines of the County Conservation District as the minimum standards for any such variance.

(F) The Planning Commission shall also have authority to grant variances and issue conditional use permits only in the following circumstances.

(1) *In conjunction with approval of subdivision plans* In conjunction with the review and approval of subdivision plans, the Planning Commission is authorized to grant dimension variances upon finding that:

(a) The variance is a result of customary design standards or innovative design which, in the Commission's opinion, still achieve the basic objectives of the zoning laws and subdivision regulations; or

(b) Strict compliance with the regulations would create an undue hardship because of exceptional and unique topographic or other physical conditions encountered upon the particular land, and the resulting variance may be granted without detriment to the public good.

(2) *In conjunction with the zoning map amendment*

(a) At the time of the filing of an application for a map amendment, the applicant may request to have one or more variances and/or one or more conditional use permits for the same development to be heard and finally decided by the Planning Commission at the same public hearing set for the map amendment.

(b) When so requested by the applicant, the Planning Commission shall hear and decide applications for variances or conditional use permits; and in such case, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251. The decision of the Planning Commission shall be final.

(c) Nothing in this section shall be deemed to prohibit the applicant from electing to have applications for variances or conditional use permits heard by the Board of Adjustments as otherwise provided in KRS Chapter 100 and this zoning code.

(Prior Code, § 5.2) (Ord. 20-82, passed 9-28-1982; Ord. 95-13, passed 7-27-1995)

§ 155.067 PROCEDURE.

(A) An application to the Board for an original interpretation or decision or an appeal from a decision of the Enforcement Officer shall be made in writing on forms prescribed by the Board and which provide sufficient information for administrative purposes. Additional statements or information with respect to the case involved may also be submitted by the applicant for review by the Board. An appeal must be filed within 30 days after the Enforcement Officer has refused a zoning permit or certificate of occupancy, or the right to appeal shall be waived. The Enforcement Officer shall transmit to the Board the complete record of the decision appealed.

(B) The Board shall hold a hearing at which all pertinent evidence concerning the interpretation, decision, or appeal shall be examined, and the Board shall make its decision within 30 days after the hearing. The following rules shall govern all decisions made by the Board.

(1) *Limits of authority.* The Board shall act only within the strict limits of its authority as defined in the zoning order. The Board has no authority to vary the use regulations or other regulations not specifically delegated to it. The Board shall not hold hearings on applications or appeals seeking decisions that the Board is not authorized to make.

(2) *Special conditions.* The Board may attach special conditions to any decision it is authorized to make in order to ensure that the intent of the zoning order will be carried out.

(3) *Majority vote required.* The concurring vote of a majority of the entire membership of the Board shall be necessary in making any decision.

(4) *Additional powers.* In exercising the above powers, the Board shall have all the powers of the Enforcement Officer in addition to its other powers and duties.

(Prior Code, § 5.3) (Ord. 98-4, passed 6-10-1998)

ZONING DISTRICTS

§ 155.080 AGRICULTURAL DISTRICT (A-1).

(A) Principal uses permitted:

- (1) Agricultural, farming, dairying, stock-raising, horticulture, forestry, and related activities;
- (2) Single-family dwellings;
- (3) Class B and Class C manufactured homes;
- (4) Animal husbandry services, including veterinarians and animal hospitals; and

(5) Public schools and colleges for academic instruction.

(B) Accessory uses permitted:

- (1) Accessory uses customarily associated with the permitted uses listed above;
- (2) Garage or other building not used as a dwelling and accessory to the principal use;
- (3) Private swimming pools, tennis courts, and similar recreational facilities;
- (4) Renting of sleeping rooms provided that three sleeping rooms are the maximum that shall be rented in any residence;

(5) Signs identifying the agricultural activity on the same premises;

(6) Tenant houses, including Class A, B, and C manufactured homes, provided that only one such tenant house is permitted for each increment of 50 acres in excess of the minimum lot size required for the principal dwelling;

(7) Sales of agricultural products produced on the premises;

(8) Temporary structures used in the sale of agricultural products produced on the premises;

(9) Home offices as defined in §155.007; and

(10) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

(1) Home occupations in accordance with the standards set forth in §155.007. On a parcel of not less than seven acres, one Class A, B, or C single wide mobile/manufactured home (as defined in § 155.129) in addition to the principal dwelling, when occupied by a member of the immediate family and spouse of the owner of the principal dwelling. Mobile/manufactured home shall comply with all of the following:

(a) Board of Zoning Amendment (BZA) approval shall be given for a specific immediate family member and spouse; if that family member/spouse no longer resides in the home, the mobile/manufactured home shall be removed or the property owner shall request approval from the BZA for another immediate family member and spouse to move into the structure;

(b) Structure shall not be altered in any way that prevents or impedes removal of the structure at a future time; and

(c) Structure shall not be converted from personal property to real property. Structure is not eligible for affidavit of conversion.

(2) Privately owned outdoor recreational facilities such as golf courses, country clubs, riding stables, campgrounds, fishing lakes, and sportsman's clubs;

(3) Bed and breakfast home. The Board of Adjustments shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustments shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within one mile of the property being considered for such use;

(4) Churches, Sunday schools, parish houses, and cemeteries;

(5) Private schools and colleges for academic instruction;

(6) Kennels, provided they are screened and fenced;

(7) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child;

(8) Commercial radio and television transmitting towers (except those regulated by the Public Service Commission) and housing for related equipment; and

(9) Other appropriate uses as determined by the Board of Adjustments based on the Board's findings that the proposed use is of an agricultural character and a use that contributes to the agricultural economy; such as agritourism, agribusiness, value added agriculture activities, or other alternative agriculture opportunities.

(D) Special uses:

(1) Planned development project for a rural residential cluster development in accordance with §155.131;

(2) Family farm homesite as regulated by § 155.132; and

(3) Transfer of development rights as regulated by § 155.133.

(E) Dimension and area requirements - five acres or more.

Maximum height	35 feet
Maximum lot coverage	30%

Minimum front yard	75 feet
Minimum lot area	43,560 square feet (1 acre)
Minimum lot width	125 feet
Minimum public road frontage	250 feet*
Minimum rear yard	50 feet
Minimum side yard	50 feet

*Except as provided in §§ 153.131 and 155.132

(F) Dimensions and area requirements* - less than five acres.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum front yard	75 feet
Minimum rear yard	50 feet
Minimum road frontage	200 feet
*Minimum side yard	150 feet

*Where a residence exists at the time of the adoption of this order in an agriculturally zoned area of the county, and the residence has been previously constructed within less than 150 feet from an adjoining property owner, the minimum side yard requirement of 150 feet shall not be required as to that side where the residence has been constructed less than 150 feet from an adjoining property owner.

(G) Parking requirements may be found in §155.165 to 155.168.

(H) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.1) (Ord. 76-63, passed 8-25-1976; Ord. 22-81, passed 10-22-1981; Ord. 29-83, passed 12-28-1983; Ord. 30-83, passed 1-11-1984; Ord. 17-88, passed 7-26-1988; Ord. 42-90, passed 11-27-1990; Ord. 95-19, passed 12-13-1995; Ord. 1-98, 1-20-1998; Ord. 9-98, passed 6-2-1998; Ord. 98-4, passed 6-10-1998; Ord. 99-1, passed 3-24-1999; Ord. 1-2000, passed 2-1-2000; Ord. 08-2, passed 2-13-2008; Ord. 3-2008, passed 3-18-2008; Ord. 15-2014, passed 12-2-2014; Ord. 2014-17, passed 12-2-2014; Ord. 2017-21, passed 3-8-2017)

§ 155.081 SINGLE-FAMILY RESIDENTIAL (R-1A).

(A) Principal uses permitted: single-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Home offices as defined in §155.007; and
- (4) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Home occupations in accordance with the standards set forth in §155.007;

(2) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screen play area containing not less than 25 square feet per child; and

(3) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use.

(D) Other conditional uses permitted: churches, libraries, and country clubs are permitted conditional uses, subject, however to the following special conditions:

- (1) Any other front and side yard limitations contained herein to the contrary notwithstanding, the minimum front and side yards permitted shall be the greater of:
 - (a) The principal structure at its highest point (exclusive of steeples, cupolas, and the like) multiplied by one and one-half; or

- (b) The width of the principal structure divided by two.
- (2) The minimum lot area required shall be double that required for principal permitted uses;
- (3) In addition to the parking requirements contained in §§155.165 to 155.168, no parking shall be permitted in the required side yards or required front yard;
- (4) As a minimum, the site shall be landscaped and buffered in accordance with the Landscape and Buffer Guidelines of the County Conservation District, provided, however, that the Board of Adjustment may, in its discretion, require such reasonable additional buffering as circumstances may require;
- (5) The site shall be located so as to provide ingress and egress directly onto a public street and so as not to create a traffic hazard; and
- (6) Nothing herein shall be deemed to limit the power of the Board of Adjustment to attach other conditions, or to exercise any of the other powers granted to it under §§ 155.065 to 155.067.

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum front yard	50 feet
Minimum lot area, with sanitary sewer	18,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	125 feet
Minimum rear yard	25 feet
Minimum side yard	20 feet

(F) Parking requirements may be found in §155.165 to 155.168.

(G) Sign requirements may be found in §§ 155.180 to 155.192.

(Prior Code, § 6.2) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.082 SINGLE-FAMILY RESIDENTIAL (R-1B).

- (A) Principal uses permitted: single-family dwellings.
- (B) Accessory uses permitted:
 - (1) Garage or other building not used as a dwelling accessory to the principal use;
 - (2) Private swimming pools, tennis courts, and similar recreational facilities;
 - (3) Home offices as defined in §155.007; and
 - (4) Child-care facilities for not more than three children located within an owner-occupied residence.
- (C) Conditional uses permitted:
 - (1) Home occupations in accordance with the standards set forth in §155.007;
 - (2) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child; and
 - (3) Bed and breakfast home: the Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use.
- (D) Other conditional uses permitted: churches, libraries, and country clubs, are conditional uses permitted, subject, however, to the same conditions set forth in § 155.081(D).
- (E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum both sides	25 feet
Minimum front yard	35 feet
Minimum lot area, with sanitary sewer	14,000 square feet

Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	100 feet
Minimum rear yard	25 feet
Minimum side yard	12 feet

(F) Parking requirements may be found in §155.165 to 155.168.

(G) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.3) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.083 SINGLE-FAMILY RESIDENTIAL (R-1C).

(A) Principal uses permitted: single-family dwellings.

(B) Accessory uses permitted:

(1) Garage or other building not used as a dwelling and accessory to the principal use;

(2) Private swimming pools, tennis courts, and similar recreational facilities;

(3) Renting of sleeping rooms by a resident owner, provided that two sleeping rooms are the maximum that shall be rented in any residence;

(4) Home offices as defined in §155.007; and

(5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

(1) Home occupations in accordance with the standards set forth in §155.007;

(2) Two-family residences, provided that the property involved adjoins a district other than residential;

(3) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and

(4) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, and country clubs, are conditional uses permitted, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum both sides	20 feet
Minimum front yard	30 feet
Minimum lot area, with sanitary sewer	9,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	75 feet
Minimum rear yard	25 feet
Minimum side yard	9 feet

(F) Parking requirements may be found in §155.165 to 155.168.

(G) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.4) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.084 SINGLE-FAMILY RESIDENTIAL (R-1D).

(A) Principal uses permitted: single-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident owner, provided that two sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Home occupations in accordance with the standards set forth in §155.007;
- (2) Two-family residences, provided that the property involved adjoins a district other than residential;
- (3) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and
- (4) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, and country clubs are conditional uses permitted, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum both sides	16 feet
Minimum front yard	25 feet
Minimum lot area, with sanitary sewer	6,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	60 feet
Minimum rear yard	25 feet
Minimum side yard	7 feet

(F) Parking requirements may be found in §155.165 to 155.168.

(G) Sign requirements may be found in §§ 155.180 to 155.192.

(Prior Code, § 6.5) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.085 SINGLE-FAMILY RESIDENTIAL (R-1E).

- (A) Principal uses permitted: single-family detached dwellings.
- (B) Accessory uses permitted:
 - (1) Garage or other building not used as a dwelling and accessory to the principal use;
 - (2) Private swimming pools, tennis courts, and similar recreational facilities;
 - (3) Renting or sleeping rooms by a resident owner, provided that two sleeping rooms are the maximum that shall be rented in any residence;
 - (4) Home offices as defined in §155.007; and
 - (5) Child-care facilities for not more than three children located within an owner-occupied residence.
- (C) Conditional uses permitted:
 - (1) Nursery schools, day nurseries, and private kindergartens, provided that a fenced play area is provided;
 - (2) Home occupations in accordance with the standards set forth in §155.007;
 - (3) Two-family residences, provided that the property involved adjoins a district other than residential;
 - (4) Bed and breakfast homes. The Board of Adjustment shall consider and make a finding that the number of rooms

permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and

(5) Kindergarten, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, and county clubs, are conditional uses permitted, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot area, with sanitary sewer	4,000
Maximum lot coverage	65%
Minimum front yard	20 feet
Minimum lot width	40 feet
Minimum rear yard	15 feet
Minimum side yard	3 feet (see note below)

(F) Parking requirements are found in §§155.165 to 155.168.

(G) Sign requirements are found in §§155.180 to 155.192.

(H) Special provisions. There shall be not less than six feet at any point between the walls of each single-family residence. Side yards shall be determined as follows:

- (1) Where one wall of the structure is to be located on the side lot line, the yard on the opposite side shall be at least six feet;
- (2) The final record plat shall designate the lots which are to have zero lot line structures under this provision;
- (3) A three-foot wall maintenance easement shall be provided on the lot adjacent to the zero lot line easement;
- (4) No wall, air conditioning unit, structure, or any other obstruction shall be located within the required side yard; and
- (5) Any fence located in a required side yard must be entirely to the rear of the principal structure on the lot.

(Prior Code, § 6.5A) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, 11-27-1990; Ord. 98-12, passed 11-24-1998)

§ 155.086 TWO-FAMILY RESIDENTIAL (R-2).

(A) Principal uses permitted:

- (1) Single-family residences; and
- (2) Two-family residences.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident in a single-family dwelling, provided that two sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Home occupations in accordance with the standards set forth in §155.007;

(2) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and

(3) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum front yard	40 feet
Minimum lot area, with sanitary sewer	10,000 plus 3,000 square feet for each unit over one
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	100 feet
Minimum rear yard	25 feet
Minimum side yard	12 feet

(E) Parking requirements may be found in §§155.165 to 155.168.

(F) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.6) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.087 MULTIPLE-FAMILY RESIDENTIAL (R-3).

(A) Principal uses permitted:

- (1) Single-family dwellings;
- (2) Two-family dwellings; and
- (3) Multi-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident in a single-family dwelling, provided that three sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

(1) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use.

(2) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, and rest homes, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements

Maximum height	35 feet
Maximum lot coverage	30%
Minimum front yard	35 feet
Minimum lot area, with sanitary sewer	8,000 plus 2,500 square feet for each unit over one
Minimum lot area, without sanitary sewer	43,560 square feet for each unit
Minimum lot width	70 feet
Minimum rear yard	25 feet
Minimum side yard	10 feet

(F) Parking requirements may be found in §§155.165 to 155.168.

(G) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.7) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.088 MULTIPLE-FAMILY RESIDENTIAL (R-4).

(A) Principal uses permitted:

- (1) Single-family dwellings;
- (2) Two-family dwellings; and
- (3) Multi-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident in a single-family dwelling, provided that three sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and
- (2) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, and rest homes, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum both sides	16 feet
Minimum front yard	25 feet
Minimum lot area, with sanitary sewer	6,000 plus 2,500 square feet for each unit over one
Minimum lot area, without sanitary sewer	43,560 square feet for each unit (plus 10,000)
Minimum lot width	60 feet
Minimum rear yard	25 feet
Minimum side yard	7 feet
Open space	200 square feet per dwelling unit

(F) Parking requirements may be found in §§155.165 to 155.168.

(G) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.8) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.089 RESIDENTIAL (R-5).

(A) Principal uses permitted: multi-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal uses;

- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident of a single-family dwelling, provided that three sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Home occupations in a single-family residence only in accordance with the standards set forth in §155.007;
- (2) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustment shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and
- (3) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, and rest homes, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements

Maximum height	None
Maximum lot coverage	30%
Minimum both sides	16 feet
Minimum front yard	25 feet
Minimum lot area, with sanitary sewer	6,000 plus 2,500 square feet for each unit over one
Minimum lot area, without sanitary sewer	43,560 square feet for each unit
Minimum lot width	60 feet
Minimum rear yard	25 feet
Minimum side yard	7 feet
Open space	200 square feet per dwelling unit

(F) Parking requirements may be found in §§155.165 to 155.168.

(G) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.9) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.090 RESIDENTIAL TOWNHOUSE (R-6).

(A) Principal uses permitted:

- (1) Single-family attached dwellings, except that not more than six units shall be attached; and
- (2) Multi-family dwellings.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;
- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting or sleeping rooms by a resident of a single-family dwelling, provided that three sleeping rooms are the maximum that shall be rented in any residence;
- (4) Home offices as defined in §155.007; and
- (5) Child-care facilities for not more than three children located within an owner-occupied residence.

