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CHAPTER 90: ANIMALS AND LIVESTOCK

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GENERAL PROVISIONS

90.01 DEFINITIONS.

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

ALTERED. A dog or cat (as the context herein may require) that has been spayed or neutered.

ANIMAL CONTROL AUTHORITY. An entity acting alone or in concert with other state or local law enforcement officers or employees of governmental units that enforce the animal control laws of the city, county and state, or are responsible for providing for the shelter and welfare of animals.

ANIMAL CONTROL OFFICER. Any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter, including the officials designated by the Marion Fiscal Court to be in charge of the county animal shelter for Marion County, Kentucky. As used in this chapter, the term also includes the agents and employees of the dog warden and other animal control officers charged with regulating animals and owners of animals in accordance with local, county and state laws.

CITY. All public and private areas within the jurisdiction of the City of Lebanon, Kentucky.

DANGEROUS DOG.

(1) Any dog that constitutes a physical threat to human beings or other domestic animals by virtue of a known propensity to endanger life by an unprovoked assault or bite so as to cause substantial bodily harm; or

(2) Any dog that, when unprovoked, in a vicious or terrorizing manner approaches any person in an attitude of attack upon the streets, sidewalks, private areas, or any public grounds or places; or

(3) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals; or

(4) Any dog that bites (to the extent of puncturing or severely bruising skin), inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or

(5) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

(6) Any dog that has previously attacked or bitten a human being, other than under the circumstances deemed justifiable under division (11) of this definition; or

(7) Any dog that has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of tendencies to attack or to bite human beings other than the type of circumstances that would be justifiable under division (11) definition; or

(8) Any dog certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life or property if not kept in the manner required by this chapter, based on reasonable medical probability; or

(9) Any dog that has been trained as an attack or guard dog, except such dogs that are employed by any law enforcement agency within the Commonwealth of Kentucky; or

(10) Any dog not licensed according to law.

(11) *Exceptions.* An animal shall not be deemed dangerous solely because it:

(a) Bites, attacks or menaces:

1. Any one assaulting its owner; or

2. Any person or other animal who has tormented or abused it; or

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

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

ENCLOSURE. Any dogs confined within a fenced yard must have an adequate space for exercise, based on a dimension of at least 100 square feet per dog, and at least 75 square feet per cat. Provided, further, that where dogs or cats are kept or housed on property without a fenced yard, the owner or the person having custody of such dogs or cats shall provide an enclosure for such dogs or cats meeting a dimension of at least 100 square feet per dog, and at least 75 square feet per cat. Such enclosure shall be constructed of chain link or similar type materials, with all four sides enclosed. The enclosure shall be sufficient height to prevent the dog or cat from escaping therefrom.

EXOTIC ANIMAL. A normally undomesticated animal, whether or not native to the region, including lions, giraffes, bears, tigers and wolves (or any hybrid thereof).

FARM. Any privately owned or leased, enclosed, unified tract of property consisting of greater than three acres shall be considered a **FARM** for all purposes under this chapter.

IMPOUNDMENT. Taken into the custody of the animal shelter for Marion County, Kentucky, including but not limited to, the Marion County Humane Society Shelter.

LEAD or LEASH. A device for restraint of a dog, as defined under Arestraint@ in this section.

LIVESTOCK. Cattle, horses and other animals, regardless of age, held by the individual for draft, breeding, dairy or sporting purposes, but does not include poultry.

OWNER. Any person, partnership, firm, corporation, or other legal entity owning, possessing, keeping, harboring or having the care or custody of a dog.

RESTRAINT. A dog shall be deemed under **RESTRAINT** if on the premises of the owner and confined in a secure enclosure, as defined above, or if accompanied by the owner and restrained with a braided leather, nylon or manila lead or leash, having a minimum tensile strength of 300 pounds and not exceeding ten feet in length, except such length shall not exceed four feet in the case of a dangerous dog.

SHELTER. Any owner of animals shall maintain a clean and healthful shelter and living area for any animal being kept, which area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. All such shelters or living areas must be cleaned and maintained regularly so as to promote proper health for the animals being kept. All living areas shall be constructed and maintained to promote drainage of rainwater to prevent the accumulation of mud and/or water. Insulating bedding materials shall be provided during inclement weather extremes.

SPECIAL DOG WARDEN. Any member of the Lebanon City Police Department, the Bradfordsville Police Department, a constable of Raywick or Loretto, or the Marion County Sheriff's Office.

UNALTERED. A cat or dog (as the context herein may require) that has not been spayed or neutered.
(Ord. 08-01, passed 9-8-08)

GENERAL ANIMAL CONTROL

▪ **90.10 HITCHING OR TYING ANIMALS TO PUBLIC OBJECTS PROHIBITED.**

It shall be unlawful for any person to hitch animals to any telegraph, telephone, electric light or other utility pole, water hydrant or tree, located on any street, alley or public place, or the sidewalk or grass plots hereof, in the limits of the city.
(Ord. 08-01, passed 9-8-08)

▪ **90.11 AWARDING OF LIVE ANIMALS AS PRIZES PROHIBITED.**

(A) It shall be unlawful for any person to offer, give or deliver any live animal as a prize or reward in connection with a raffle, game, promotion or incentive of any kind.