(C) Conditional uses permitted:

- (1) Nursery schools, day nurseries, and private kindergartens, provided that a fenced play area is provided;
- (2) Home occupations in a single-family residence only, in accordance with the standards set forth in §155.007;
- (3) Bed and breakfast home. The Board of Adjustment shall consider and make a finding that the number of rooms

permitted shall not have an adverse effect on surrounding properties. In addition, the Board of Adjustments shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood, that is, within 500 feet of the property being considered for such use; and

(4) Kindergartens, nursery schools, and child-care facilities for more than three children when located in a permitted church, private school, or owner-occupied residence. When located in a residence, enrollment shall be limited to 12 children. Each such facility shall have a fenced and screened play area containing not less than 25 square feet per child.

(D) Other conditional uses permitted: churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, and rest homes, subject, however, to the same conditions as set forth in § 155.081(D).

(E) Dimensional and area requirements.

Maximum height	35 feet
Maximum lot coverage	Unlimited
Minimum front yard	10 feet
Minimum lot area, with sanitary sewer	1,500 square feet
Minimum lot width	16 feet
Minimum rear yard	15 feet
Minimum side yard	7 feet
Open space	10%

(F) Parking regulations are found in §§ 155.165 to 155.168.

(G) Sign regulations are found in §§ 155.180 to 155.192.

(H) Special provisions:

(1) No more than two contiguous townhouse units may be established at the same setback. A variation of at least three feet shall be required where a break in setback occurs. Buildings may penetrate up to 18 inches over the building line into the required front yard, but the average setback of the contiguous units shall be at least as great as the required front yard;

(2) Not less than 10% of the total lot area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and directly accessible to each lot. Such open space shall be for the private use of the residents of each individual townhouse and shall be physically separated from the other private open space or common open space by planting, fences, or walls. The least dimension of the private open space shall be eight feet; and

(3) Any development containing more than two rows of townhouse units shall provide rear access via a public or private alley as provided for within the subdivision regulations.

(Prior Code, § 6.9A) (Ord. 30-83, passed 1-11-1984; Ord. 42-90, passed 11-27-1990; Ord. 98-12, passed 11-24-1998)

§ 155.091 PROFESSIONAL OFFICE DISTRICT (P-1).

(A) Principal uses permitted:

- (1) Single-family dwellings;
- (2) Multi-family dwellings;
- (3) Professional, business, and governmental offices;
- (4) Research, development, or testing laboratories;
- (5) Studios for the production or teaching of fine arts, such as photography, music, dance, and drama;
- (6) Ticket and travel agencies;
- (7) Medical and dental offices, laboratories, and clinics;
- (8) Schools and colleges for academic, technical, vocational, or professional instruction;
- (9) Bed and breakfast homes;
- (10) Hospitals; and

(11) Kindergartens, nursery schools, and child-care facilities provided that each such facility shall have a fenced and screened play area of not less than 25 square feet per child.

(B) Accessory uses permitted:

- (1) Garage or other building not used as a dwelling and accessory to the principal use;

- (2) Private swimming pools, tennis courts, and similar recreational facilities;
- (3) Renting of sleeping rooms by a resident family. Three sleeping rooms are the maximum that shall be rented in any building; and
- (4) Dwelling units occupying the same building as a principal use.

(C) Conditional uses:

- (1) Drive-in type banks and business offices, provided that access to such establishments is approved by the City or County Engineer or by any other appropriate official designated by the Board, and does not create a hazardous traffic situation; and

- (2) Heliports, provided that all state and federal regulations are met.

- (D) Other conditional uses: churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, and funeral homes, subject, however, to the same conditions set forth in § 155.081(D).

(E) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	40%
Minimum front yard	30 feet
Minimum lot area, with sanitary sewer	10,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	60 feet
Minimum rear yard	25 feet
Minimum side yard	10 feet

- (F) Parking requirements may be found in §§ 155.165 to 155.168.

- (G) Sign requirements may be found in §§ 155.180 to 155.192.

(Prior Code, § 6.10) (Ord. 30-83, passed 1-11-1984; Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998)

§ 155.092 NEIGHBORHOOD BUSINESS DISTRICT (B-1).

(A) Principal uses permitted:

- (1) Those uses permitted and as regulated in the Professional Office District (P-1);
- (2) Retail sales establishments for the sale of food, food products, and general merchandise;
- (3) Personal service establishments such as barber shops, beauty shops, and shoe repair shops; and
- (4) Restaurants.

(B) Accessory uses permitted:

- (1) Parking lots and structures;
- (2) Garage or other building not uses as a dwelling and accessory to the principal use; and
- (3) Only that wholesaling of merchandise which is clearly incidental and subordinate to the principal retail use on the premises.

(C) Conditional uses permitted:

- (1) Car wash establishments, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes; and
- (2) Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobile service stations, drive-in banks, and business offices.

(D) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	None
Minimum front yard	20 feet
Minimum lot area, with sanitary sewer	

Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	50 feet
Minimum rear yard	None
Minimum side yard	None

(E) Parking requirements may be found in §§155.165 to 155.168.

(F) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.11) (Ord. 30-83, passed 1-11-1984; Ord. 98-4, passed 6-10-1998)

§ 155.093 DOWNTOWN BUSINESS (B-2).

(A) Principal uses permitted:

- (1) Those uses permitted and as regulated in the Neighborhood Business District (B-1);
- (2) Hotels, motels, and motor hotels;
- (3) Theaters;
- (4) Billiard parlors, bowling alleys, and similar indoor amusement enterprises;
- (5) Multi-family dwellings; and
- (6) Newspaper plant, printing, and publishing.

(B) Accessory uses permitted:

- (1) Parking lots and structures;
- (2) Garage or other building not used as a dwelling and accessory to the principal use; and
- (3) Only that wholesaling of merchandise which is clearly incidental and subordinate to the principal retail use on the premises.

(C) Conditional uses permitted:

- (1) Car wash establishments, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purpose;
- (2) Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobile service stations, drive-in banks, and business offices; and
- (3) Microbreweries, microdistilleries, microwineries, and brewpubs. Car wash establishments, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobiles services stations, drive-in banks, and business offices.

(D) Dimension and area requirements: none.

(E) Parking requirements may be found in §§155.165 to 155.168.

(F) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.12) (Ord. 21-77, passed 12-12-1977; Ord. 30-83, passed 1-11-1984; Ord. 2014-5, passed 5-14-2014)

§ 155.094 HIGHWAY BUSINESS DISTRICT (B-3).

(A) Principal uses permitted:

- (1) Those uses permitted and as regulated in the Downtown Business District (B-2);
- (2) Automobile service stations;
- (3) Restaurants;
- (4) Drive-in restaurants, provided that all outside food service areas are located at least 100 feet from any residential district;
- (5) Motel or hotel;
- (6) Indoor amusements, such as billiard or pool halls, dancing halls, skating rinks, theaters, or bowling alleys;

- (7) Drive-in theaters;
- (8) Mobile home sales and service;
- (9) Automobile-truck sales and/or service;
- (10) Minor automobile and truck repair;
- (11) Boat and marine supplies;
- (12) Used car lots;
- (13) Veterinary offices, laboratories, and clinics for the treatment and care of small animals only; provided, however, such animals shall be kept on the premises within confined kennels or buildings; and
- (14) Mini-warehouses, provided that no auctions, flea markets, bazaars, retail sales, or other similar commercial activity shall be conducted on the premises.

(B) Accessory uses permitted:

- (1) Parking lots and structures;
- (2) Dwelling units occupying the same building as the principal commercial use;
- (3) Garage or other building not used as a dwelling and accessory to the principal use; and
- (4) Wholesale of merchandise or services which is clearly incidental and subordinate to the principal retail use on the premises.

(C) Conditional uses:

- (1) Car wash establishments provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes;
- (2) Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobile service stations, drive-in banks, and business offices;
- (3) Those uses permitted in the B-4 Zoning District, provided the findings necessary for a proposed map amendment are determined by the Planning Commission pursuant to KRS 100.213. Dimensions and area requirements for the conditional use are substantially similar to and compatible with uses permitted in the B-3 Zone. Notices shall be provided as required for a zone change; and
- (4) Microbreweries, microdistilleries, microwineries, and brewpubs. Car wash establishments provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobile service stations, drive-in banks, and business offices.

(D) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	40%
Minimum front yard	50 feet
Minimum lot area, with sanitary sewer	5,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	50 feet
Minimum rear yard	None
Minimum side yard	None

(E) Parking requirements may be found in §§155.165 to 155.168.

(F) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.13) (Ord. 20-77, passed 11-22-1977; Ord. 8-79, passed 9-10-1979; Ord. 30-83, passed 1-11-1984; Ord. 17-86, passed 7-24-1986; Ord. 19-86, passed 9-15-1986; Ord. 2010-14, passed 5-26-2010; Ord. 2014-5, passed 5-14-2014)

§ 155.095 GENERAL BUSINESS DISTRICT (B-4).

(A) Principal uses permitted:

- (1) Those principal uses permitted in the Highway Business District (B-3), provided, however, that with respect to such

uses the front yard requirements set forth in § 155.094(D) shall apply;

- (2) Wholesale business;
- (3) Laundry, cleaning, and dyeing plants;
- (4) Mobile home and travel trailer sales and service;
- (5) Dairy or other food product bottling plants;
- (6) Tire retreading or recapping;
- (7) Truck terminals and freight yards;
- (8) Shops of special trade and general contractors such as electrical, plumbing, roofing, heating, carpentry, masonry, painting, plastering, metal work, printing, publishing, lithographing, engraving, sign painting, upholstering, tile mosaic and terrazzo work, and electroplating;
- (9) Warehouses and storage facilities;
- (10) Sale of building materials;
- (11) Sale of feed, grain, or agricultural supplies;
- (12) Greenhouses and plant nurseries;
- (13) Machine shops;
- (14) Automobile service stations;
- (15) Major or minor automobile and truck repair;
- (16) Establishments and lots for the display, rental, sale, and repair of farm equipment, contractors' equipment, and trucks;
- (17) Automobile and truck sales or service;
- (18) Used car lots;
- (19) Boat and marine supplies sales and service;
- (20) Billboards, subject to setback and other restrictions associated with principal permitted uses; and
- (21) Restaurants, indoor theaters, retail sales establishments, and personal service establishments, such as barbershops, beauty shops, and shoe repair shops.

(B) Accessory uses permitted:

- (1) Parking lots and structures;
- (2) Dwelling units occupying the same building as the principal commercial uses;
- (3) Outdoor storage of materials; and
- (4) Garage or other building not used as a dwelling and accessory to the principal use.

(C) Conditional uses permitted:

(1) Car wash establishments, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes; and

(2) Churches, libraries, country clubs, recreational and/or social clubs operated not for profit, nursing homes, convalescent or extended care facilities, rest homes, mortuaries, funeral homes, automobile service stations, drive-in banks, and business offices.

(D) Dimension and area requirements.

Maximum height	35 feet
Maximum lot coverage	100%
Minimum front yard	None
Minimum lot area, with sanitary sewer	5,000 square feet
Minimum lot area, without sanitary sewer	43,560 square feet
Minimum lot width	50 feet
Minimum rear yard	None
Minimum side yard	None

(E) Parking requirements may be found in §§155.165 to 155.168.

(F) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.14) (Ord. 5-79, passed 6-12-1979; Ord. 30-83, passed 1-11-1984; Ord. 19-86, passed 9-15-1986; Ord. 10-88, passed 5-24-1988)

§ 155.096 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) The intent of this district is to provide manufacturing, industrial, and related uses which are clean, quiet, and free from objectionable nuisances such as noise, air pollution, odor, and vibration. All operations must be conducted entirely within an enclosed structure and generate little industrial traffic (except employee traffic).

(B) Noise level requirement:

(1) Noise levels emitted from any activities or operations within this district shall not at any receiving property line exceed as follows.

<i>Receiving land use</i>	7:00 a.m. - 9:00 p.m.	9:00 p.m. - 7:00 a.m.
Commercial	65dB(a)	65dB(a)
Industrial	70dB(a)	70dB(a)
Residential	55dB(a)	50dB(a)

As measured with a sound level meter conforming to ANSI type II specifications or better.

(2) Air pollutant levels emitted from the activities or operations shall not exceed the guidelines set up by the Department of Natural Resources Environmental Protection.

(C) Principal uses permitted:

(1) Those principal uses permitted in the General Business District (B-4) as set forth in §155.095(A);

(2) Manufacturing, fabricating, casting, assembling, machining, packaging, processing, or similar treatment of materials for the production of goods, parts, products, or merchandise, including, but not limited to, furniture, tools, jewelry, wearing apparel, instruments, optical goods, food products, auto parts, pharmaceuticals, plastics, fiber, boxes, and crates;

(3) Retail sale of any product or commodity manufactured, fabricated, or processed on the premises;

(4) Building material sales yard and lumber yard, including the sale of rock, sand, and gravel when incidental to the principal use;

(5) Billboards and advertising signs, subject to setback and other restrictions associated with principal uses;

(6) Union halls, including offices and recreational facilities when incidental to the principal use; and

(7) Personal service establishments.

(D) Accessory uses permitted:

(1) Parking lots and structures;

(2) Garage or other building not used as a dwelling and accessory to the principal use; and

(3) Outside storage of goods incidental to the principal use provided that the storage is enclosed on all sides by a solid wall or fence at least six feet in height or an alternate method of screening subject to the review by, and approval of, the Board of Adjustments.

(E) Conditional uses permitted: commercial radio and television transmitting towers (except those regulated by the Public Service Commission) and housing for related equipment.

(F) Dimension and area requirements.

Minimum lot area, with or without sanitary sewer	43,560 square feet
Minimum lot width	50 feet

(G) Parking requirements may be found in §§155.165 to 155.168.

(H) Sign requirements may be found in §§155.180 to 155.192.

(Prior Code, § 6.15) (Ord. 1-80, passed 1-8-1980; Ord. 22-80, passed 7-22-1980; Ord. 20-82, passed 9-28-1982; Ord. 30-83, passed 1-11-1984; Ord. 19-86, passed 9-15-1986; Ord. 17-90, passed 5-10-1990; Ord. 2000-2, passed 2-9-2000; Ord.

§ 155.097 HEAVY INDUSTRIAL DISTRICT (I-2).

(A) The intent of this district is to provide manufacturing, industrial, and related uses which may potentially involve nuisance factors such as noise, air pollution, odor, and vibration.

(B) Noise level requirements:

(1) Noise levels emitted from any activities or operations within this district shall not at any receiving real property exceed as follows.

<i>Receiving land use</i>	<i>7:00 a.m. - 9:00 p.m.</i>	<i>9:00 p.m. - 7:00 a.m.</i>
Commercial	65dB(a)	65dB(a)
Industrial	70dB(a)	70dB(a)
Residential	60dB(a)	55dB(a)

As measured with a sound level meter conforming to ANSI type II specifications or better.

(2) Air pollutant levels emitted from the activities operation shall not exceed the guidelines set up by the Department of Natural Resources Environmental Protection.

(C) Principal uses permitted:

(1) Any use permitted in the I-1 zone provided that all provisions outlined herein shall apply;

(2) Manufacturing or industrial uses provided that any building or outside storage, loading, or working areas except accessory parking areas shall be located at least 300 feet from any residential land use and 100 feet from any other use except I-1;

(3) Manufacturing, including, but not limited to, foundries, brick kilns, curing and tanning, glue manufacturers, rendering plants, junk or wrecking material yards, gasoline storage areas, refuse dumps, sanitary landfill areas, or automobile racetracks. The manufacture and/or sale of rock, sand, or gravel when a principal use;

(4) Contractor's equipment storage yard or plant; and

(5) Billboards and advertising signs.

(D) Accessory uses permitted:

(1) Parking lots and structures;

(2) Garage or other building not used as a dwelling and accessory to the principal use; and

(3) Outside storage of goods incidental to the principal use provided that the storage is enclosed on all sides by a solid wall or fence at least six feet in height or an alternative method of screening subject to the review by and approval of the Board of Adjustments.

(E) Dimension and area requirements: none, except as provided in §§155.146 and 115.152.

(F) Parking requirements may be found in §§155.165 to 155.168.

(G) Sign requirements may be found in §§ 155.180 to 155.192.

(Prior Code, § 6.16) (Ord. 20-82, passed 9-28-1982)

SPECIAL ZONING DISTRICTS

§ 155.110 MOBILE HOME DISTRICT.

(A) Principal uses permitted: manufactured home parks, complexes, and subdivisions containing manufactured homes of Classes A, B, or C or any combination thereof.

(B) Accessory uses permitted: community open spaces, recreational areas, management or office headquarters, swimming pools, tennis courts, and other uses clearly incidental to a manufactured home park.

(C) Conditional uses permitted:

(1) Incidental retail uses such as barber and beauty shops, self-service laundries, news and novelty stands, snack bars, commissaries, and the like, operated solely for the convenience of the residents of the park;

(2) Nursery schools and day nurseries, provided a fenced-in play area is provided; and

(3) Home occupations in accordance with the standards set forth in §155.007.

(D) Minimum area for park, subdivision, or complex: no manufactured home park, complex, or subdivision shall be developed on a site of less than ten acres in area. Development may be permitted in stages in accordance with an approved development plan, provided that at least ten spaces are to be developed for use initially.

(E) The number of manufactured homes permitted in a park, subdivision, or complex shall not exceed eight per gross acre.

(F) Dimension and area requirements for individual lots.

Maximum height	35 feet
Maximum lot coverage	30%
Minimum front yard	20 feet
Minimum lot area, with sanitary sewer	2,400 square feet
Minimum lot area, without sanitary sewer	1 acre
Minimum lot width	35 feet
Minimum rear yard	20 feet
Minimum side yard	10 feet

(G) Application for the creation or enlargement of a manufactured home park, complex, or subdivision shall be made to the Winchester-Clark County Planning Commission. The application shall include a development plan. The application and development plan shall be in the form and contain such information as the Planning Commission may require. When the application and development plan shall have been approved, the project shall be developed in accordance with the plan approved, and no substantial change may be made without the prior approval of the Planning Commission. A zoning permit shall not be issued until a permit has been issued by the state pursuant to the state's Manufactured Home, Mobile Home, and Recreational Vehicle Community Act of 2002, as amended from time to time, or its successor. In addition to the zoning permit for the entire park, a building permit or certificate of occupancy is required for each individual lot.

(H) Any enlargement or extension of an existing manufactured home park, complex, or subdivision shall be in accordance with the requirements of this subchapter and a zoning permit shall be obtained for such enlargement or extension in the same manner as for a new park, complex, or subdivision.

(I) All manufactured home parks shall have access to an existing public street, and all lots within the park shall have access to a public street or to an interior street within the park. A manufactured home park may have either public or private streets, but in either instance, the streets shall be constructed in accordance with the Land Subdivision Regulations of Winchester and the county.

(Prior Code, § 7.1) (Ord. 29-83, passed 12-27-1983)

§ 155.111 PLANNED RECREATION DISTRICT.

(A) The intent of this district is to provide for the timely and appropriate development of those areas of the county which, because of natural or human-made physical features, such as forest or wilderness area, streams, lakes, unique topography or particular forms of development, are an asset which requires special consideration by the Planning Commission.

(B) Principal uses permitted:

- (1) Uses permitted and as regulated in the R-1 District;
- (2) Commercial campground or camping area;
- (3) Marina or boat dock, including the servicing and storage of boats; and
- (4) Public parks and recreation areas.

(C) Accessory uses permitted: accessory uses permitted and as regulated in the R-1 District.

(D) Conditional uses permitted:

- (1) Retail uses such as self-service laundries, snack bars, commissaries, and the sale of gasoline, oil, and marine supplies when incidental and accessory to a permitted principal use; and
- (2) Motels and recreational vehicle parks, private commercial recreational areas other than those permitted as principal use, and restaurants.

(E) The dimension and area requirements shall be the same as those associated with the district in which the use involved is first permitted, except that the requirements for residential uses shall be those associated with the R-1 District.

(F) Parking requirements may be found in §§155.165 to 155.168.

(G) Sign requirements shall be the same as those associated with the district in which the use involved is first permitted, except that the requirements for residential uses shall be those associated with the R-1 District.

(Prior Code, § 7.2) (Ord. 30-83, passed 1-11-1984)

§ 155.112 PLANNED DEVELOPMENT DISTRICT.

(A) The purpose of the Planned Development District is to permit the combination of a variety of uses in a single planned project and thus encourage innovating design and economy of space for urban development. The dimension area requirements involved shall not be varied unless a planned development project is approved by the Planning Commission.

(B) Principal uses permitted:

- (1) Agriculture and accessory agricultural structures; and
- (2) Farm dwellings.

(C) Special uses permitted:

(1) Planned development project for residential, professional office, commercial, or light industrial uses. The procedure for planned development projects shall be followed;

- (2) Residential or commercial subdivisions; and

- (3) Planned development project for designated public uses.

(D) Special regulations:

(1) The initial final plat of a planned development project or subdivision in a planned development district shall comprise at least five acres wholly within a planned development district and shall show the purposed design for development and use of that entire project area. Such a project thereafter may be expanded on adjacent land according to the planned development or subdivision procedure as applicable with no minimum acreage required provided the expansion is for the same principal use as the initial five-acre development and may be incorporated as an integral extension of the original plan. The effect of a planned development project on surrounding uses and the recommendations of all officially adopted plans shall be considered in determining the approval or disapproval of a project;

(2) (a) The Planning Commission shall require the dedication or reservation of a right-of-way, as authorized by the subdivision regulations to provide access to interior land in planned development districts.

(b) All access to arterial streets serving planned development districts shall be approved according to the standards contained in the zoning order.

(3) When a tract of land under five acres in a planned development district is under one ownership and that owner has owned no adjoining land at any time since the effective date of the zoning order, such a tract may be platted as a planned development project or subdivision.

(E) Dimension and area regulations: the dimension and area requirements for each use involved shall be those associated with the zoning district wherein the use is first permitted.

(F) An approved development plan may be amended only by the Planning Commission after a public hearing has been held on said proposed amendment. The procedure to be followed in amending a development plan shall be the same procedure as the procedure required for the original approval of said plan.

(G) A copy of the approved development plan shall be filed in the office of the Enforcement Officer and shall be used thereafter as a basis for the issuance of all building permits and certificates of occupancy, and such building permits and certificates of occupancy shall be issued only in conformance with said development plan or any properly approved amendment to said plan.

(Prior Code, § 7.3)

§ 155.113 HAZARDOUS DEVELOPMENT DISTRICT.

(A) The intent of this district is to protect persons and property from the hazards of development within areas which are subject to flooding or water inundation, landslides, or unstable soil conditions, by limiting the uses permitted within such areas to those which do not involve human habitation and are generally not affected by the aforementioned hazardous conditions.

(B) Principal uses permitted:

- (1) Agriculture, including dairying, and animal and poultry husbandry;

- (2) Public parks and recreation areas, open spaces;

(3) Equipment and material storage yards and salvage yards, provided that they are enclosed on all sides by a solid fence or wall not less than six feet high;

(4) Private recreation areas, uses, and facilities such as hunting and shooting clubs, excluding structures used for temporary or permanent human residency; and

- (5) Parking areas.

(C) Conditional uses permitted: sanitary landfill area or dumps, mineral extraction, mines, quarries, gravel pits, airports,

landing strips, and petroleum or inflammable liquid storage.

(D) Prohibited uses: residential structures.

(Prior Code, § 7.4) (Ord. 30-83, passed 1-11-1984)

§ 155.114 CROSSROADS COMMUNITY DISTRICT.

(A) The purpose of this district is to enable rural settlements to continue to exist and allow for limited residential growth and commercial expansion necessary to fulfill the daily need of the residents. This district is further intended to be a receiving area for development rights to permit increased density while creating less development in the farm oriented areas.

(B) Those uses permitted and as regulated in the following districts: R1-A through R-1E, R-2 through R-6, P-1, and B-1. Dimension and area requirements as well as sign requirements shall be the same as those associated with the district in which the use is first permitted.

(C) Any parcel within an identified cross community is eligible for the crossroad community zoning classification. However, the minimum site for any new development shall be five acres and may be under single or multiple ownership. Development may be permitted in stages and include a mixture of land uses.

(D) Existing parcels containing less than five acres shall also be eligible for crossroad community zoning classification in instances where a change in use is requested.

(E) Each individual use shall be located on a parcel of not less than one acre, unless density is increased by the use of Transferred Development Rights (TDRs).

(F) Each crossroad community development shall include a plan to ensure orderly growth, street interconnectivity, and provisions for storm water runoff control. Adequate public facilities shall be available to provide fire protection and the treatment of sanitary sewer waste. Any single use on a parcel of one or more acres shall utilize a disposal system reviewed and approved by the county's Health Department. On those parcels where density is greater than one per acre and the disposal system is mechanical in nature, this system must be accepted for maintenance by an approved agency. The location of the expanded residential and commercial uses shall fill in around the existing community by construction of connecting streets. The growth of the crossroads community shall be consistent with the small village character of the area.

(G) A Crossroads Community District shall be utilized only in areas designated by the Planning Commission after amending the Comprehensive Plan. Prior to this designation, a committee of eight shall be formed to receive comment from the residents and owners of the affected area to determine the appropriateness of a Crossroads Community designation. The committee shall be appointed jointly by the County Judge/Executive and the Planning Commission Chairperson and shall be composed of four persons who either reside or own property within two miles of the crossroads, one citizen at large, one member of the County Fiscal Court, one Planning Commission member, and one member of the Comprehensive Plan Update Committee existing at the time of the appointment. The Committee shall elect its own Chairperson. If a Crossroads Community is determined to be appropriate, then the Committee shall determine the boundaries of the district.

(Prior Code, § 7.5) (Ord. 99-1, passed 3-24-1999)

GENERAL DEVELOPMENT REGULATIONS

§ 155.125 COORDINATION WITH SUBDIVISION REGULATIONS.

(A) In all cases where land is to be subdivided, a subdivision for the purpose of eventual development of lots of any kind (residential, commercial, or industrial), the provisions of the Winchester-Clark County Subdivision Regulations shall apply in addition to the provisions of this chapter.

(B) It is desirable that access points to arterial streets serving all zoning districts shall be located no more frequently than once every eighth to quarter mile. Topography and traffic volumes shall determine the exact locations. Heavy arterial traffic volumes demand greater access spacing. Along any arterial street where subdivided land and its minor streets are not sufficiently developed to permit acceptably spaced access points the Winchester-Clark County Planning Commission (hereinafter known as the Planning Commission) may approve the platting of temporary access points and may require that temporary access points shall be eliminated by the developer when minor streets or marginal access streets are extended to the approved permanent access points. Such requirements shall be listed as special conditions on the recorded final plat. Access points shall also meet federal and state standards where applicable.

(Prior Code, § 8.1)

§ 155.126 WATER SUPPLY AND SEWAGE DISPOSAL.

It shall be unlawful to construct any building or occupy any mobile home without water supply and sewage disposal facilities approved by the County Health Officer. Wherever water or sewer mains are accessible, buildings and mobile homes shall be connected to such mains. In every other case, individual water supply and sewage disposal must meet the requirements established by the county's Health Department and the state's Department of Health.

(Prior Code, § 8.2) Penalty, see § 155.999

§ 155.127 REGULATION OF PRINCIPAL BUILDING.

Only one principal building and permitted accessory structure may be erected on any lot or parcel of land, unless a development plan has been approved by the Commission pursuant to § 155.130 allowing multiple principal structures. A billboard may be considered a principal structure if so designated in this chapter. Temporary structures are permitted during construction only, and Class A, B, or C mobile homes may be utilized as temporary structures. Temporary occupancy shall not exceed one year during construction of a residence nor two years during construction of other projects, provided, however, that the Enforcement Officer may grant an extension of time for good cause shown.

(Prior Code, § 8.3) (Ord. 29-83, passed 12-27-1983; Ord. 9-88, passed 5-24-1988)

§ 155.128 PLANNED DEVELOPMENT PROJECT REGULATIONS.

(A) *Intent.* The planned development project regulation is intended to permit the development of land for a purpose permitted within the zoning district in which located, and to increase the flexibility of design and encourage innovation by providing for the waiving of dimensional requirements. A planned development project may be permitted in those zoning districts where it is designated as a special use under the zoning district regulations or may be permitted in any district after an amendment to the zoning map. A planned development project may depart from literal conformance with individual lot dimension and area regulations. A planned development project may be under single or divided ownership. All planned development projects shall be subject to the following regulations.

(B) *Procedure.* When a planned development project is proposed, the procedure for subdivision approval as set forth in the Winchester-Clark County Subdivision Regulations shall be followed in its entirety even though the ownership of land may not be divided. A preliminary plat and final plat, both approved by the Planning Commission, shall be required for every planned development project. The Planning Commission may establish a schedule of reasonable fees to be charged for plat review. The project shall be developed according to the approved final plat. Zoning permits and certificates of occupancy shall be required for each building according to the requirements of this chapter.

(C) *Uses and densities.* The uses of premises and development densities in a planned development project shall conform with the permitted uses and densities of the zoning district in which it is located when it is permitted as a special use. If a planned development project is proposed which includes uses or densities that are not permitted in the zoning district where it is proposed or not permitted in any zoning district, the project may be permitted after an amendment to the zoning district in conformance with the requirements of this chapter. The amendment may be made after the conditional approval of the preliminary plat and shall be valid only for that project as approved.

(D) *Standards.* In any planned development project, although it is permissible to depart from literal conformance with the individual lot dimension and area regulations, there shall be no reduction in the total equivalent lot area, parking area, and loading and unloading area requirements that would be necessary for the equivalent amount of individual lot development in the zoning district where it is located unless an amendment is made to permit a greater density according to the requirements of this chapter.

(E) *Special conditions.* The Planning Commission shall attach reasonable special conditions to ensure that there shall be no departure from the intent of this chapter. The planned development project shall conform with all such conditions. Because a planned development project is inherently more complex than an individual lot development and because each such project must be tailored to the topography and neighboring uses, the standards for such projects cannot be inflexible. The Planning Commission may attach special conditions based on all of the following standards in addition to imposing the standards for total area, parking area, and loading and unloading areas. The Planning Commission may also attach any other reasonable special conditions.

(1) It is desirable that access points to all arterial streets shall be located no more frequently than once every eighth or quarter mile. The Planning Commission may approve the plotting of temporary access points in conformance with the subdivision regulations.

(2) Wherever there is an abrupt change in uses (i.e., residential to commercial) it is desirable that a buffer area of open space or protective planting be placed between them which will protect each use from the undesirable effects of the other.

(3) Parking and other areas used at night shall be adequately lighted, and private areas shall be adequately protected from such lighting and any other lighting from public areas. Public streets may also require protection from excessive glare of lighted areas.

(F) *Amendment.* An approved development plan may be amended only by the Planning Commission after a public hearing has been held on said proposed amendment. The procedure to be followed in amending a development plan shall be the same as the procedure required for approval of development plans.

(Prior Code, § 8.4)

§ 155.129 CLASSIFICATION OF MANUFACTURED HOMES.

For the purposes of this chapter, manufactured homes are divided into four classes as follows.

(A) *Class A manufactured homes.* A Class A manufactured home is one which:

(1) Is certified by the Mobile Home Manufacturer's Association and the state's Department of Housing, Building, and Construction as meeting all federal and state construction and safety standards, (herein called "construction and safety standards"); and

(2) Is installed in accordance with the following requirements (herein called "acceptable installation standards");

(a) It shall be permanently attached and installed on a permanent foundation in accordance with the manufacturer's installation specifications, which installation specification shall have been approved by the U.S. Department of Housing and Urban Development, and in accordance with the local building code applicable to single-family dwellings;

(b) All wheel, trailer-tongue, and hitch assemblies shall be removed prior to installation;

(c) It shall be permanently connected to an approved water and sewer system and shall comply with all public health requirements governing plumbing installations; and

(B) *Standards.* When installed, meets all of the following standards (herein called "acceptable appearance standards") designed to achieve acceptable similarity in appearance between the manufactured home and the site-built home in this community.

(1) A poured concrete or masonry block skirting wall shall be constructed beneath and along the entire perimeter of the manufactured home, even if said wall is not structurally required by the manufacturer's installation specifications.

(2) The minimum width of the main body of the manufactured home as assembled on the site shall not be less than 24 feet as measured across 65% of the total length of the home.

(3) The roof shall have a pitch of not less than two and one-half feet of rise for each 12 feet of horizontal run, and eaves that shall overhang six inches on the gable sides and 12 inches on the eave sides, is constructed or roofing materials acceptable under, and installed in accordance with the local code applicable to single-family dwellings.

(4) All exterior walls shall be constructed of nonreflective siding materials which will have the appearance of wood or masonry, regardless of their actual composition, and shall be applied in accordance with the local building code applicable to residential construction.

(C) *Class B manufactured home.* A Class B manufactured home is one which meets the "construction and safety standards" and the "acceptable installation standards", but which fails to meet the "acceptable appearance standards".

(D) *Class C manufactured home.* A Class C manufactured home is one which fails to meet either the "construction and safety standards" or the "acceptable installation standards", or both, but is nevertheless found on inspection to be safe and fit for residential occupancy.

(E) *Class D manufactured home.* A Class D manufactured home is one which fails to meet the "construction and safety standards" or the "acceptable installation standards", or both, and is found on inspection to be unfit for human occupancy.

(Prior Code, § 8.5) (Ord. 28-83, passed 12-27-1983)

§ 155.130 DEVELOPMENT PLAN.

(A) *Intent and purpose.* The purpose of this section is to establish and define development plans which may be utilized for a wide variety of planning related procedures. This section outlines the content and procedure for submission, review, and approval, of all development plans required by the zoning ordinance and subdivision regulations unless another procedure or different contents are specified elsewhere in this chapter.

(B) *Where required.* Development plans shall be required as follows.

(1) *Development plans in conjunction with zone map amendment requests* Development plan approval shall be required with any zoning map amendment request.

(a) All applications for zoning map amendment shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan may be submitted in conjunction with the zoning map amendment request, but is not required. However, a certified plat, identifying the parcel to be rezoned and indicating bearings and distance with the accompanying written boundary description must be submitted with the zone map amendment request.

(b) The Commission, in its discretion, may waive the requirement for the submission and approval of a preliminary development plan, a final development plan, or both, if the Commission finds that there will be minimal impact on the neighborhood or the subject property.

(2) *Development plans required for multiple principal structures as permitted by §155.127.* Development plans required by § 155.127 to permit more than one principal structure and its accessory structures on a lot or a parcel of land shall be submitted to the Commission, in accordance with the provisions of this subchapter.

(C) *Development plan procedures.* The following shall be the procedure for Planning Commission consideration of any development plan.

(1) *Filing.* To formally request Planning Commission action on the development plan, the developer shall file three completed copies of the plans required by the Commission.

(2) *Review.* The Planning Commission staff and concerned agencies shall review the development plan, and make recommendations to the Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission.