(B) Any person who violates the terms of this section shall be guilty of a misdemeanor punishable by a fine not to exceed \$500, or imprisonment for a term not to exceed six months, or by both fine and imprisonment at the discretion of the court.
(Ord. 08-01, passed 9-8-08)

▪ **90.12 REMOVAL OF ANIMAL EXCRETA REQUIRED.**

(A) The custodian of every animal shall remove any excreta deposited by his or her animal(s) within the city limits on public walks, streets, recreation areas or private property belonging to another, excluding the private property owned by the animal owner.

(B) Upon private property owned by the owner or custodian of the animal, the custodian of every animal shall remove excreta deposited by his or her animal(s) no less frequently than weekly.

(C) Any excreta not removed in violation of division (A) above is declared to be a public nuisance.

(D) Any person violating any provision of this section shall, upon conviction by a court of competent jurisdiction, be guilty of a violation and shall be fined not more than \$50 for each violation.
(Ord. 08-01, passed 9-8-08)

▪ **90.13 EXOTIC ANIMALS.**

No person shall maintain, harbor or keep an exotic animal, or hybrids of exotic animals, within the city limits.
(Ord. 08-01, passed 9-8-08)

LIVESTOCK

▪ **90.25 SWINE PROHIBITED WITHIN CORPORATE LIMITS.**

Except in agricultural zoning districts, it shall be unlawful to keep swine within the corporate limits of the city at any time during any year.
(Ord. 08-01, passed 9-8-08)

▪ **90.26 POULTRY PROHIBITED WITHIN CORPORATE LIMITS.**

Except in agricultural zoning districts, it shall be unlawful to keep poultry within the corporate limits of the city at any time during any year.
(Ord. 08-01, passed 9-8-08)

▪ **90.27 LIVESTOCK PROHIBITED WITHIN CORPORATE LIMITS.**

Except in agricultural zoning districts or properties defined as a farm under this chapter, it shall be unlawful to keep livestock of any kind, including but not limited to, llamas, alpacas, bison, horses, goats, sheep, and cattle, within the corporate limits of the city at any time during any year. This section shall not apply to livestock participating in a scheduled parade so long as the livestock is not kept in the city beyond the time span established for the parade.
(Ord. 08-01, passed 9-8-08)

▪ **90.28 RABBITS LIMITED WITHIN CORPORATE LIMITS.**

(A) Except in agricultural zoning districts or properties defined as a farm under this chapter, it shall be unlawful to keep within the corporate city limits at any time during any year:

- (1) Domesticated rabbits or hares;
- (2) More than one unaltered domesticated rabbit or hare as a pet; or
- (3) Domesticated rabbits or hares for sale or consumption.

(B) A domesticated rabbit or hare maintained as a pet must be maintained in such a manner as to eliminate any foul odor being emitted upon property located within the corporate city limits at any time during any year.

(Ord. 08-01, passed 9-8-08)

▪ **90.29 LIVESTOCK RUNNING AT LARGE PROHIBITED.**

It shall be unlawful for any person to suffer or permit any cow, calf, horse, mare, colt, mule, sheep, goat, or other such stock owned by such person, or under his or her control, to run at large within the city.

(Ord. 08-01, passed 9-8-08)

▪ **90.30 PENALTY.**

Any person violating any provision of this subchapter shall, upon conviction by a court of competent jurisdiction, be guilty of a violation and shall be fined not more than \$50 for each violation.

(Ord. 08-01, passed 9-8-08)

DOGS

▪ **90.40 DUTY OF RESPONSIBLE DOG OWNER.**

(A) Every owner of a dog shall have the duty to exercise reasonable care, provide shelter, and take all necessary steps and precautions to protect other people, property, and animals from injuries or damage that might result from his or her dog's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

(B) If the owner of any dog is a minor, the custodian, parent or guardian legally responsible for such minor shall also be responsible to ensure that all provisions of this chapter are followed.

(Ord. 08-01, passed 9-8-08)

▪ **90.41 LIMITATION ON NUMBER OF DOGS.**

No household shall be permitted to own or be custodian of greater than three dogs at any one time. Any households that have more than three dogs at the time this chapter goes into effect shall be grandfathered in, with the understanding that the animals shall be licensed.

(Ord. 08-01, passed 9-8-08)

▪ **90.42 BARKING DOGS CONSIDERED A NUISANCE.**

No owner or custodian of a dog shall permit the dog to create excessive noise, including barking, such that it becomes a nuisance, with the exception of a licensed veterinarian at the location of his or her veterinary facility.