(3) *Commission action.*

(a) No development plans shall be considered for action by the Commission until they have been reviewed by the Subdivision Committee. All development plans shall be approved or disapproved within 90 days of the date they are formally filed for Commission action. However, in case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone action of the development plan until after the legislative body has made its decision on the map amendment request.

(b) The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirement of this chapter, and when applicable, the land subdivision regulations, or if it finds there are existing or potential substantial flood, drainage, traffic, topographic, or other similar problems relating to the development of the subject property.

(D) *Types of development plans.* There shall be a preliminary development plan and a final development plan, defined as follows.

(1) *Preliminary development plan.* A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve, and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a preliminary development plan.

(2) *Contents of preliminary development plan.* A preliminary development plan shall contain the following information at a minimum:

(a) A title block containing the plan name, development plan type, name and address of developer and plan preparer, and written scale;

(b) The boundary of the subject property and the record plan name or owner's name of all adjoining property;

(c) A vicinity sketch, oriented in the same direction as the design scheme;

(d) Topography with contour intervals as shown on the available United States Geological Survey (USGS) sheets;

(e) Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress, and other vehicular and pedestrian rights-of-way;

(f) Location of any proposed or existing streets within or abutting the subject property;

(g) Screening, landscaping, buffering, recreational, and other open space areas;

(h) Approximate size, location, height, floor area, area arrangement, and use of proposed existing buildings and signs;

(i) Storm drainage areas, floodplains, conceptual drainage controls and storm water retention, and any other designated environmentally sensitive or geologic hazard area;

(j) Proposed and existing easements for utilities or other purposes;

(k) Areas of substantial existing trees including those located along fence rows and drainage areas along with a general description of the type and size of such trees;

(l) A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, and the like;

(m) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as my (our) development plan for the property"; and

(n) A Commission's certification to be signed by the Commission's Secretary if and when the plan is fully approved as follows: "I do hereby certify that his or her development plan was approved by the Planning Commission".

(3) *Final development plan.* A development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of building, parking areas, open spaces, access points, and any other site design features, that vary from those requirements for the uses permitted and regulated by the dimension and area requirements for that zoning classification.

(4) *Contents of final development plan.* All information required for preliminary development plans as required under division (D)(1) above, divisions (D)(2)(a) through (D)(2)(n) above, and that the plan information shall be of an exact nature, rather than approximate or general.

(E) *Amendments to development plans.*

(1) Amendments to approved development plans can be made only by official Planning Commission action. Content and format and procedures shall be as for the original submission. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's staff without further action

by the Commission.

(2) Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments shall not decrease the overall land area in yards, or other open spaces; shall not increase building ground area coverage, floor area, or height; or increase the number of dwelling units; shall not increase the number or size or signs; shall not change the location of any street and shall not increase the number, or change the location of street access points; except that shifts in the approved access location not exceeding 25 feet may be approved as a minor amendment where the access point is not located on an arterial street.

(F) *Development plans and preliminary subdivision plan may be combined* It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review.

(G) *Preliminary or final subdivision plan may be substituted for development plans required in conjunction with map amendment request.* It is recognized that in certain cases, a preliminary or final subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placements of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plans prior to receiving a zone change approval.

(Prior Code, § 8.6) (Ord. 36-86, passed 12-10-1987; Ord. 2008-19, passed 9-24-2008)

§ 155.131 RURAL RESIDENTIAL CLUSTER DEVELOPMENT REGULATIONS.

(A) *Application process.* The applicant must utilize the planned development application process, including a proposed development plan for a rural residential cluster development. The approval process will include a public hearing as required for a zone change.

(B) *Hearing request.* The applicant must formally request a public hearing as required by KRS Chapter 100 by filing the appropriate application, three copies of the proposed cluster development plan, and paying the appropriate fees.

(C) *Plan procedures.* The development plan procedures outlined in §155.130 shall be followed. In addition, the plan must disclose the following: lot coverage, height of buildings, maximum building height, construction type, deed restrictions, contiguous properties with road frontages for each property, and crossing points on the access road, if reserved by owner of set-aside.

(D) *Minimum requirements.* The following minimum acreage and road frontage requirements shall apply.

(1) Cluster development shall contain not less than 60 acres in addition to the acreage contained in the cluster envelope.

(2) For each house in the cluster development (excluding bonus sites), there must be at least 125 feet of frontage on a road publicly maintained at the time of the adoption of this section.

(3) Cluster developments are permitted on farms with less than 125 feet of public road frontage provided the following conditions are met:

(a) At the date of the adoption of this section, insufficient road frontage existed to comply with the following road frontage requirements;

(b) All other cluster requirements are fully met; and

(c) Owner shall have purchased or contracted to purchase sufficient development rights to meet the road frontage requirements.

(4) The area of the cluster envelope shall not exceed an average of one and one-half acres per house site, but there shall be no minimum lot size.

(E) *Set-aside requirements.*

(1) The owner shall be required to reserve or grant a conservation easement to or for the benefit of the Planning Commission barring further development or subdivision of the set-aside for a period of not less than 25 years, after which the status of the land may be reviewed as a part of the comprehensive planning process and a change in the classification of the property may be recommended if in agreement with the goals and objectives of the plan.

(2) The set-aside shall contain not less than ten acres per house site, including bonus sites.

(3) Nothing herein shall be construed to limit the agricultural activities or practices which may be conducted on the set-aside; provided, however, that the owner of the set-aside may voluntarily enter into private covenants running with the land agreeing not to engage in certain agricultural activities or practices.

(F) *Location of cluster development.*

(1) The set-aside must completely surround the cluster envelope.

(2) There must be a minimum distance of 125 feet between all points of the cluster envelope and the property line.

(3) All points of the cluster envelope must be set back from the public road a minimum of 500 feet; provided, however, that the Planning Commission shall have discretion in grant exceptions to the minimum setback if the Board finds that the viewshed is protected by topography, mature woodlands, or other natural features.

(G) *Number of house sites permitted.*

(1) A maximum of 12 house sites are permitted unless additional sites are permitted pursuant to the following provisions.

(2) The number of house sites permitted may be increased by 50% up to a maximum of six additional house sites by the use of transferred development rights (TDRs).

(3) A maximum of four additional "bonus sites" may be permitted, in the discretion of the Planning Commission, for such features as underground utilities, creative or innovative design of the cluster or of the roads, or other creative or innovative design features.

(4) Two additional house sites shall be allowed for each additional 250 feet the cluster envelope is set back from the public road over and above the 500-foot minimum set-back.

(5) If there is an existing or proposed house site on the parent tract, the number of permitted house sites in the cluster shall be reduced by two.

(H) *Requirements relating to physical improvements, landscaping, and buffering.*

(1) The minimum right-of-way for the access road shall be 30 feet; and the minimum pavement width shall be 20 feet.

(2) Unless dedicated and accepted for maintenance by the county, roads shall be maintained by the owner of the parent tract or by a homeowner's association as required by the deed restrictions.

(3) The access road shall be of traditional road contours with minimum site disturbance, and shall have an entrance engineered for compliance with storm water runoff requirements and design standards.

(4) Signs identifying the cluster shall not exceed 32 square feet including the printed matter and any supporting or decorative features.

(5) Each cluster development shall be permitted only a single access point to the existing public road.

(6) Only one cluster development may be served by a single access road.

(7) The maximum cul-de-sac length of 500 feet as provided in §153.096 shall not apply to cluster developments.

(8) The cluster envelope must be completely fenced off from the parent tract by a fence having the following minimum requirements: nine gauge wire, 12 inch stays, six inch line posts set 12 feet on center. The installation and maintenance of the fence shall be the responsibility of the owner of the set aside, unless otherwise provided in the deed restrictions.

(9) Landscaping and/or buffering shall be required. The design must provide for maximum preservation of existing topography. If located in the set-aside, the owner of the set-aside shall be responsible for its maintenance.

(10) All physical improvements, including fencing, utilities, landscaping, and roadways shall be installed or a surety bond posted for the completion of the improvements prior to approval of the final plat.

(I) *Access roads.* Even though a cluster development access road may hereafter be dedicated and accepted for maintenance by the county or other governmental agency, frontage on such road shall not be considered public road frontage under § 155.080 so as to entitle the owner to develop or subdivide the property fronting on such access road.

(Ord. 99-1, passed 3-24-1999)

§ 155.132 FAMILY FARM HOMESITE.

Family farm homesites are permitted under the following requirements and conditions.

(A) *Qualifying farm.*

(1) Two classes of qualifying farms are created for the construction of family farm home site:

(a) *Class 1.* The farm must be at least seven acres and less than 25 acres in size and have been owned by the owner/applicant for at least five years; and

(b) *Class 2.* The farm must be at least 25 acres in size and have been owned by the owner/applicant for at least five years.

(2) The farm must have been owned by the owner/applicant for at least five years.

(B) *Qualifying grantee.* The grantee of a family farm home site must be an immediate family member/spouse of the grantor.

(C) *Size and maximum number of home sites.* Each home site shall contain not less than one acre.

(1) If the farm meets the criteria for Class 1, then each home site shall contain not less than one acre. The maximum number of family home sites shall be limited to one in addition to the parent tract. The recorded plat shall state that no additional family farm home sites may be created on the parent tract.

(2) If the farm meets the criteria for Class 2, then each home site shall contain not less than one acre. The maximum number of family farm home sites shall be limited to three in addition to the parent tract. The recorded plat shall state that no additional family farm home sites may be created on the parent tract.

(D) Access. All family farm home sites shall be located on an access easement at least 20 feet in width providing access to a public road. The access easement shall be shown on the record plat. No new entrances shall be permitted on county roads.

(Prior Code, § 8.8) (Ord. 99-1, passed 3-24-1999; Ord. 2014-17, passed 12-2-2014)

§ 155.133 TRANSFER OF DEVELOPMENT RIGHTS (TDRs).

(A) The purpose of this section is to provide means by which the development rights may be transferred from sending parcels to receiving parcels.

(B) A development right is calculated as being equal to an area of land having 250 feet of road frontage on an existing (at the date of adoption of this regulation) county road with a minimum depth of 200 feet within an A-1 Zoning District, provided, however, that there are no transferable development rights in the urban planning area as set forth in the community's Comprehensive Plan. In those instances where a parcel of land has no road frontage on an existing county road, but was on a recognized county road on February 27, 1974, and was owned by an immediate family member on or before December 31, 1966, development rights shall be calculated at the rate of one per ten acres.

(C) For the purpose of determining TDR multiples, the county is divided into four areas as follows.

(1) Area #1. Bordered on the west by Fayette County, the north by I-64, the east by a CSX Railroad line that runs from Winchester to Ford and on the south by Madison County.

(2) Area #2. Bordered on the west by Fayette County, North by Bourbon County, the east by an overhead electric transmission line that runs from the Montgomery/Bourbon County line to the Mountain Parkway near Morris Road, and bordered on the south by I-64 and the Mountain Parkway.

(3) Area #3. Bordered on the west by an electric transmission line and Area #2, the north and east by Montgomery County and Powell County, and on the south by the Mountain Parkway.

(4) Area #4. Bordered on the north by the Mountain Parkway, the east by Powell County, the south by Estill and Madison County and the west by the CSX Railroad and Area #1. Note, not included in any of these areas is the portion of land designated as the urban planning area.

(D) TDR Multiples include the following.

(1) The following chart shall be used to determine TDR multiples.

<i>Location of Sending Parcel</i>	<i>Location of Receiving Parcel</i>	<i>TDR Multiple</i>
<i>Location of Sending Parcel</i>	<i>Location of Receiving Parcel</i>	<i>TDR Multiple</i>
Scenic corridor	Non-scenic corridor	2.0
Area #1	Area #2	1.5
Area #2	Area #3	1.5
Area #3	Area #4	1.5
Area #1	Area #3	2.0
Area #2	Area #4	2.0
Area #1	Area #4	2.5

(2) A transfer from one property to another within the same area has TDR multiple of one.

(3) Development rights may not be transferred from a higher numbered area to a lower numbered area.

(E) Procedures include the following.

(1) *Sending parcels.* The following procedure must be followed by the owner of the sending parcel.

(a) The owner shall file with the Planning Commission a statement certified by a registered surveyor or engineer as to the length of the owner's frontage on the applicable public road, and may be required to furnish such other information as the Commission may require in order to identify the property and determine the number of development rights attributable to the property.

(b) Development rights may be transferred only by deed and the transfer shall be effective only if approved by the

Planning Commission. The deed must state the total number of development rights contained in the sending parcel, the number of development rights transferred by the deed, and the number of development rights remaining in the sending parcel. A transfer of development rights shall be effective only upon recording of the deed transferring same, with Planning Commission approval endorsed thereon.

(2) *Receiving parcels.* Prior to approval of the deed, the Planning Commission must first approve the grantee's plan for incorporating the transferred development rights (TDRs).

(F) The Planning Commission shall adopt subdivision regulations to permit TDRs to be used to increase densities use in crossroads community districts.

(Prior Code, § 8.9) (Ord. 99-1, passed 3-24-1999)

GENERAL ZONING DISTRICT REGULATIONS

§ 155.145 APPLICATION OF ZONE AND DISTRICT REGULATIONS.

The regulations set by this chapter within each zone and district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

(A) No building, structure, or land shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the zone and district in which it is located unless otherwise specifically permitted in this chapter.

(B) No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height, bulk, or floor area ratio;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; or

(4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this chapter, except as provided in §§ 155.065 to 155.067.

(C) No part of a yard, open space, off-street parking, loading space, or other special use area required about or in connection with any building or land for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking, loading space, or other special use area similarly required for any other building or land unless otherwise specifically permitted in this chapter.

(D) No yard or lot existing at the time of adoption of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this chapter shall meet at least the minimum requirements established by this chapter.

(E) There shall be no more than one principal structure and its accessory structures on any lot or parcel of land unless otherwise specifically permitted in this chapter.

(F) Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone or district.

(G) No structure shall be erected on any lot or tract of land which does not adjoin and have direct access to a street or other public right-of-way for at least 20 feet unless otherwise specifically permitted in this chapter.

(Prior Code, § 9.1) Penalty, see § 155.999

§ 155.146 YARD REQUIREMENTS ALONG LESS RESTRICTED ZONE BOUNDARY LINE.

Along any zone boundary line, any abutting side yard or rear yard on a lot adjoining such boundary line in the less restricted zone shall have a minimum width and depth equal to the required minimum width and depth of such yards in the more restricted zone.

(Prior Code, § 9.2)

§ 155.147 CONVERSION OF DWELLINGS.

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this chapter and only when the resulting occupancy will comply with the requirements governing new construction in such zone with respect to minimum lot size, floor area, dimensions of yards, and other open spaces, and off-street parking. Each version shall be subject also to such further requirements as may be specified after applying to such zone. The aforesaid requirements with respect to yards and other open spaces shall not apply if the conversion will not involve any exterior structural changes.

(Prior Code, § 9.3)

§ 155.148 LOCATION AND HEIGHT OF ACCESSORY BUILDINGS.

(A) No accessory building shall be erected in any required court in any yard other than a rear yard; provided, however, that an accessory building may be erected as part of the principal building, or, if at least six feet therefrom, may be connected thereto by a breezeway or similar structure, provided all yard and court requirements of this chapter for a principal building are complied with, provided further, however, that a temporary accessory structure may be permitted subject to the following conditions.

(1) For any one business such structure may be permitted for not more than ten consecutive days not more than twice in any calendar year.

(2) Such structures shall be located so as not to interfere with the movement or safety of vehicle or pedestrian traffic, either on the public way or business premises.

(3) A permit must be issued pursuant to the provisions of §155.036.

(B) Accessory buildings shall not exceed one story in height, and shall be distant at least six feet from alley lines and at least five and one-half feet from lot lines of adjoining lots in a Residential Zone, provided, however, that an accessory building may be constructed on a side or rear lot line, not an alley lot line, by common consent of the adjoining property owners concerned.

(C) Where a corner lot adjoins in the rear to a lot in a Residential Zone, no part of an accessory building within 25 feet of the common lot line in the rear shall be nearer a side street lot line than the least depth of any front yard existing or as required, whichever is less, along such side street for a principal building on such adjoining lot, and in no case shall any part of such accessory building be closer to the side street lot line than the main building to which it is accessory.

(Prior Code, § 9.4) (Ord. 98-4, passed 6-10-1998) Penalty, see §155.999

§ 155.149 TRAFFIC VISIBILITY ACROSS CORNER LOTS.

In any Residential Zone on any corner lot, no fence, structure, or planting shall be erected or maintained within 20 feet of the intersection of the two street pavement edges.

(Prior Code, § 9.5)

§ 155.150 BUILDINGS IN REAR OF PRINCIPAL BUILDING.

No existing building in the rear of a principal building on the same lot may be used for residential purposes unless such use is approved as a special exception by the Board of Zoning Adjustment, which shall determine whether adequate vehicular access will be provided by a public street and that the criteria for group housing set forth in this chapter are met.

(Prior Code, § 9.6)

§ 155.151 USE AND PARKING OF RECREATIONAL VEHICLES.

No recreational vehicle shall be used for living, sleeping, or housekeeping purposes on any lot in a residential zone; nor shall any recreational vehicle be parked or stored in or upon any public right-of-way in a residential zone, except for the purpose of loading or unloading the same. For purposes of this section, the term **RECREATIONAL VEHICLE** is defined to include boats, boat trailers, travel trailers, pick-up campers, or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like.

(Prior Code, § 9.7) (Ord. 2-93, passed 1-26-1993)

§ 155.152 SPECIAL YARD PROVISIONS.

(A) *Yards generally.* Except as otherwise specified herein, every lot shall have a front yard and a rear yard for the least depths of which shall not be less than those specified for the respective zone and every lot shall have a side yard on each side, which shall not be less than the side yard as specified for the zoning district in which it is located.

(B) *Front yards.*

(1) *Double frontage lots.* Double frontage lots shall meet the front yard requirements of the district or districts in which they are located on both of the streets upon which they front.

(2) *Exceptions for existing alignment.* In any zoning district, except Business or Industrial Zones, where any lot lies between and adjacent to two lots with existing buildings and all of the following conditions exist:

(a) All three of said lots lie within the same block;

(b) The average depth of the front yards of the two adjacent lots is less than the minimum permitted within the zoning district; and

(c) At least one of the existing buildings lies within 100 feet of the side lot line of the subject lot; then the minimum front yard permitted for such lot shall be the average of the front yards of the two adjacent lots, but in no event less than ten feet.

(3) *Yard on street side on lot adjoining or facing residential zoning.* On a lot in any nonresidential zone sharing the same block front with a lot in any Residential Zone the minimum front yard required shall equal in depth the front yard

required for that Residential Zone.

(4) *Front yards on through lots.* On any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line.

(5) *Front yards which may be varied.* Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the otherwise required front yard; provided, however, that such front wall shall at all points be within five feet of the otherwise required front yard depth.

(C) *Side yards*

(1) *Side yards decreased for narrow lot.* For each foot by which an existing lot of record at the time of enactment of this chapter is narrower than 50 feet and where the owner of record does not own any adjoining property, one and one-half inches may be deducted from the required least width of any side yard for building, not exceeding two and one-half stories in height; provided, however, that no side yard shall be narrower at any point than three feet in any case.

(2) *Side yards increased for deep buildings.* In any zone where a side yard is required, the least width of each side yard shall be increased by one inch for each foot by which the side wall of a building adjacent to a side yard exceeds 50 feet in depth.

(3) *Side yard exceptions for row dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

(4) *Side yards which may be varied.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half the otherwise required side yard nor narrower than three feet in any case.

(5) *Side yard for an addition to an existing building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, and the side yard is legally nonconforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three feet to the adjoining lot line.

(D) *Rear yards.* Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard; provided, however, that such rear yard shall not be less than one-half the otherwise required rear yard at any point, or less than 20 feet in any case.

(E) *Projections.*

(1) Covered porches, stairways, terraces, or other similar features, the floor level of which is not over three feet above the average finished grade and which do not extend above the level of the first floor of the building, when open and unclosed, may project into a required front, side, or rear yard not more than eight feet, provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of division (D) above.

(2) Outside stairways may extend not more than three feet into any required side yard; nor more than five feet into any required rear yard.

(3) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, gutters, and the like, may extend not more than 24 inches into any required yard, provided they are at least three feet from all lot lines.

(4) Notwithstanding any other provision of this section, no projection as listed above shall extend into any required side yard more than one-half the width of such yard, nor within ten feet of the front lot line nor five feet of the rear lot line, nor within three feet of accessory building, provided, however, that such limitations shall not apply to terraces and steps within required yards, or to a loading dock, or tailboard in connection with an industrial siding.

(F) *Front yard driveways in residential zones*

(1) On any lot containing a detached single-family dwelling, where no enclosed garage is provided, and where the width of the driveway exceeds 25% of the width of the lot at the established building line, the driveway shall extend beyond the front wall of the residence into the side or rear yard for a distance of at least 20 feet.

(2) No front-facing garage may be located within 25 feet of the public street or road right-of-way.

(3) In any case, the width of a front yard driveway shall not exceed 40% of the width of the lot at the established building line.

(4) No front yard driveway shall have a finished grade slope greater than one foot to eight feet.

(Prior Code, § 9.8) (Ord. 4-92, passed 3-11-1992; Ord. 98-12, passed 11-24-1998; Ord. 2002-2, passed 2-5-2002; Ord. 2002-29, passed 12-18-2002; Ord. 2004-19, passed 8-25-2004)

§ 155.153 TELECOMMUNICATIONS TOWERS.

Telecommunications towers shall be permitted in all zoning districts subject to the following standards.

(A) Any legally permitted and constructed telecommunications towers, as of the effective date of this section, shall be exempt from these regulations; except when discontinued for a period of 12 months in accordance with § 155.051. In such

cases, the applicant or utility shall be required to follow the procedures listed herein.

(B) All applications for telecommunications towers and related equipment shall be in accordance with KRS Chapter 100, KRS Chapter 278, and KAR 807.

(C) All applicants for telecommunications tower approval shall file a development plan in accordance with §155.130 for public hearing before the Planning Commission, except where co-location is proposed as hereinafter provided.

(D) In residential districts, the following setbacks shall apply to telecommunications towers and related structures:

(1) The minimum front, side, and rear yards in the applicable district, or 25 feet, whichever is greater;

(2) For each two feet of height the tower exceeds the maximum allowable building height within the district, one foot shall be added to the minimum setback;

(3) The total height shall not exceed 150 feet; and

(4) The tower shall be a monopole structure.

(E) In Agricultural Districts, the minimum front, side, and rear yard requirements shall be increased by one foot for each two feet in height the tower exceeds the maximum allowable building height.

(F) In all residential and agricultural districts, and wherever possible, all telecommunications towers shall be designed and constructed so as to minimize any potential negative aesthetic, environmental, or visual impacts. This may include the use of camouflage and/or additional screening techniques.

(G) In commercial, industrial, and professional office districts, the following requirements shall apply.

(1) The minimum front, side, and rear yard requirements shall be increased by one foot for each two feet in height the tower exceeds 50 feet.

(2) Where adjacent to residential or agricultural districts, the setback requirements for the adjacent district shall apply with respect to the property line adjacent to the residential or agricultural district.

(3) In those districts where no setbacks are required, the minimum front, side, and rear yards shall be 25 feet plus one foot for each two feet of height the tower exceeds 50 feet.

(H) The following method shall be used to measure the height of the telecommunications towers; beginning at the base of the tower, at ground level and including any support structures, to the top of the main tower structure, excluding the antennas assembly.

(I) Co-location of antennas on existing structures (i.e., telecommunications towers, buildings, and water towers) is encouraged. Where co-location is proposed, the applicant must file with the application a written consent executed by the owner of the existing structure, and in such case, no development plan shall be required.

(J) The Planning Commission shall review and approve or deny an application in accordance with KRS Chapter 100. Such review and approval or denial shall be made, in writing, within 60 days of the date the application is submitted for Planning Commission review, unless the applicant or utility requests, in writing, an extension of time.

(K) The following landscaping requirements shall apply.

(1) All telecommunications towers shall have one or more rows of evergreen trees or shrubs capable of forming a continuous hedge six feet in height. The hedge shall screen the base of the tower and related structures from public view. A break in the hedge, not to exceed 15 feet in width, shall be allowed for access of maintenance personnel and vehicles.

(2) New or existing vegetation, earth berms, existing topographic features, wall opaque fences, and features other than those listed may be used to meet these requirements upon finding by the Planning Commission that the same degree of screening required above is achieved by the proposed alternative.

(3) No screening shall be required where explicitly prohibited by the Federal Communications Commission regulations. In such cases, the applicant or utility shall provide the Planning Commission with a written statement of the facts explaining the prohibition of locally required screening.

(Prior Code, § 9.10) (Ord. 2000-2, passed 2-9-2000)

§ 155.154 BUILDINGS CONTAINING 50,000 SQUARE FEET OR MORE.

Construction of structure(s) containing 50,000 square feet or more shall comply with the Winchester/Clark County Big Box Design Standards. (Separate document available in the office of the Winchester/Clark County Planning and Zoning Commission.)

(Ord. 2003-11, passed 1-28-2004)

OFF-STREET PARKING AND LOADING

§ 155.165 PARKING REQUIREMENTS.

(A) In all districts except B-2, there shall be provided at the time any building or structure is erected or enlarged, off-street

parking spaces, either in garages or parking areas, conforming with the provisions of this section.

<i>Use</i>	<i>Unit of Measurement</i>	<i>Parking Area or Parking Spaces Required per Unit of Measurement</i>
<i>Use</i>	<i>Unit of Measurement</i>	<i>Parking Area or Parking Spaces Required per Unit of Measurement</i>
Bed and breakfast home	Each room available for rent	One, in addition to any other required parking
Bowling alleys	Each alley	Five
Churches, theaters, stadiums, sports arenas, or auditoriums other than incidental to a school	Each four seats	One
For all such floor space in excess of 10,000 square feet	Each 200 square feet of such area	One
Funeral homes or mortuaries	Each four seats available under maximum occupancy Each funeral vehicle Each dwelling unit Each two employees	One One One One
Hospital, sanitariums, convalescent homes, asylums, orphanages, convents, and homes for the aged	Each two beds Each two employees Each staff member	One One One
Hotels	Each four bedrooms Each four employees	One One
Kindergartens, nursery schools, and child-care facilities, except when located in a permitted church or private school	Number of children enrolled	Three spaces for the first 12 and one for each additional ten or fraction thereof, in addition to any other required off-street parking
Laundromat, self-service	Each two washing machines, dryers, and dry cleaning machines	One
Manufacturing or industrial uses	Each two employees at maximum employment on a single shift, and Each vehicle operated by the firm involved	One One
Medical or dental clinics	200 square feet of floor area	One
Motels, tourist courts, and tourist homes	Each living unit or guest bedroom	One
Multiple-family dwellings	Each dwelling unit	Two
One-family dwellings	Each dwelling unit	Two
Private clubs or lodges	Each four members	One
Professional office	400 square feet of floor area	One
Restaurants, taverns, or night clubs	Each four seats at maximum capacity or 200 square feet of floor area (whichever is greater)	One
Retail stores having a low volume of customer parking such as furniture and appliance stores, motor vehicle and machinery sales, floor and wall covering establishments, and paint stores	Same as for other retail stores	50% less than required for other retail stores, but not less than five in any case

Retail stores, including discount stores, except as otherwise specified herein: For the first 2,500 square feet of floor space	Each 100 square feet of such area	One but not less than five in any case
For the next 2,500 square feet of floor space	Each 125 square feet of such area	One
For the next 2,500 square feet of floor space	Each 150 square feet of such area	One
For the next 2,500 square feet of floor space	Each 175 Square feet of such area	One
Rooming and boarding houses	Each four beds	One, but not less than two in any case
Senior high schools, business schools, trade schools, colleges, and universities	Each two staff members Each four classroom seats	One One
Two-family dwellings	Each dwelling unit	Two

(B) Parking area dimensions.

A	B	C	D	E	F	G
A	B	C	D	E	F	G
0	8	23	8	23	20	12
30	9	18	17	18	20	15
45	9	18	19	12.67	20	15
60	9	18	20.17	10.33	24	20
75	9	18	19.67	9.33	24	20
90	9	18	18	9	24	20

A - angle of parking (in degrees)

B - stall width

C - stall length

D - stall depth

E - curb length

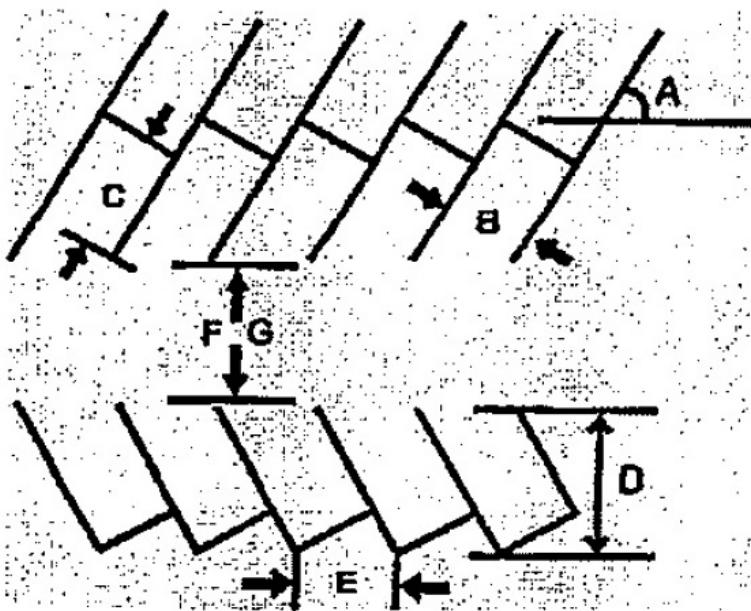
F - two-way drive width or double loaded drive width

G - one-way drive width or single loaded drive width

(1) Stall width (B) may be reduced by one foot for low turnover uses excluding parallel parking.

(2) Stall length (C) may be reduced by two and one-half feet when a clear overhang of two and one-half feet is provided.

(3) Interior parking radii shall be a minimum five feet.



(Prior Code, § 10.1) (Ord. 97-17, passed 1-14-1998; Ord. 98-4, passed 6-10-1998; Ord. 2003-8, passed 8-27-2003; Ord. 2005-23, passed 1-11-2006)

§ 155.166 EXISTING PARKING SPACE.

Existing off-street parking provided for any building or use at the time of adoption of the zoning order shall not thereafter be reduced unless it exceeds the requirements of this chapter. Any existing building or use not provided with conforming parking space shall be provided with off-street parking space in conformance with this order at the time of any structural alteration of the building or expansion of the use.

(Prior Code, § 10.2)

§ 155.167 REQUIRED OFF-STREET PARKING SPACE.

(A) When any building is built or any use of premises is initiated, they shall be provided with sufficient off-street parking space on the premises so that they will generate no automobile parking on any street as a result of their normal activity.

(B) If the off-street parking capacity is exceeded and street parking is generated more often than six times during a six-month period, this shall be considered as resulting from normal activity, and additional off-street parking shall be provided.

(C) The Board of Zoning Adjustment shall interpret the amount of parking space required for any building or use, assisted by the following standards, whenever the Enforcement Officer is unable to apply the following standards literally or when he or she determines a parking space deficiency according to the standard above. In either case, he or she shall apply to the Board for an original interpretation.

(Prior Code, § 10.3)

§ 155.168 ADDITIONAL PARKING STANDARDS.

The Board of Zoning Adjustment may raise the standards listed in §155.165 when necessary to conform with §155.167, and shall use similar criteria of floor area, employment, or capacity to interpret standards for buildings and uses not specifically listed in § 155.165.

(Prior Code, § 10.4)

SIGN REGULATIONS

§ 155.180 INTENT.

This subchapter provides sign standards that allow legitimate signage for agricultural, residential, professional office, business, and industrial activities while promoting signs that:

- (A) Reduce intrusions and protect property values;
- (B) Minimize undue distractions to the motoring public;
- (C) Protect the tourist industry by promoting a pleasing community image; and/or
- (D) Enhance and strengthen Winchester/Clark County's economic stability.

§ 155.181 SCOPE.

These provisions apply to the display, construction, erection, alteration, location, and maintenance of all new and existing signs within Winchester and the county.

(Ord. 2014-1, passed 3-12-2014)

§ 155.182 DEFINITIONS.

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

ABANDONED SIGN. Signage that has been neglected and fallen into disrepair.

ATTRACTION BOARD. Copy is changed manually or electronically.

AWNING SIGN. Applied directly to the surface of an awning; defined as a shelter supported entirely on a wall and made of non-rigid material supported by a frame.

BANNER SIGN. Made of non-rigid material with no enclosing framework.

BILLBOARD. Signage intended for lease to a variety of businesses, organizations, and/or individuals. In such case, the sign itself is the income generator and the primary commercial use of the property.

BULLETIN BOARD. Allows the manual or electronic change of copy.

CANOPY SIGN. Applied directly to the surface of a canopy; defined as a permanently roofed shelter covering a sidewalk, driveway, or similar area. Canopies may be supported by a building, columns, poles, braces, or a combination of both.

DOUBLE-FACED SIGN. Two faces either set parallel or up to a 45-degree angle. Any two sign faces set at an angle greater than 45 degrees shall be considered two separate signs.

ELECTRONIC MESSAGE DISPLAY SYSTEM. Copy which uses rotating reflective discs, direct illumination, rotating veins, light emitting diodes (LEDs) or liquid crystal diodes (LCDs), or other digital devices and is changed by a central computer.

FLASHING or BLINKING. Intermittent or sequential illumination for the purpose of attracting attention to the sign.

FREESTANDING SIGN. Attached to the ground by columns, poles, braces, or other means and not attached to any building,

GOVERNMENT SIGN. Temporary or permanent, erected by a government employee in the performance of their professional duties.

HANDBILL. Printed or written material, circular, leaflet, pamphlet, or booklet designed for distribution on vehicles or other property (does not include postal distribution).

ILLEGAL SIGN. Does not meet the requirements of this chapter and has not been identified as a legal, nonconforming sign.

ILLUMINATED SIGN. Emits or reflects artificial light from any source.

(1) **DIRECTLY ILLUMINATED.** Lighted by an unshielded light source (including neon tubing) which is visible as a part of the sign and where light travels directly from the source to the viewer's eye.

(2) **INDIRECTLY ILLUMINATED.** Light source projects light onto the exterior of the sign surface, or onto the building where the sign is located.

(3) **INTERNAL ILLUMINATED.** Light source is within the sign, with a transparent or translucent background or cover which silhouettes letters or designs.

INCIDENTAL SIGN. Signs used in conjunction with the performance of a business and/or professional establishments with a maximum square footage of three square feet and four feet in height when installed on a pole.