(Ord. 08-01, passed 9-8-08)

▪ **90.43 CONTROL OF ALL DOGS.**

(A) Every owner of a dog shall have the duty to ensure that the dog is kept under control, and that reasonable care and precautions are taken to prevent the dog from leaving, while unattended, the real property limits of its owner, possessor or custodian; and that the dog is:

(1) Securely and humanely enclosed within a house, building, fence, pen or other enclosure, out of which it cannot climb, dig, jump or otherwise escape on its own volition; and such enclosure must be securely latched at any time the dog is left unattended; or

(2) On a lead or leash and under the control of a competent person; or

(3) Off lead or leash and obedient to that person's command, and that person is present with the animal any time it is not restrained, as provided for in divisions (A)(1) and (2) above, while on the owner's property.

(B) It shall be unlawful for any owner or keeper to permit any dog owned by him or her, or under his or her control, to run at large within the city. Any owner or keeper is deemed to have permitted the dog to run at large, if a condition exists that the owner or keeper was, or should have been, aware of that it would allow the dog to run at large.

(C) Violation of any conditions imposed on dangerous animals shall constitute a violation of this section.

(Ord. 08-01, passed 9-8-08)

' 90.44 ADDITIONAL REQUIREMENTS FOR PRECAUTIONS TO BE TAKEN BY OWNERS OF DANGEROUS DOGS.

(A) All dangerous dogs shall be confined in an enclosure as defined in ' 90.01.

(1) It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a locked enclosure.

(2) It shall be unlawful for any owner to allow any dangerous dog to be outside of the owner's dwelling or outside of the enclosure, unless it is necessary for the owner to obtain veterinary care for the dangerous dog, or to destroy the animal, or to comply with commands or directions of the animal control authority or animal control officer with respect to the dangerous dog.

(3) In such event, the dangerous dog shall be securely muzzled and restrained with a lead or leash, and shall be under the direct control and supervision of its owner.

(B) The owner of a dangerous dog shall display a sign conspicuously on his or her premises warning that there is a dangerous dog on the premises.

(1) The sign shall be readily visible and capable of being read from the public highway.

(2) A similar sign shall be posted on the pen or kennel of the dangerous dog.

(C) The owner shall immediately notify a public law enforcement officer (law enforcement will notify the animal control officer) if a dangerous dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, or has died.

(D) The animal control authority or animal control officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter; and the animal control authority or animal control officer is hereby empowered to seize and impound any dangerous dog whose owner fails to comply with the provisions hereof, subject to the right of such owner to contest the seizure or impoundment, as provided in this chapter, in the Marion District Court.

(E) In the event the owner of the dangerous dog refuses to surrender the dog to the animal control authority or animal control officer, then the animal control authority or animal control officer may request a police officer to obtain, from a judge of the Marion District Court, a search warrant or an order to take custody of the animal, and seize the dangerous dog upon execution of the warrant.

(Ord. 08-01, passed 9-8-08)

§ 90.45 ENFORCEMENT OF RESTRICTION ON DANGEROUS DOGS.

In the event a public law enforcement officer, or the animal control authority or animal control officer has probable cause to believe that a dangerous dog is being harbored in the city in violation of this chapter, such individual or entity may:

(A) Order the violation immediately corrected and cite the owner or keeper to appear in Marion District Court for the violation; or

(B) If the violation cannot be immediately corrected and the dog is posing an imminent serious threat to human beings or other domestic animals, the dog may be seized and impounded, in which case the owner shall be cited to appear in Marion District Court for the violation.

(1) At the owner's request and expense, such impoundment may be at a veterinarian or licensed kennel of the owner's choosing.

(2) If the court rules that the dog is not dangerous as defined in § 90.01, it will be released to the owner upon payment of the expense of keeping such dog.

(3) If the court rules that the dog is dangerous as defined in § 90.01, the dog will be released to the owner after payment of any fees and penalties, and upon presentation of proof by the owner that the dog will be kept restrained or confined as specified in this chapter.

(4) If, within seven days after impoundment, the owner of an alleged dangerous dog fails to either provide proof that the dog will now be kept restrained or confined in compliance with the provisions of this chapter, or fails to reclaim it from the animal control authority or animal shelter after impoundment, it shall be humanely euthanized.

(C) All dogs that have been deemed dangerous must be altered and licensed.
(Ord. 08-01, passed 9-8-08)

§ 90.46 CUSTODIAL LIABILITY.

In the event the owner of the dangerous dog is a minor, the custodian, parent or guardian legally responsible for such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the dangerous dog.

(Ord. 08-01, passed 9-8-08)

• **90.47 DOG FIGHTING AND HARBORING.**

(A) No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to unprovoked attacks upon human beings or domestic animals.

(B) No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any dangerous dog.

(Ord. 08-01, passed 9-8-08)

• **90.48 INSURANCE.**

Owners of dangerous dogs must, within 30 days of the effective date of this chapter, provide proof to the City Clerk of public liability insurance in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by his or her dangerous dog.