INTERSTATE SIGN. Designed to be seen from the interstate.

LIGHT POLE SIGN. Signs up to 12 square feet in size attached to light poles which are owned and operated by the property/business owner. No more than two **LIGHT POLE SIGNS** per road frontage and maintain a minimum ground clearance of at least seven feet. Approved as a conditional use in B-3 and B-4 Zoning Districts.

MENU BOARD. Freestanding signs placed at drive-through lanes of restaurants.

MOBILE SIGN. Affixed to a frame having wheels or capable of being moved. **MOBILE SIGNS** do not have a permanent foundation and cannot withstand the wind load stress requirements of the adopted building code; designed to stand free from a building. The removal of wheels from such a sign or temporarily securing a sign of this type shall not prevent it from being classified as a **MOBILE SIGN** within this definition. This includes signage placed in a truck bed or on a trailer designed

to be pulled behind a vehicle.

MONUMENT SIGN. Attached to a permanent foundation or decorative base and not attached to or dependent for support from any building, pole, post, or similar upright.

NONCONFORMING SIGN. Legally erected but does not comply with the current regulations for the zone in which it is located.

NON-ILLUMINATED SIGN. Does not emit or reflect artificial light from any source.

PORTABLE SIGN. Small sign, easily transported by hand, placed outside during business hours and brought into the business after hours, usually tent style or A-frame.

PROJECTING SIGN. Attached directly to a building, which extends perpendicular no more than five feet from the building facade or not past the sidewalk line (whichever is less).

ROOF SIGN. Projects above the cornice of a flat roof or the ridgeline of a gabled or hipped roof. In determining the top edge of the roof, calculation shall not include cupolas, pylons, chimneys, or other projections above the roofline.

ROTATING OR MOVING SIGN. Any portion of which moves by mechanical means or the wind; does not refer to changing copy with an electronic message display system.

SIGN. Any copy (including material used to differentiate the copy from the background) which is applied to a surface as a means of identifying, advertising, announcing, or illustrating products, services, and/or events.

SIGN CLEARANCE. The vertical distance between the lowest point of any sign and the grade at the base of the sign.

SIGN COPY. Any word, figure, number, symbol, or emblem affixed to a sign.

SIGN HEIGHT. The vertical distance measured from the highest point of the sign, including the frame and any embellishments to the bottom of the base of the sign.

SIGN SETBACK. The horizontal distance between the property line and a sign. The measurement shall be taken at the closest point between the property line and any part of the sign.

SIGN SURFACE. The part of the sign on which the message is displayed.

SQUARE FOOT. A unit of area equal to one foot by one foot square.

STREET FRONTAGE. Property line that lies adjacent to street right-of-way.

TEMPORARY SIGN. Intended to be displayed for not more than 14 continuous days or more than eight times per calendar year.

VEHICLE SIGNAGE. Signage painted directly on a vehicle or attached magnetically.

WALL SIGN. Attached directly to a building; includes mansards, canopies, awnings, and signs attached to a roof which do not project above the roofline.

WINDOW DISPLAY. Merchandise or other objects placed inside a building to be viewed from outside the building.

WINDOW SIGN. Attached to or located within three feet of the interior of a window and which can be seen through the window from the exterior of the structure.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.183 SIGNS EXEMPT FROM PERMITTING IN ALL ZONES AND DISTRICTS.

The following signs are exempt from the provisions of this subchapter:

- (A) Signs not visible beyond the boundaries of the property upon which they are located;
- (B) Government signs that are placed by government officers in the performance of their professional/elected duties;
- (C) Temporary or permanent signs erected by public utility companies or temporary signs erected by construction companies and in the performance of their professional duties;
- (D) Vehicle signage when incorporated directly on a vehicle either by paint, magnets, wrapped, and the like;
- (E) Effective January 1, 2019, temporary signage up to four square feet placed within Business and Residential Zoning Districts on or after April 15 and removed by the last day of May. Temporary signage up to four square feet placed within Business and Residential Zoning Districts on or after October 1 and removed by November 15;
- (F) Temporary signage up to 32 square feet placed within Agricultural and Industrial Zoning Districts on or after April 15 and removed by May 1. Temporary signage of 32 square feet or placed within Agricultural and Industrial Zoning Districts on or after October 1 and removed by November 15;
- (G) Temporary signs for a new business for up to 30 consecutive days from the first day of business. Exempt signage shall only be displayed on the property where the new business is located;

(H) Temporary signage placed by real property owners, real estate institutions, agents and brokers, and financial institutions in the performance of their professional duties;

- (I) Window signage;
- (J) Temporary signage of three square feet or smaller when placed on residential property;
- (K) Historic markers issued by local, state, and federal organizations; and
- (L) Change of copy on any sign where the framework or other structural elements are not altered.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.184 PERMIT REQUIREMENTS.

(A) No sign regulated by this subchapter shall be displayed, erected, relocated, or altered unless all necessary permits have been issued by the Department of Planning and Community Development. Applicants shall submit an application form to the Department before any permit may be issued. Failure to obtain a sign permit prior to the installation of a sign may result in a fine doubling the cost of the sign permit.

(B) Property owner shall obtain a certificate of appropriateness from the Historical Preservation Commission (HPC) for signage proposed within the Historic District Overlay (HDO). Applications are available in the Planning and Community Development office and online at the HPC website.

(C) Signs shall only be erected or constructed in compliance with the approved permit.

(D) Freestanding and monument signs require a building permit for the footer. Applicants shall also obtain an electrical permit for signs that require electrical service. Final inspections for building permits and electrical permits require a minimum of 24-hour notice to the city's Building Inspector and/or state Electrical Inspector.

(E) Signs permitted as an accessory to a legal, nonconforming use shall be subject to the regulations of the zone in which the nonconforming use is located.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.185 NONCONFORMING SIGNS.

(A) A legal, nonconforming sign may continue in existence as long as it is properly maintained in good condition.

(B) These provisions shall not prevent the repair or restoration to a safe condition of any sign, but a nonconforming sign shall not be:

- (1) Changed to another nonconforming sign except where only the face or copy is changed;
- (2) Structurally altered so as to increase the degree of nonconformity of the sign;
- (3) Expanded or enlarged;
- (4) Re-established after its removal; or
- (5) Moved to a new location on the building or lot.

(Ord. 2014-1, passed 3-12-2014)

§ 155.186 ILLEGAL SIGNS.

All illegal signs are subject to immediate enforcement action as outlined in §§155.235, 155.236, and 155.999.

(Ord. 2014-1, passed 3-12-2014)

§ 155.187 GENERAL REQUIREMENTS.

All signs in all zones shall meet the following requirements.

(A) Illuminated signs shall be located in a fashion which prevents all direct rays of light from shining beyond the property lines of the lot on which the sign is located.

(B) No light, sign, or other advertising device shall be designed or erected to imitate or resemble any official traffic sign, signal, or device or use any words, phrases, symbols, or characters implying the existence of danger, or the need to stop or maneuver the vehicle.

(C) No sign shall be attached to or painted on the surface of any tree, utility pole, or street light.

(D) Projecting signs must have maintain a ground clearance of no less than seven nor more than eight feet above the sidewalk.

(E) Neon or other lighted tubing signs shall not be permitted except where such lighting is used behind solid lettering to produce a "halo" effect, or where it is used indirectly. Neon lighting may not be used to outline buildings, structures, or ornamental features.

(F) No sign, except for government signs, may be located within the sight triangle of any intersection. Refer to §§ 153.095 to 153.100.

(G) No sign may be placed in or project into the public or private street right-of-way, except as specifically permitted herein.

(H) Freestanding, monument, and projecting face sign area shall be computed as follows:

(1) Double-faced signs shall have only one face counted in calculating the area;

(2) Sign with more than two faces shall have the area calculated by summing the area of all sign faces and dividing by two;

(3) The area enclosing the perimeter of each cabinet shall be calculated to determine the area. The perimeter of the measurable area shall not include embellishments (e.g., pole covers, framing, or decorative roofing) provided there is no written copy on such embellishments; and

(4) Maximum height shall be measured from the finished grade at the center of the sign and shall include the sign's base.

(I) Every sign, including those for which a permit is not required, shall be maintained in good condition at all times.

(J) A business no longer in operation at the site, must remove their sign face, paint, and/or cover of the signage within 45 days after the business has vacated the property or 45 days after the receipt of a written notice from the Code Enforcement Officer and/or Zoning Official. Failure to comply with the written notice within the allotted time shall authorize the Code Enforcement Officer and/or Zoning Official to remove the sign at the expense of the owner of the building, structure, or lot where the sign is located. Nonconforming signs within the Historical Overlay District may be preserved when found to be of an historic significance by the Historic Preservation Commission. Nonconforming signs located outside the Historical Overlay District may be reviewed for historic significance by the Board of Adjustments.

(K) Freestanding and monument signs shall maintain a minimum setback of at least ten feet from the property line. Signs legally existing prior to the adoption of this subchapter shall be grandfathered in.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.188 PROHIBITED SIGNS IN ALL ZONES.

The following signs and/or sign features shall be prohibited in all zones:

(A) Mobile signs;

(B) Roof signs that extend higher than the top of the roof;

(C) Abandoned signs;

(D) Any sign which emits any noise or odor;

(E) Freestanding signs which overhang any part of a building;

(F) Flashing or blinking signs;

(G) Signs in a public right-of-way; and

(H) Handbills.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.189 SIGNS REQUIRING A CONDITIONAL USE PERMIT IN ALL ZONES.

(A) Signs painted directly on a building.

(B) Only the Board of Zoning Adjustments shall have the authority to approve sign variances or conditional use permits for signs unless the request is made to the Planning Commission in conjunction with a Development Plan. Applications for these signs shall be submitted and processed as outlined in §§ 155.065 to 155.067.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.190 SIGNS PERMITTED BY SPECIFIC ZONE.

Any sign not specifically permitted shall be prohibited.

(A) *Agricultural Zone (A-1).*

(1) *Residence.* One wall sign not exceeding one square foot in area.

(2) *Home occupation.* One wall sign not exceeding 12 square feet in area.

(3) *Principal uses permitted.*

(a) Two signs per entrance if incorporated into a fence or wall feature, or one freestanding sign per entrance. Signs shall not exceed 32 square feet in area each.

(b) Incidental signs (do not exceed three square feet in area nor require sign permits).

(4) *Conditional uses permitted.*

(a) One freestanding sign for any other permitted or conditional use not noted herein; signage shall not exceed 32 square feet in area and eight feet in height;

(b) Incidental signs (do not exceed three square feet in area nor require sign permits);

(c) One bulletin board, not exceeding 12 square feet in area and eight feet in height; and

(d) One wall sign per building not exceeding 32 square feet in area.

(B) *Mobile Home (MH) Zone.*

(1) One freestanding sign per park entrance. Sign shall not exceed 32 square feet in area, eight feet in height, and shall have a minimum setback of 20 feet from any street.

(2) One wall sign per mobile home that shall not exceed one square foot in area.

(C) *Low Density Residential Zones (R-1A, R-1B, R-1C, R-1D, and R-1E)*

(1) *Residence.* One wall sign not exceeding one square foot in area.

(2) *Home occupation.* One wall sign not exceeding six square feet in area.

(3) *Subdivision.* One freestanding sign per entrance into the subdivision not to exceed 32 square feet in area and eight feet in height.

(4) *Conditional uses permitted.*

(a) One freestanding sign shall not exceed 32 square feet in area and eight feet in height;

(b) One wall sign shall not exceed 12 square feet in area;

(c) Incidental signs (do not exceed three square feet in area nor require sign permits); and

(d) One bulletin board shall not exceed 12 square feet in area and eight.

(D) *High Density Residential Zones (R-2, R-3, R-4, R-5, and R-6)*

(1) *Single-family homes.* All single-family homes within these zones shall comply with the signage regulations for low density residential zones regulated under division (C) above.

(2) *Multi-family residential buildings.*

(a) One freestanding sign shall not exceed 32 square feet in area, eight feet in height, and shall have a front yard setback of 20 feet.

(b) One wall sign per building shall not exceed 12 square feet in area.

(c) Incidental signs (do not exceed three square feet in area nor require sign permits).

(3) *Conditional uses permitted.*

(a) One freestanding sign shall not exceed 32 square feet in area and eight feet in height.

(b) One wall sign per building shall not exceed 12 square feet in area;

(c) One bulletin board shall not exceed 12 square feet in area and eight feet in height.

(d) Incidental signs (do not exceed three square feet in area nor require sign permits).

(E) *Standard signage permitted in all professional, commercial, and industrial zones (P-1, B-1, B-2, B-3, B-4, I-1, and I-2)*

(1) One freestanding or monument sign per street frontage with a maximum of two signs per lot. Freestanding signs shall not exceed 75 square feet in area, 25 feet in height, and shall have a minimum setback of ten feet. When street frontage permits two signs, the two freestanding signs may be combined into one freestanding sign that shall not exceed 110 square feet in area. For buildings with more than one occupying business, this freestanding sign may list all businesses within the building. Monument signs shall not exceed 60 square feet in area, eight feet in height, and shall have a minimum setback of ten feet;

(2) One wall sign, canopy sign, or awning sign per street frontage with a maximum of two signs per building. The maximum allowed area for all signage in this category is 32 square feet or 15% of the wall area to which the sign, canopy, or awning is attached (whichever is greater). Awnings shall have at least seven feet of clearance when fully extended. When a building contains two or more separate businesses, these requirements shall be applied separately to the wall area of the portion of the building occupied by the individual business;

- (3) One wall sign per tenant or lessee not exceeding two square feet in area;
- (4) One attraction board either attached to the wall or attached to the permitted freestanding sign not to exceed 32 square feet in area and eight feet in height;
- (5) One menu board per drive-through lane or drive-up curbside. Menu boards shall not exceed 55 square feet in area and shall have a maximum height of eight feet;
- (6) Temporary signs; these include banners, inflatable signs, and similar objects which have been installed in a temporary nature. Two temporary signs per permit shall be allowed subject to the following conditions:
 - (a) Shall not exceed 50 square feet per sign where non-rigid materials are used;
 - (b) Shall not exceed 32 square feet per sign where rigid materials such as wallboard or plywood are used;
 - (c) Shall comply with the applicable regulations for the zone in which they are located;
 - (d) Shall not remain in place for a period of more than 14 continuous days;
 - (e) Shall not be displayed for more than a total of eight times in any calendar year; and
 - (f) Shall not be placed within the public right-of-way or the sight triangle at intersections.
- (7) One marquee shall not exceed 32 square feet in area, shall not project more than eight feet from the building face to which it is attached, and shall have a minimum clearance of eight feet;
- (8) Incidental signs (do not exceed three square feet in area nor require sign permits). One bulletin board, not exceeding 32 square feet in area and eight feet in height; and

(9) Signs with electronic message display systems are prohibited in the Downtown Historical Overlay and must be reviewed as a conditional use in the following zoning districts: P-1 (Professional Office), B-1 (Neighborhood Business) and B-2 (Downtown Business) Districts. Electronic message display systems are permitted for property located within the B-3, B-4, I-1, and I-2 Zoning Districts and may be incorporated into one freestanding or wall sign.

(F) *Additional signage permitted in specific commercial and industrial zones* Downtown Business Zone (B-2), in addition to the signage permitted in division (E) above, the following signs shall be permitted.

- (1) *Permanent sidewalk sign.* Where a building is located adjacent to the public right-of-way, one non-illuminated, freestanding sign may be permanently placed on the public sidewalk with the following restrictions:
 - (a) Sign shall not exceed five and one-half square feet in area;
 - (b) The edge of the sign shall not extend beyond the curb line;
 - (c) The maximum dimensions of the support frame shall not exceed eight square feet in area (maximum 48 inches wide or 36 inches high); and
 - (d) The bottom of such support shall be seven feet above the sidewalk and the vertical support shall be 24 inches from the curb.
- (2) *Portable sign.* One may be permitted for each business entrance subject to the following restrictions:
 - (a) Maximum surface area of the sign shall be six square feet per face, maximum height of sign shall be three feet, and maximum width of the sign shall be two feet; and
 - (b) A minimum 36 inches wide pedestrian travel-way shall be maintained on the sidewalk. Signs may be designed with a changeable face and shall be removed from the public sidewalk when the business is closed.

(3) *Projecting sign.* A projecting sign is allowed in a B-2 Zone in lieu of a permanent sidewalk sign. A projecting sign shall not exceed 12 square feet on each side and shall maintain a ground clearance of no less than seven nor more than eight feet above the sidewalk. The edge of the sign facing the public right-of-way shall not project more than five feet from the building facade and cannot pass the sidewalk line. Wall signs and permanent sidewalk signs shall not be installed in conjunction with a projecting sign, unless otherwise approved by the Board of Adjustments.

(G) *Highway Business Zone (B-3).* In addition to the signage permitted in division (E) above, the following signs shall be permitted.

- (1) Shopping center malls larger than 100,000 square feet may have one freestanding sign per street frontage with a maximum of 250 square feet per sign face and a maximum height of 30 feet instead of a freestanding sign measuring 75 square feet in area with a maximum height of 25 feet.
- (2) One interstate sign for those businesses which lie within a 2,500-foot radius of the center point of an interstate interchange overpass. This interstate sign takes the place of either the permitted freestanding or wall sign outlined in division (E) above. That is, these businesses may have a combination of any two of these signs (interstate sign, freestanding sign, or wall sign). Interstate signs are subject to the following restrictions:
 - (a) Shall not have an electronic message display system;

- (b) Individual signs shall not exceed 250 square feet in area;
- (c) Height (from the base to the top of the sign) shall not exceed 90 feet;
- (d) The sign's base shall be at least 90 feet from any residential zoned property; and
- (e) In addition to a sign permit, a building permit shall be obtained prior to installation.

(3) Conditional uses permitted include light pole signs, signs up to 12 square feet in size attached to light poles which are owned and operated by the property/business owner. No more than two light pole signs per road frontage and maintain a minimum ground clearance of at least seven feet

(H) *General Business, Light Industrial, and Heavy Industrial Zones (B-4, I-1, and I-2)* In addition to the signage permitted in division (E) above, the following signs shall be permitted.

- (1) Shopping center malls larger than 100,000 square feet may have one freestanding sign per street frontage with a maximum of 250 square feet per sign face and a maximum height of 30 feet instead of a freestanding sign measuring 75 square feet in area with a maximum height of 25 feet.
- (2) One interstate sign for those businesses which lie within a 2,500-foot radius of the center point of an interstate interchange overpass. This interstate sign takes the place of either the permitted freestanding or wall sign outlined in division (E) above. That is, these businesses may have a combination of any two of these signs (interstate sign, freestanding sign, or wall sign). Interstate signs are subject to the following restrictions:
 - (a) Shall not have an electronic message display system;
 - (b) Individual signs shall not exceed 250 square feet in area;
 - (c) Height (from the base to the top of the sign) shall not exceed 90 feet;
 - (d) The sign's base shall be at least 90 feet from any residential zoned property; and
 - (e) In addition to a sign permit, a building permit shall be obtained prior to installation.
- (3) One billboard may be permitted subject to the following restrictions:
 - (a) The property on which the billboard is located shall abut a federal or state highway;
 - (b) The sign shall be the principal use; there shall be no other buildings, freestanding signs, and the like on the lot;
 - (c) Signage face shall not exceed 720 square feet in area;
 - (d) The sign shall be located no closer than 300 feet to any other structure;
 - (e) The sign shall be at least 150 feet away from any residential zone or residential use;
 - (f) There shall be a 40-foot setback requirement from any right-of-way;
 - (g) Maximum height shall be 35 feet; and
 - (h) A billboard containing an electronic message display system shall:
 1. Be static for at least eight seconds;
 2. Change from one message to another in less than two seconds;
 3. Not blink, scroll, or contain animation or video;
 4. Be programmed to freeze in a static display if a malfunction occurs; and
 5. Shall comply with KAR Title 603, pertaining to billboards.
- (4) Conditional uses permitted include light pole signs, signs up to 12 square feet in size attached to light poles which are owned and operated by the property/business owner. No more than two light pole signs per road frontage and maintain a minimum ground clearance of at least seven feet. Prohibited in I-1 and I-2 Zones.

(I) *Planned Development (PD) Zone.* A permitted sign's height, size, location, and design features shall be determined by the sign requirements set forth in the zone in which the proposed or existing use is first permitted.

(Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

§ 155.191 ADVERTISING ON INTERSTATE HIGHWAYS.

No billboard shall be permitted adjacent to interstate or limited access highways except in conformance with the setback requirements established by the Federal Bureau of Public Roads, the state's Transportation Cabinet, and the requirements of this chapter with respect to the zoning district involved.

(Ord. 19-86, passed 9-15-1986; Ord. 2014-1, passed 3-12-2014)

§ 155.192 MAINTENANCE STANDARDS.

Every sign including these signs for which a permit is not required shall be maintained in good condition at all times.

(Ord. 19-86, passed 9-15-1986; Ord. 2014-1, passed 3-12-2014)

LANDSCAPE AND LAND USE BUFFERS

§ 155.205 INTENT.

The intent of these guidelines is to provide a conservation plan to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses; and to protect, preserve, and promote the esthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, visual pollution, air temperature, and artificial light glare.

(Prior Code, § 13.1) (Ord. 94-6, passed 8-25-1994)

§ 155.206 SITES AFFECTED.

(A) *New sites.* No new site development, building, structure, or vehicular use area should hereafter be created and used unless landscaping is provided as required by the provisions of these guidelines.

(B) *Existing sites.* No property lines should be altered nor should any building, structure, or vehicular use area be expanded, unless the minimum landscaping provided by the provisions of these guidelines is provided for the property to the extent of its alteration or expansion, and not for the entire property.

(Prior Code, § 13.2) (Ord. 94-6, passed 8-25-1994)

§ 155.207 WHERE LANDSCAPE MATERIAL IS REQUIRED.

This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, and perimeter landscaping for non-compatible land uses areas.

(A) *Perimeter landscaping requirements.* Unless otherwise provided, landscape materials shall be installed to provide a minimum of 50% winter opacity and a 70% summer opacity between one foot above finished grade level to the top of the required planting hedge, fence, wall, or earth mound within four years after installation. The required landscaping should be provided either in easements in certain zones or adjacent to vehicular use area. A "plant list" shall be maintained by the Planning Department to provide more detailed information on the acceptable plant material.

(1) *Property perimeter requirements.* When the following adjoins the following, a minimum landscape easement of this average widths (with three feet as the least dimension) is required, which will contain this material, to achieve opacity required.

A. When the following	B. Adjoins the following	C. A minimum landscape *1 easement of this width is required	D. Which will contain this material *3 to achieve opacity required.
A. When the following	B. Adjoins the following	C. A minimum landscape *1 easement of this width is required	D. Which will contain this material *3 to achieve opacity required.
1. Any Residential Zone except Mobile Home District	Any Mobile Home District	Ten feet, adjacent or astride to all common boundaries, including street frontage	One tree 40 feet of lineal boundary, OFT *2, from Group A, B, or C of plant list plus continuous six feet high planting, hedge, fence, wall, or earth mound.
2. Any Single-Family Residential Zone except Mobile Home District	Any Multi-Family Residential	Ten feet adjacent or astride to all common boundaries except street frontage.	Same as 1(D)
3. Any Residential Zone including Mobile Home District	Any Office Zone	Six feet, adjacent or astride to all common boundaries except street frontage	One tree 40 feet of lineal boundary, OFT *2, from Group A or B of plant list plus continuous six feet high planting, hedge, fence, wall, or earth mound.

4. Any Residential Zone including Mobile Home District	Any Business Zone	Same as 1(C)	Same as 3(D)
5. Any Residential Zone including Mobile Home District	Any Industrial Zone	Twenty feet adjacent or astride to all common boundaries except street frontage	One tree 40 feet of lineal boundary, OFT*2, from Group A of plant list plus continuous six feet high planting, hedge, fence, wall, or earth mound.
6. Any Office or Business Zone	Any Industrial Zone	Fifteen feet adjacent or astride to all common boundaries except street frontage	Same as 3(D)
7. Any Professional Office Zone	Any Business Zone	Same as 3(C)	Same as 3(D)
8. Any Recreational Zone	Any zone except Agricultural Zones	Same as 3(C)	Same as 3(D)
9. Any zone except Agricultural Zones	A freeway or arterial street prohibiting driveways	Twenty feet for residential zones including Mobile Home Districts and ten feet for all other zones, adjacent to freeway or arterial	One tree 30 feet OFT *2, from Group A or B of plant list, plus continuous six feet high planting, hedge, wall, fence, or earth mound.
10. Railroads (except spur tracks)	Any zone except Agricultural and Industrial Zones	Twenty feet for residential zones including Mobile Home District and ten feet for all other zones, adjacent to railroad boundaries.	Same as 9(D)
11. Any property including street rights-of-way	Utility substation, junk yards, landfills, sewage plants, or similar uses	Fifteen feet adjacent to all boundaries, except only five feet for utility substations measured adjacent to the enclosure.	Same as 9(D)
<p>*1 Grass or ground cover shall be planted on all portions of easement not occupied by other landscape material.</p> <p>*2 OFT means "or fraction thereof". Trees do not have to be equally spaced, but may be grouped.</p> <p>*3 To determine required area of landscape easement, multiply required average width by length of common boundary. Using item 1(C) as an example, the ten feet average required width times as assumed 100 feet of common boundary equals 1,000 square feet of required landscape area. Thus, if some sections of the easement are only three feet in width, other sections will have to be greater than ten feet in width in order to obtain the required 1,000 square feet of landscape area.</p>			

(2) *Vehicular use area perimeter requirements.* When the following adjoins the following, a minimum landscape easement of this width is required, which will contain this material *3 to achieve opacity required.

A. When the following	B. Adjoins the following	C. A minimum landscape *1 easement of this width is required	D. Which will contain this material *3 to achieve opacity required.

1. Any residential office, educational institutional, or business building (except in B-2 Zones)	Any vehicular use area *2 on any adjacent property.	Four foot minimum to all trees from edge of paving where vehicles overhang, and a three-foot strip (that prohibits any overhang) for other areas, adjacent to portion of vehicular use area *2 that faces building on adjacent property.	One tree 40 feet of boundary of vehicular use area *2, OFT *4, from Group A, B, or C, plus a three foot average height planting, hedge, fence, wall, or earth mound.
2. Any public right-of-way (except freeways)	Any vehicular use area outside B-2 (except vehicular sales facilities or service stations) in any zone.*2	Same as 1.C. above except applies to V.U.A. *2 portion facing public or private street right-of-way.	One tree 40 feet OFT *4 from Group A or B, plus a three feet average height continuous planting, hedge, fence, wall, or earth mound.
3. Any public or private right-of-way (except freeways)	Any vehicular sales area or service station.	Same as 2(C)	One tree 50 feet, OFT from Group A or B, plus one low shrub ten feet OFT (opacity requirements do not apply).
4. Any public or private right-of-way (except freeways)	Any vehicular use area (except loading and unloading areas) in B-2.	Three-foot strip adjacent to the portion of a vehicular use area *2 that faces a public or private street right-of-way.	The foot average height continuous planting, hedge, fence, or wall.

*1 These provisions may be included within the property perimeter required by division (A)(1) above, where landscape easements are also applicable.

*2. A vehicular use area (V.U.A.) is any open or enclosed area containing more than 1,800 square feet of area and/or used by six or more, of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sale and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks, landscape strips, and the like, do not eliminate adjacency).

*3 Grass or ground cover shall be planted on all portions of the easement not occupied by other landscape material.

*4 OFT means "or fraction thereof".

(3) *Who provides easement.* The landscape easement and material required adjacent to any street under division (A) (2) above should be provided by the property owner adjoining street, unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscaping easement and materials, may be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or generally should be placed on the activity listed under divisions (A)(1) and (A)(2), when adjoining parcels having different owners; or may be placed astride the boundary or adjoining parcels having different owners if there is a written agreement, as a public records; or should be placed on the activity or parcel being processed when adjoining property is already developed with the exception of division (A)(1) item 9 above.

(4) *Requirement conflicts.* Whenever a parcel or activity falls under two or more of the categories listed in the table of divisions (A)(1) or (A)(2) above, only one category (that with the most stringent requirements) should be enforced.

(5) *Easement conflicts.* The required landscape easement may be combined with a utility or other easement as long as all of the landscape requirements can be fully met, otherwise, the landscape easement should be provided in addition to, and separate from, any other easement. Cars or other objects should not overhang or otherwise intrude upon the required landscape easement more than two and one-half feet, through the use of wheel stops or curbs.

(6) *Existing landscape material.* Existing landscape material should be shown on the plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objectives of these guidelines.

(7) *Landscaping at driveway and street intersections.* To ensure that landscape materials do not constitute a driving hazard, a "sight triangle" should be observed at all street intersections of driveways with streets. Within this sight triangle, no landscape material nor parked vehicles except for required grass or ground cover should be permitted. Within the sight

triangle, trees should be permitted as long as, except during early growth stages, only the tree trunk (no limbs, leaves, and the like) is visible between the ground and eight feet above the ground, or otherwise does not present a traffic visibility hazard. The sight triangle is defined in the following sections.

(a) *Driveway intersection sight triangle.* At intersections of driveways with streets, the sight triangle should be established by locating the intersection of the street curb with the driveway edge perpendicular to the curb.

(b) *Street intersection sight triangle.* At street intersections, the sight triangle should be formed by measuring at least 35 feet along curb lines and connecting these points.

(B) *Interior landscaping for vehicular use area.* Any open vehicular use area containing more than 6,000 square feet of area or 12 or more vehicular parking spaces, shall provide "interior" landscaping in addition to the previously required "perimeter" landscaping.

(1) *Landscape area.* For each 100 square feet, or fraction thereof, of vehicular use area, five square feet of landscaped area shall be provided.

(a) *Minimum area.* The minimum landscape area permitted shall be 64 square feet, with at least dimension of eight feet.

(b) *Maximum contiguous area.* In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than 350 square feet, in vehicular use areas under 30,000 square feet in size, and no required area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. In both cases, the least dimension of any required area shall be eight feet. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum.

(2) *Minimum trees.* A minimum of one tree shall be required for each 250 square feet, or fraction thereof, of required landscape area. Trees shall have a clear trunk of at least five feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two feet in height.

(3) *Vehicle overhang.* Parked vehicles may hang over the interior landscaped area no more than two and one-half feet, as long as concrete or other wheel stops are provided to ensure no greater overhang or penetration of the landscaped area.

(Prior Code, § 13.3) (Ord. 94-6, passed 8-25-1994)

§ 155.208 LANDSCAPE MATERIALS.

The landscaping materials shall consist of the following and are described in more detail in the "Planting Manual" on file at the office of Planning and Community Development.

(A) *Walls and fences.* Walls shall be constructed of natural stone, brick, or artificial materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood. Chain link fencing will meet approval only if covered with wood strips or plant material. In industrial zones, there should be no height limitation on walls or fences; in all other zones, however, there should be a six-foot height restriction for walls or fences in front yards, and eight-foot height restriction in all other required yards. All walls or fences shall have a minimum opacity of 80%.

(B) *Earth mounds.* Earth mounds shall be constructed with proper slopes and adequate plant material to prevent erosion.

(C) *Plants.* All plant materials shall be living plants (artificial plants are not permitted) and shall meet the following requirements.

(1) *Quality.* Plant materials used in conformance with the provisions of these guidelines shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under state regulations.

(2) *Deciduous trees.* (Trees which normally shed their leaves in the fall.) Shall be species having an average mature crown spread of greater than 15 feet and having a trunk(s) which can be maintained with over five feet of clear wood in areas which have visibility requirements, except at vehicular use area intersections where an eight-foot clear wood requirement will control. Trees having an average spread of crown less than 15 feet may be substituted by grouping of the same so as to create the equivalent of a 15-foot crown spread. A minimum of ten feet overall height or a minimum caliper (trunk diameter, measured six inches above ground for trees up to four inches caliper) of at least one and three-quarter inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 15 feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior containing dimension shall be five feet square and five feet deep and for which the construction requirements shall be four inches thick, reinforced concrete.

(3) *Evergreen trees.* Evergreen trees shall be a minimum of five feet high with a minimum caliper of one and one-half inches and a minimum spread of three feet immediately after planting.

(4) *Shrubs and hedges.* Shrubs and hedges shall be at least two feet for § 155.207(A)(2) (and three feet for § 155.207(A)(1)) in average height or spread when planted and shall conform to the opacity and other requirements within four years after planting.

(5) *Vines.* Vines shall be at least 12 or 15 inches at planting, and are generally used in conjunction with walls or fences.

(6) *Grass or ground cover.* Grass (of the fescue (Gramineak) or Bluegrass (Poaceae) family) shall be planted in

species normally grown as permanent lawns in the county, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be placed in such a manner as to present a finished appearance. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar approved materials.

(D) *Maintenance and installation.* All landscaping materials shall be installed in a sound, workmanship like manner, and according to accepted good construction and planting procedures. The person in charge or in contract of the properties, whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible for the continued proper maintenance, free from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three months. Violation of these installation and maintenance provisions should be grounds for the Building Inspector to refuse a building occupancy permit or to institute legal proceedings as set forth in other sections of the zoning regulations.

(Prior Code, § 13.4) (Ord. 94-6, passed 8-25-1994)

§ 155.209 PLAN SUBMISSION AND APPROVAL.

Whenever any property is affected by these landscaping requirements, the property owner or developer should prepare two copies of a landscape plan for submittal to, and approval by, the Planning Office. The Building Inspector shall follow the requirements of these guidelines in approving or disapproving any landscape plan required by these guidelines. Landscape plans also may be submitted as part of any development plan required by the Planning Commission.

(A) *Plan content.* The contents of the plan should include the following:

- (1) Site plan, drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings, and other structures, vehicular use areas (including parking stalls, driveways, service areas, square footage, and the like), water outlets, and landscape material (including height at planting time, average mature height, and on-center planting dimension for all plants);
- (2) Typical elevation and cross-sections as may be required;
- (3) Title box with the pertinent names and addresses, (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow, and zoning district; and
- (4) A performance bond whenever required to insure proper installation of landscape materials, with complete cost of all work certified by a landscape contractor, with the bond amount to include the accurate cost plus no more than 25% and the bond should be released upon satisfactory completion of the work as determined by the public agency that holds the bond.

(B) *Building permit.* Where landscaping is required, no building permit should be issued until required landscaping plans have been submitted and approved; and no occupancy permit should be issued until the landscaping is completed, as certified by on-site inspection by the representative of the Planning Office, unless a performance bond or irrevocable letter of credit from a banking institution has been posted.