(Ord. 08-01, passed 9-8-08)

• **90.49 ACTION FOR DAMAGES; DESTRUCTION OF OFFENDING DANGEROUS DOG.**

(A) If, when unprovoked, any dangerous dog shall kill or wound, or assist in killing or wounding, any sheep, lamb, cattle, horse, hog, fowl or other domestic animal, belonging to or in the possession of any person; or attack, assault, bite or otherwise injure any human being, or assist in attacking, assaulting, biting or otherwise injuring any human being, while out of the enclosure of the owner or keeper of such dangerous dog, or while otherwise off the property of its owner or keeper, whether or not such dangerous dog was on a leash and securely muzzled, or whether the dangerous dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be liable to the person damaged as aforesaid, for all damage sustained, to be recovered in a civil action with cost of the suit.

(B) It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a dangerous dog in violation of this chapter is a nuisance.

(C) It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of such dangerous dog knew that such dangerous dog possessed the propensity to cause such damage, or that the dangerous dog had a vicious nature.

(D) Upon such attack or assault upon a human being, an animal control officer, including the special dog warden as defined above in ' 90.01 (and also as defined by the Marion County Fiscal Ordinance), is hereby empowered to confiscate and destroy such dangerous dog not less than five days after confiscation, unless sooner destruction of the dog is necessary to prevent or stop an attack upon a person or another animal, or for humane reasons related to sickness or injury of the dog.

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(E) Within the seven-day period after confiscation, the owner of the dog may appeal to the Marion

District Court for relief under this chapter, on the grounds that the dog is not a Adangerous dog@ as specified herein, or that it has not violated the terms of this section.

(F) Unless relief from destruction is granted by the Marion District Court within the seven-day period, the animal control officer or special dog warden shall follow through with the humane euthanization of the dangerous dog.

(Ord. 08-01, passed 9-8-08)

• **90.50 PENALTY.**

(A) If, when unprovoked, any dog shall kill, wound, or assist in killing or wounding, any domestic animal, the owner of the dangerous dog shall be guilty of a misdemeanor, and shall pay a fine of not less than \$250 nor more than \$500. For each subsequent violation, the owner or keeper of the dog shall pay a fine of not less than \$350, nor more than \$500.

(B) If, when unprovoked, any dog shall, attack, assault, wound or otherwise injure a human being, the owner shall be deemed guilty of a Class A misdemeanor, and shall, upon conviction, be punished by a fine of not less than \$250 nor more than \$500, or imprisoned for a period not to exceed six months, or both.

(C) If, when unprovoked, any dog shall, attack, assault, wound or otherwise cause substantial physical injury to or kill a human being, the owner shall be deemed guilty of a Class A misdemeanor, and may, upon conviction, be punished by a fine of \$500, and imprisoned for a period of not less than six months nor to exceed 12 months.

(D) Any person or owner violating any provision of this chapter, other than specified above in this section, shall be deemed guilty of a Class A misdemeanor, and shall, upon conviction, be punished by a fine not to \$500, or imprisoned for a period not to exceed 12 months, or both so fined and imprisoned. Each day a violation continues shall constitute a separate offense.

(Ord. 08-01, passed 9-8-08)

CATS

• **90.60 LIMITATION ON NUMBER OF CATS.**

No household shall be permitted to own or be custodian of greater than three cats at any one time. Any households that have more than three cats at the time of this chapter goes into effect shall be grandfathered in, with the understanding that the animals shall be licensed.

(Ord. 08-01, passed 9-8-08)

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• **90.61 DUTY OF RESPONSIBLE CAT OWNER.**

(A) Every owner of a cat shall have the duty to exercise reasonable care and provide shelter, and shall take all necessary steps and precautions to protect other people, property and animals from injuries or damage that might result from the his or her cat's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

(B) If the owner of any cat is a minor, the custodian, parent or guardian legally responsible for such minor shall also be responsible to ensure that all provisions of this chapter are followed.

(Ord. 08-01, passed 9-8-08)

• 90.62 CONTROL OF ALL CATS.

(A) Every owner of a cat shall have the duty to ensure that the cat is kept under control, and that reasonable care and precautions are taken to prevent the cat from leaving, while unattended, the real property limits of its owner, possessor or custodian; and that the cat is:

(1) Securely and humanely enclosed within a house, building, fence, pen or other enclosure as set forth in ' 90.01; or

(2) On a lead or leash and under the control of a competent person; or

(3) Off lead or leash and obedient to that person's command, and that person is present with the animal any time it is not restrained, as provided for in divisions (A)(1) and (2) above, while on the owner's property.

(B) The cat is restrained on a lead or leash, or is enclosed in a cage or carrier and under the control of a competent person at any time when the cat is on property other than that of its owner, possessor or custodian.

(Ord. 08-01, passed 9-8-08)

CONTROL OF DOGS AND CATS

• 90.70 ANNUAL LICENSE FEE.

(A) There shall be assessed annually a license fee, which shall be assessed for each dog or cat within the city limits.