(Prior Code, § 13.5) (Ord. 94-6, passed 8-25-1994)

AMENDMENTS

§ 155.220 AMENDMENT PROCEDURE.

In order to make any amendment to this chapter, either to the text or to the map, the following procedure shall be followed. If any use or density is not permitted in a zoning district by the provisions of the zoning order, it may not be permitted by any agency unless the zoning order is amended according to the amendment procedure.

(A) *Review by Planning Commission.* No amendment shall be made without first being reviewed by the Planning Commission. The Planning Commission may refuse to review proposed amendments which have been proposed and rejected within the past year.

(B) *Public hearing.* The Planning Commission shall present every proposed amendment to the public at a public hearing. Public hearings on amendments to the zoning order shall be scheduled at the discretion of the Planning Commission. The Planning Commission shall publish notice once, not less than seven nor more than 20 days prior to said public hearing, in a newspaper having general circulation throughout the county, indicating the time and place of each public hearing on proposed amendments to the zoning order. The Planning Commission may establish a schedule of reasonable fees to be paid by the applicant for a zoning map or text amendment. The Planning Commission may also issue notification of the public hearings by such other means as it may determine.

(C) *Special public hearing.* The Planning Commission may call a special public hearing at any time to consider a zoning amendment, shall conform with the notice requirements for such special meeting as set forth in KRS 100.163 and KRS Chapter 424, and may establish a separate schedule of reasonable fees to be paid by the applicant for the zoning amendment, which fees shall cover the cost of adequate advertisement of the special hearing by such means as the Planning Commission determines to be necessary.

(D) *Recommendation to the City Council or Fiscal Court* The Planning Commission shall submit its recommendations to the City Council or Fiscal Court within 60 days after the public hearing. The City Council or the Fiscal Court may each act independently of the other to amend the zoning order within its respective area of jurisdiction. The Planning Commission may revise proposed amendments, in which case such amendments shall be presented again at a public hearing according to KRS 100.211. The Planning Commission, as well as the legislative bodies of the city and county, may also initiate proposed amendments.

(Prior Code, § 14)

VIOLATIONS AND REMEDIES

§ 155.235 REMEDIES.

The Enforcement Officer shall issue notice to violators of all violations of the zoning order and shall order that such violations cease. In cases of possible violation where the Enforcement Officer cannot determine if there is a literal violation, he or she shall apply to the Board of Zoning Adjustment for an interpretation. If necessary, the City Attorney, County Attorney, or any property owner or occupant who would be damaged by a violation may institute appropriate action in court to eliminate the threat or existence of any violation of this chapter in accordance with state statutes. A warrant, summons, or citation may be obtained by the Enforcement Officer or by any other authorized individual. Injunctive relief may also be sought by the Enforcement Officer, the City Attorney, the County Attorney, or any other aggrieved party.

(Prior Code, § 15.1) (Ord. 98-4, passed 6-10-1998)

§ 155.236 APPEALS.

Appeals from the actions of the Planning Commission and Board of Zoning Adjustment, as well as from the final action of the City Council or Fiscal Court with respect to zoning map or text amendments, shall be taken in the manner set forth in KRS Chapter 100.347.

(Prior Code, § 15.3)

§ 155.999 PENALTY.

(A) Violations of the provisions of this chapter or failure to comply with any of these requirements shall constitute a misdemeanor. Any person who so violates this chapter or fails to comply with any of its requirements except as otherwise provided herein, shall, upon conviction thereof, be fined not less than \$10 but no more than \$500 for each such conviction. Each day of violation shall constitute a separate offense.

(B) Violation of the provisions of §§ 155.180 to 155.192 shall be subject to the fines and penalties as set forth in § 155.186 and § 155.220 for violation of this chapter.

(Prior Code, § 15.2) (Ord. 19-86, passed 9-15-1986; Ord. 2014-1, passed 3-12-2014; Ord. 2018-11, passed 6-27-2018)

TABLE OF SPECIAL ORDINANCES

Table

- I. AGREEMENTS**
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- V. ZONING**

TABLE I: AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>

98-13	12-30-1998	Authorizing the County Judge/Executive to execute an agreement with the Blue Grass Community Foundation, Inc. for the payment of \$2,500,000 of the proceeds from the sale of the Rockwell Building to be held and maintained as a permanent endowment component fund of the Bluegrass Community Foundation, Inc.
2000-91	8-8-2000	Approving project agreement with Natural Resources Conservation Service concerning Dry Fork Creek Water Shed Project
2000-97	9-13-2000	Approving contract amendment relating to East Clark County Water District Rural Water Extension Community Development Block Grant 96-059
2000-98	9-13-2000	Approving the contract for the procurement of professional services as provided in Grant No. 1999-JF-FX-0721 (ILLECP-4) Innovative Local Law Enforcement and Community Policing
2000-106	9-27-2000	Relating to extension of agreement with Bluegrass Crime Stoppers, Inc.
2001-29	1-24-2001	Authorizing execution of an amendment to the master agreement relating the Lower Howard's Creek Project
2001-48	2-14-2001	Approving revised funding agreement
2001-51	2-28-2001	Approving an interim agreement related to the preliminary development of the Lower Howard's Creek Heritage Park Project
2001-52	2-28-2001	Awarding bid and authorizing execution of a contract for historic preservation services related to the Heritage Park Project
2001-54	3-14-2001	Approving an agreement related to the providing of School Resource Officers
2001-55	3-14-2001	Approving the statewide Emergency Management Mutual Aid and Assistance Agreement
2001-71	4-25-2001	Authorizing execution of a memorandum of agreement regarding acceptance of the proposal of the state's Nature Preserves Commission to conduct a biological inventory for the Lower Howard's Creek Heritage Park
2001-119	7-25-2001	Approving a letter of agreement for the Civil War Earthenworks Project providing for preparation of a management plan
2001-120	7-25-2001	Approving lease agreement for Emergency Services Tower
2001-128	8-8-2001	Approving lease agreement with Clark County GIS Consortium
2001-146	10-15-2001	Authorizing execution of a college operation and lease agreement by and between the City of Winchester, the County Fiscal Court, Winchester/Clark County Parks and Recreation/Board, Winchester/Clark County Industrial Authority, and Lexington Community College
2001-147	10-15-2001	Awarding a bid for the College Park Library Renovation
2002-11	1-23-2002	Approving a professional service agreement with Bluegrass Area Development District regarding professional and GIS Services relating to fire protection study

2002-25	2-13-2002	Authorizing execution of a letter of intent with the state's Transportation Cabinet for a Transportation Enhancement Project Grant
2002-78	3-27-2002	Authorizing the County Treasurer to execute Farm Program documents through the Farm Services Agency
2002-95	5-7-2002	Approving participation in the Civil War Earthenworks Project
2002-102	5-27-2002	Authorizing execution of a master agreement for emergency management assistance funds
-	9-25-2002	A resolution authorizing the County Judge/Executive to enter into an agreement with the state's Transportation Cabinet pertaining to the installation of a turn lane and traffic signal improvements on KY 1958
2002-167	11-27-2002	Approving the Emergency Management Mutual Aid and Assistance agreement
2004-144	10-5-2004	Participation in revolving fund policy
2004-20	10-27-2004	Approval of revolving fund agreement
2005-4	2-9-2005	Community Development Block Grant Program
2005-5	2-9-2005	Affirmative action plan agreement
2009-24	1-13-2009	Agreement concerning the Winchester Plaza Development Area
10-5	2-10-2010	Lease agreement
10-8	4-28-2010	Lease agreement
2010-15	5-26-2010	Lease agreement
2010-23	12-15-2010	Lease agreement
2011-12	9-14-2011	Lease agreement
2011-15	11-9-2011	Lease agreement
2014-4	4-23-2014	Interlocal agreement with Winchester concerning taxation
2014-19	12-17-2014	Interlocal agreement with Winchester concerning taxation
2015-5	7-8-2015	Lease agreement
2017-32	8-9-2017	Lease agreement
2020-07	11-12-2020	Approving a lease agreement for the financing of a project

TABLE II: VACATION OF PROPERTY

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2015-07	1-4-2016	Vacating a portion of Westmoreland Avenue

TABLE III: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
89-19	10-11-1989	Granting a cable television franchise to Simmons Cable TV of Kentucky- Indiana, Inc.
89-21	12-13-1989	Granting a cable television franchise to First Quality Cable, Inc.
95-7	4-19-1995	Granting a non-exclusive community antenna television franchise to Horizon Communications, Inc.

TABLE IV: STREET ACCEPTANCES; COUNTY ROAD DESIGNATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
80-20	1-16-1981	Designating roads into the county road system eligible for state derived tax revenues
81-6	6-24-1981	Designating roads into the county road system eligible for state derived tax revenues
2000-5	5-24-2000	Tentatively accepting Fern Court and Watercrest Way contained in Unit 3 of Spring Ridge Subdivision into the county road system
2000-24	11-8-2000	Approving construction of proposed road at 4475 Rockwell Road
2001-7	1-10-2001	Accepting a section of Teal Lane for maintenance and repair
2001-8	1-10-2001	Accepting a section of Teal Lane for maintenance and repair
2001-9	1-10-2001	Accepting a section of Rose Lane for maintenance and repair
2001-10	1-10-2001	Accepting a section of Canvasback Lane for maintenance and repair
2001-11	1-10-2001	Accepting Hibiscus Lane Units 2A and 2B for maintenance and repair
2001-12	1-10-2001	Accepting Honeysuckle Lane for maintenance and repair
2001-13	1-10-2001	Accepting Primrose Lane for maintenance and repair
2001-14	1-10-2001	Accepting Hibiscus Lane Unit 3 for maintenance and repair
2001-15	1-10-2001	Accepting Amiens Boulevard for maintenance and repair
2001-16	1-10-2001	Accepting Morning Glory Court for maintenance and repair
2001-17	1-10-2001	Accepting a section of Eastridge Drive for maintenance and repair
2001-18	1-10-2001	Accepting a section of Waycross Drive for maintenance and repair
2001-19	1-10-2001	Accepting Bracken Court for maintenance and repair
2001-20	1-10-2001	Accepting Salem Avenue for maintenance and repair
2001-27	1-24-2001	Accepting Wexford Drive for maintenance and repair

2001-28	1-24-2001	Accepting Edison Court for maintenance and repair
2001-148	10-15-2001	Accepting Amiens Boulevard for maintenance and repair
2001-167	11-14-2001	Accepting a portion of Hibiscus Lane for maintenance and repair
2001-184	12-19-2001	Accepting Summerhill Way for maintenance and repair
2001-185	12-19-2001	Accepting Justice Drive for maintenance and repair
2001-186	12-19-2001	Accepting Freedom Way for maintenance and repair
2001-187	12-19-2001	Accepting Augusta Drive for maintenance and repair
2002-137	9-11-2002	Accepting a section of Teal Lane for maintenance and repair
2002-145	10-16-2002	Accepting a section of Crocus Court for maintenance and repair
2002-146	10-16-2002	Accepting a section of Hibiscus Lane for maintenance and repair
2002-147	10-16-2002	Accepting a section of Primrose Lane for maintenance and repair
2002-194	12-18-2002	Accepting a section of Acadia Way for maintenance and repair
2002-195	12-18-2002	Accepting a section of Shannon Court for maintenance and repair
2002-196	12-18-2002	Accepting a section of Jameson Way for maintenance and repair

TABLE V: ZONING

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	--	Rezoning a tract of land
94-2	--	Rezoning a tract of land
2000-27	--	Rezoning a tract of land
2001-5	--	Rezoning a tract of land
2003-7	--	Rezoning a tract of land
2011-1	--	Rezoning a tract of land
93-6	7-28-1993	Rezoning a tract of land
94-7	9-29-1994	Rezoning a tract of land
95-10	--1995	Rezoning a tract of land
95-4	3-23-1995	Rezoning a tract of land
95-5	4-19-1995	Rezoning a tract of land
95-8	5-10-1995	Rezoning a tract of land
95-9	5-10-1995	Rezoning a tract of land
95-14	7-27-1995	Rezoning a tract of land
95-17	11-8-1995	Rezoning a tract of land
96-1	1-25-1996	Rezoning a tract of land
96-2	1-25-1996	Rezoning a tract of land
96-3	1-25-1996	Rezoning a tract of land

96-4	1-25-1996	Rezoning a tract of land
96-6	2-29-1996	Rezoning a tract of land
96-7	2-29-1996	Rezoning a tract of land
96-10	7-10-1996	Rezoning a tract of land
96-14	9-26-1996	Rezoning a tract of land
96-15	9-26-1996	Rezoning a tract of land
96-16	9-26-1996	Rezoning a tract of land
96-19	11-13-1996	Rezoning a tract of land
96-23	1-8-1997	Rezoning a tract of land
97-1	1-22-1997	Rezoning a tract of land
97-2	2-12-1997	Rezoning a tract of land
97-3	2-12-1997	Rezoning a tract of land
97-5	4-16-1997	Rezoning a tract of land
97-8	6-11-1997	Rezoning a tract of land
98-1	1-28-1998	Rezoning a tract of land
98-2	4-22-1998	Rezoning a tract of land
98-5	7-15-1998	Rezoning a tract of land
99-2	4-14-1999	Rezoning a tract of land
99-3	5-12-1999	Rezoning a tract of land
2000-6	4-26-2000	Rezoning a tract of land
2000-7	4-26-2000	Rezoning a tract of land
2000-20	10-11-2000	Rezoning a tract of land
2000-29	1-10-2001	Rezoning a tract of land
2001-2	2-28-2001	Rezoning a tract of land
2001-6	6-13-2001	Rezoning a tract of land
2001-7	8-8-2001	Rezoning a tract of land
2001-10	9-26-2001	Rezoning a tract of land
2002-17	8-14-2002	Rezoning a tract of land
2003-1	2-13-2003	Rezoning a tract of land
2004-14	7-12-2004	Rezoning a tract of land
2004-18	8-25-2004	Rezoning a tract of land
2004-26	12-15-2004	Rezoning a tract of land
2004-28	12-23-2004	Rezoning a tract of land
2005-20	11-9-2005	Rezoning a tract of land
2006-3	2-8-2006	Rezoning a tract of land
2006-7	7-12-2006	Rezoning a tract of land
06-13	12-13-2006	Rezoning a tract of land
2007-6	2-28-2007	Rezoning a tract of land
2007-11	4-18-2007	Rezoning a tract of land
2007-19	7-11-2007	Rezoning a tract of land
2008-1	2-13-2008	Rezoning a tract of land
2008-8	4-16-2008	Rezoning a tract of land
2008-15	7-23-2008	Rezoning a tract of land
2009-13	8-26-2009	Rezoning a tract of land
2010-3	1-27-2010	Rezoning a tract of land
2010-4	1-27-2010	Rezoning a tract of land
2010-17	6-23-2010	Rezoning a tract of land
2011-1	1-26-2011	Rezoning a tract of land
2012-1	2-8-2012	Rezoning a tract of land
2013-12	9-25-2013	Rezoning a tract of land
2014-6	5-28-2014	Rezoning a tract of land
2014-11	7-9-2014	Rezoning a tract of land

2014-12	8-27-2014	Rezoning a tract of land
2016-05	4-27-2016	Rezoning a tract of land
2016-11	8-10-2016	Rezoning a tract of land
2016-14	9-28-2016	Rezoning a tract of land
2016-16	11-9-2016	Rezoning a tract of land
2017-20	2-22-2017	Rezoning a tract of land
23	4-12-2017	Rezoning a tract of land
24	4-22-2017	Rezoning a tract of land
2017-27	6-14-2017	Rezoning a tract of land
2017-35	10-11-2017	Rezoning a tract of land
2018-02	2-14-2018	Rezoning a tract of land
2018-05	2-28-2018	Rezoning a tract of land
2018-10	5-23-2018	Rezoning a tract of land
2018-16	8-8-2018	Rezoning a tract of land
2018-23	12-26-2018	Rezoning a tract of land
2019-07	9-4-2019	Rezoning a tract of land containing 6.401 acres located at 2101 Old Boonesboro Road from R-1-C and R-1D Single-Family Residential to PD Planned Development
2020-10	12-22-2020	Rezoning a tract of land containing 94.110 acres located at 1625 Mt. Sterling Road (7850 Veterans Memorial Parkway) from A-1 Agricultural to PD Planned Development
2020-11	12-22-2020	Rezoning a tract of land containing 6.131 acres located at 1995 McClure Road from A-1 Agricultural to R-1C Single-Family Residential
2020-12	12-22-2020	Rezoning a tract of land containing 61.72 acres located at 1305 Irvine Road from A-1 Agricultural to PD Planned Development

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-	1-22-1997	150.26

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91-4	5-22-1991	50.001 – 50.004, 50.015-50.020, 50.035-50.045, 50.060-50.064, 50.075-50.085, 50.100-50.102, 50.115-50.117, 50.130, 50.131, 50.999
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92-9	8-12-1992	33.070 – 33.073, 38.15-38.17, 38.99
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93-6	7-28-1993	TSO Table V
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-	6-13-1994	30.01 – 30.05, 31.01-31.09, 31.99, 32.01-32.05, 32.20-32.22, 32.24-32.28, 33.001-33.005, 34.01, 34.02, 34.04-34.06, 34.20-34.22
94-6	8-25-1994	155.205 – 155.209
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95-4	3-23-1995	TSO Table V
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95-16	9-28-1995	38.02, 38.99
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96-7	2-29-1996	TSO Table V
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2001-187	12-19-2001	TSO Table IV
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