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(1) The fee shall be assessed against and paid annually by the owner, possessor or custodian of each dog or cat.

(2) The license fee shall be paid each year on or before January 1.

(3) Before a license will be issued, the owner, possessor or custodian of each dog or cat shall be required to show proof of rabies vaccination for each such dog or cat.

(B) The following license fees shall apply:

Altered dog or cat	\$5 per year
Unaltered dog or cat	\$10 per year
Unaltered dog or cat with offspring	\$25 per year

(C) The owner(s), possessor(s) or custodian of each dog/cat having offspring shall be permitted a grace period of four months from the birth of the litter to make the necessary arrangements to give away, sell or otherwise lawfully distribute the offspring prior to any citation for not possessing a license for the unaltered dog or cat with offspring.

(D) The license fee may be paid to the City Clerk or the Marion County Animal Shelter, or to such persons or entities to whom the City Clerk may delegate the authority to accept such remittance on behalf of the city. Any person accepting delegated authority from the City Clerk for collection of license fees under this chapter shall remit those license fees, together with a copy of the application completed by the licensee/applicant, at least once per month (no later than 30 days after purchase of the license by the individual owner).

(E) Any person or entity violating any provision of this section shall be punished by fine not to exceed \$50 for the first offense and each subsequent offense.
(Ord. 08-01, passed 9-8-08)

90.71 MAXIMUM NUMBER OF ANIMALS.

(A) *Maximum number of animals per household.*

(1) No household shall harbor, own or possess greater than three dogs.

(2) No household shall harbor, own or possess greater than three cats.

(3) Under no circumstance shall any household harbor, own or possess greater than five animals in combination (i.e., imposing a maximum of either three dogs and two cats or three cats and two dogs).

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(4) Any households that have more than five total animals at the time this chapter goes into effect shall be grandfathered in, with the understanding that the animals shall be licensed.

(B) *Penalty.* Any person or entity violating any provision of this section shall be deemed guilty of a Class A misdemeanor, and shall, upon conviction, be punished by a fine not to exceed \$500, or

imprisoned for a period not to exceed 12 months, or both so fined and imprisoned. Each day a violation continues shall constitute a separate offense.
(Ord. 08-01, passed 9-8-08)

• **90.72 DESTRUCTION OF IMPOUNDED ANIMALS.**

(A) No animal shall be destroyed within five days of being impounded, unless necessary to prevent or stop an attack upon a person or another animal, for humane reasons related to sickness or injury of the animal, or as otherwise provided by law.

(B) An impounded animal shall not be destroyed pending an owner's appeal of a district court order of destruction, if the appeal has been filed within five days of the impoundment or order of destruction of such animal, and notice has been served upon the animal control authority within five days of the impoundment of such animal. The animal control authority shall have the burden of proving that the animal should be destroyed pursuant to this chapter.

(C) Other provisions of this chapter notwithstanding, any animal that has bitten or scratched someone shall be quarantined for ten days from the time the bite or scratch occurs.

(1) Any animal suspected of having rabies shall be quarantined for ten days, and the appropriate state authorities notified to investigate as required by law.

(2) Any owner who fails to properly quarantine their animal is subject to citation for violation of this section, and the animal shall be removed to the county animal shelter for the remainder of its quarantine period.

(3) The owner shall be responsible for all quarantine fees.

(D) An animal whose owner is unavailable or incapable of quarantining the animal may be taken by the animal control authority or animal control officer and quarantined at the appropriate animal shelter for the prescribed period.

(Ord. 08-01, passed 9-8-08)

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ENFORCEMENT

• **90.80 NUISANCE.**

No person shall own, keep or harbor any animal, including but not limited to, dogs and cats, that shall do any one or more of the following objectionable actions, each of which is hereby declared to be a

public nuisance within the city:

(A) Habitual barking, howling, yelping, whining or meowing loud enough to be heard beyond the premises of where it is kept or harbored, or while trespassing upon any property or premises not owned or occupied by the owner or keeper of the animal;

(B) Habitual trespassing upon any property or premises not owned or occupied by the owner or keeper of the animal;

(C) Habitual turning over, getting into, or otherwise damaging or disturbing any items of personal or public property located on any premises other than those owned or occupied by the owner or keeper of the animal;

(D) Habitual defecating upon any property or premise not owned or occupied by the owner or keeper of the animal;

(E) Habitual running after, jumping upon, chasing, barking at, or in any other way frightening, molesting or injuring any person other than the owner of the animal and the members of the owner's immediate family; and

(F) Habitual chasing of motor vehicles, bicycles, scooters, mopeds or motorcycles other than those owned or operated by the owner of the animal and the members of the owner's immediate family.
(Ord. 08-01, passed 9-8-08)

• **90.81 CONFISCATION OF VICTIMIZED ANIMALS.**

(A) Any animal found involved in a violation of any portion of this chapter may be confiscated by any animal control officer or any police office and held in a humane manner.

(B) (1) Upon a hearing before a district court judge, and that judge finding probable cause for the charge, the court shall order immediate forfeiture of the animal to the Marion County Animal Control Officer, or authorized agent, unless the owner, within 24 hours of such finding, posts a cash bond with the court equal to the cost to the cost of care of the animal(s), including all estimated boarding and veterinary fees in the amount of \$150 (\$5 per day) for each animal, for the first 30 days of its impoundment.

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(2) If after 30 days, the case has not been adjudicated, the owner must post another full cash bond on the 30th day, in the same amount of the original bond, or equal to the cost and care of each animal for the next 30-day period until the case has been adjudicated.

(C) Upon a plea or finding of guilt, the cash bond(s) shall be immediately paid to the Marion County Animal Control Officer.

(1) The owner shall also be responsible to pay all costs of care, from the date of the impoundment until the time of the first hearing and the posting of the initial bond, as well as any other

associated expenses not covered by the daily boarding fee(s).

(2) Upon conviction, all animals not forfeited pursuant to division (B) herein above shall become the property of the Marion County Animal Control Officer or authorized agent.

(D) Upon a finding of innocence, any cash bond(s) posted shall be immediately returned to the owner.

(E) The city shall be allowed reasonable access to inspect the property of anyone found guilty of violation of any of the provisions in this chapter.
(Ord. 08-01, passed 9-8-08)

CHAPTER 91: STREETS AND SIDEWALKS

Section

Excavations and Construction

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EXCAVATIONS AND CONSTRUCTION

• 91.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized city official, to make any opening in any street, alley, sidewalk, or public way of the city unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see ' 91.99

• 91.02 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the authorized city official. Application shall be made on a form prescribed by the legislative body, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized city official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

• 91.03 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized city official, and in accordance with rules, regulations, and specifications approved by the legislative body.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the city may proceed without notice to make such fill and restoration and the deposit referred to in ' 91.02 shall be forfeited. Thereupon the deposit shall be paid into the appropriate city fund, except such part demanded and paid to the permittee as the

difference between the deposit and the charges of the city for restoration services performed by it. If the amount of such services performed by the city should exceed the amount of the deposit, the Clerk or other proper administrative officer shall proceed to collect the remainder due from the permittee.

' 91.04 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see ' 91.99

• 91.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed. Penalty, see ' 91.99

• 91.06 SIDEWALK CONSTRUCTION.

(A) *General provisions.* It shall be the duty of the authorized city official to supervise construction or repair of sidewalks within the city. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the legislative body for approval. When the specifications are approved, the legislative body shall advertise for proposals to do all the work which may be ordered by the city in construction and repair of sidewalks, and shall authorize the Mayor to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall for the faithful performance of the work. The Mayor, if authorized by City Council, may make separate contracts for the different kinds of work with different parties.

(B) *Downtown business area.*

(1) The downtown business area, as used in this division (B), means both sides of Main Street, both sides of Mulberry Street and both sides of Water Street between Spalding Avenue and Depot Street, and both sides of Spalding Avenue, both sides of Proctor Knott Avenue and both sides of Depot street from Mulberry Street to Water Street.

(2) All sidewalk installation, repair or restoration within the defined downtown business area shall be of the materials, design and specifications which may from time to time be adopted by the Council upon the recommendation of the City Engineer or Building Inspector.

(3) The design, materials and specifications which are contained on the blueprints attached to Ord. No. 89-15, passed 10-9-89, are hereby approved and adopted by the city and copies shall remain on file in the City Clerk's office.

(Ord. 89-15, passed 10-9-89)

Statutory reference:

Sidewalks; construction along public roads; specifications, see KRS 178.290

Sidewalks; ramps for wheelchairs, see KRS 66.660

ROAD AND BRIDGE PROJECTS**▪ 91.15 PUBLIC HEARING REQUIRED.**

Before the city expends state derived tax revenues on a municipal highway, road, street, or bridge it shall hold a hearing in accordance with the provisions of this subchapter to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.
(KRS 174.100)

▪ 91.16 NOTICE REQUIREMENTS.

Prior to the contemplated date of expenditure of state derived tax revenues on a road or bridge by the city, the city shall hold a public hearing for the purpose of taking the sense of the public with regard to road and bridge matters within the city. Notice of the hearing shall be given not less than seven days nor more than 21 days before the scheduled date of the public hearing and before beginning work on any project covered by this subchapter.
(KRS 174.100 (1))

▪ 91.17 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

(A) At the hearing any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(B) The city shall not be bound by the testimony heard at the hearing but shall give due consideration to it.
(KRS 174.100 (2),(3))

▪ 91.18 HEARING TO BE HELD PRIOR TO CONSTRUCTION.

The city shall not begin construction on a road or bridge project wherein state derived tax revenues are involved until the hearing as provided herein has been held.
(KRS 174.100 (4))

▪ 91.19 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.
(KRS 174.100 (5))

• **91.20 EXEMPTIONS FROM HEARING REQUIREMENT.**

(A) The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(B) The provisions of this subchapter shall not apply to projects which are under construction as of the effective date of this subchapter unless construction is suspended after the effective date of this subchapter and the city desires to reactivate the project.
(KRS 174.100 (6),(7))

OBSTRUCTIONS

• **91.30 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see ' 91.99

• **91.31 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see ' 91.99

• **91.32 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see ' 91.99

Cross-reference:

Littering on streets or sidewalks, see Ch. 94

§ 91.33 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated. Penalty, see § 91.99

TRANSPORTING STRUCTURES**§ 91.45 DEFINITIONS.**

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

RESIDENCE, BUILDINGS, and STRUCTURES. Any residence, building or other like or similar structure, or any part thereof, of 132 feet in height, and/or eight feet in width, and/or 35 feet in length, all such measurements to include all supports and the transporting entity, and to be calculated at the longest, highest and widest part, regardless of construction, other than a bona fide mobile home or house trailer.

TRANSPORT. To move or cause to be moved by any means of locomotion whatsoever.

TRANSPORTING ENTITY. The tractor and trailer, truck or other means of locomotion.
(Ord. 84-1, passed 1-16-84)

§ 91.46 PERMIT REQUIRED.

It shall be unlawful to transport any residence, building or other structure, as defined herein, or any part thereof, upon or across any street, alleyway or highway within the city without first obtaining a permit therefor from the City Clerk. Such permit shall be good only at the times on the date or dates shown thereon and only for the route shown thereon.

(Ord. 84-1, passed 1-16-84) Penalty, see § 91.99

• **91.47 APPLICATION AND FEE.**

(A) A written application for the permit shall be made and filed with the City Clerk at least 24 hours in advance, who shall have the authority to waive such time requirement in appropriate circumstances. Such application shall specify in detail the residence, building or other structure, or part thereof, proposed to be transported, its measurement as set out above, its approximate weight, the method of transportation or locomotion, the exact route, the proposed day and approximate hour the transportation will begin within the city, the length of time it is anticipated that the transportation will be taking place within the city, the name and address of the owner of the residence, building or other structure or part thereof, the name and address of its ultimate destination and the name, address and license number of the transporter.

(B) At the time of application, the owner or mover shall provide evidence that all arrangements have been made with affected utilities, such as electric, telephone or cable television utilities, for necessary personnel and equipment to be available during the time of moving the residence, building, or other structure. The mover shall be required to show evidence that he carries adequate liability insurance for such operations and that such coverage is in force during the time of moving.

(C) Should a permit from the Kentucky Transportation Cabinet also be required, the applicant shall furnish evidence that such permit has been applied for, and the City Clerk shall issue the permit subsequent to the issuance of the permit by the Kentucky Transportation Cabinet.

(D) The application shall be accompanied by a permit fee of \$25, which shall not be refundable if the permit is issued, whether or not it is used. In addition, prior to issuing the permit, the City Clerk shall require from the applicant a cash bond, bond with corporate surety or other bond in an amount and with surety sufficient in the Clerk's judgement to indemnify the city from any and all property damages, whether to streets or otherwise, and from all other expenses, including the wages, costs and expenses of regular or special city employees which in the Clerk's sole discretion shall be necessary to assist and/or facilitate the transportation of the residence, building or other structure or part thereof through the city. The balance of the bond remaining after the deduction of all such costs, expenses and damages shall be returned to the person providing same within ten days after the transportation has been completed.

(Ord. 84-1, passed 1-16-84)

• **91.48 CITY CLERK TO CONSULT WITH CHIEF OF POLICE.**

Before issuing any such permit, the City Clerk shall consult with the Chief of Police, who shall have authority to reject any requested date, time or route and to direct an alternative date, time and/or route, which shall be specified in the permit.

(Ord. 84-1, passed 1-16-84)

• 91.49 PERMIT TO BE DISPLAYED ON VEHICLE.

The permit issued by the City Clerk shall be fixed in plain view on the transporting entity.
(Ord. 84-1, passed 1-16-84) Penalty, see ' 91.99

LIGHTING**• 91.65 APPLICABILITY.**

All street lighting improvements to be installed shall conform to the specifications contained in this subchapter, including but not limited to, size type, quantity and location. Street lighting improvements shall be installed to serve all properties currently being developed, or developed after the effective date of this subchapter, whether such properties are subdivisions, business commercial, industrial or residential developments within the city. Existing subdivisions or other developments are exempted from application of this section where street lighting is already in place and usage being paid by the city.
(Ord. 06-05, passed 7-12-06)

• 91.66 OVERHEAD SYSTEMS.

(A) *Standard overhead system.* Standard overhead lighting shall consist of wood poles, brackets, appropriate fixtures, necessary overhead circuitry, protective equipment, controls, and transformers. They shall be owned and maintained by the appropriate vendor for the territory as outlined by the Kentucky Revised Statutes. The city shall be responsible for the appropriate monthly charge provided in a separate franchise agreement with the vendor.

(B) *Overhead ornamental system.* At the discretion of the city, any developer installing underground utilities will be permitted to install ornamental lighting at distances as dictated in this subchapter. The service vendor shall provide ornamental poles at the rate the city customarily pays for decorative or ornamental lighting as set forth in this subchapter and pursuant to the franchise agreement.
(Ord. 06-05, passed 7-12-06)

• 91.67 SPECIFICATIONS FOR INSTALLATION.

(A) *Location, spacing, quantity of light systems.*

(1) There should be at least one standard luminary at each intersection and interior of each cul-de-sac and the spacing standards shall not exceed 500 feet in residential areas for standard overhead street lighting. In commercial or manufacturing areas spacing and location standards shall be approved by the council if different from the city's current policy of 500 foot intervals.

(2) *Spacing standards for underground utilities to use decorative or ornamental lighting.* Minimum distance shall be 200 feet with a 9,500 lumens (100 watt HPS) output bulb. Poles may either be concrete base type or direct burial at the discretion of the vendor and developer (per billing maximum as provided by the city).

(B) *Minimum specifications.*

(1) *Residential areas.*

(a) Standard installation will require an overhead wooden pole with a bracket arm of the vendor's choosing as specified by the vendor/utility company.

(b) Decorative or ornamental lighting installation shall be standard pole height and a minimum of 100 watt luminary atop the pole staggered (lights opposite on each side of street) at 200 foot intervals in the right of way.

(2) *Commercial, industrial or manufacturing areas.* Standard installation shall require a 30-35-foot pole with bracket arm as necessary to extend over the street, or the maximum length provided by the utility company specifications.

(C) *Luminaries.*

(1) *Residential.* Luminaries shall be of high-pressure sodium 4,000 HPS lumens approximately or a 50-watt output with an approximate 3,000-hour life for a residential area.

(2) *Commercial, industrial or manufacturing areas.* Luminaries shall be of high-pressure sodium 9,500 HPS with a 100-watt output with an average of 3,000-hour life.

(D) *Cable or multiple circuit system.* The cable or multiple circuit system shall be of a #8 wire and shall be buried a minimum of 30" below grade and shall be installed in a 2" Sch 80 PVC conduit where the cable crosses beneath existing or proposed pavements, driveways, or sidewalks and no underground cable splices will be permitted. Such conduit shall be installed by the Developer and shall be installed in accordance with utility or service provider specifications.

(Ord. 06-05, passed 7-12-06)

• **91.68 ENFORCEMENT.**

Prior to installation, each developer shall submit plans outlining the proposed street lighting system to the office of the Building Inspector for the city. The Building Inspector shall inspect the plans and, after approval of the plans, shall inspect the street lighting system upon the premises. Approval by the Building Inspector shall be final once approval is given by the City Council for the city.

(Ord. 06-05, passed 7-12-06)

STREET NUMBERS**• 91.75 ASSIGNMENT AND POSTING OF AHOUSE@ NUMBERS.**

(A) Each dwelling, home, or business located within the city limits of the Lebanon, Kentucky, shall be assigned a Ahouse@ number, which corresponds to the United States Postal Service designation for such property, and a like number shall be given for approximately every 50 feet of vacant land along the streets within the city. Numbers shall be designated by a committee appointed by the Mayor which shall consult with postal authorities from the United States Postal Service having jurisdiction in the Lebanon city limits to ensure synchronization of the numbers assigned by the committee and those designated by the postal authority.

(B) Once a Ahouse@ number has been assigned by the committee under division (A) above, the owner(s) of the property for which the house number has been assigned shall display the house number from a conspicuous position as set forth herein:

(1) If the house is located less than 100 feet from the curb, the owner must display the house number at one of the following locations:

(a) On the dwelling or business structure such that it is readily visible from the street or sidewalk in front of the structure, and not further than five feet from the front door to the residence or structure;

(b) Posted on a mailbox located on the property and visible from the roadway; or

(c) Posted at the curb, if a curb is available, or if no curb is available, posted on the front property line nearest the street or roadway. All such displays shall include numbers no smaller than four inches in height.

(2) If the house or structure is located more than 100 feet from the curb or roadway edge, the owner(s) shall post the house numbers on the property in numbers no less than four inches in height and with all numbers having a reflective surface.

(3) Numbers assigned to vacant lots shall be painted on the curb, if a curb is available, or shall be posted on the property in the same manner as those for houses more than 100 feet from the curb.
(Ord. 07-09, passed 6-18-07)

• 91.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500.

(B) Any person, firm or corporation violating any provision of ' ' 91.45 through 91.49 whether as owner, lessee, transporter, operator or driver shall be guilty of a violation and shall be fined not less than \$50 nor more than \$100, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(C) Any person who defaces, cuts, breaks or otherwise damages or impedes the function of any lamp, bulb, post, pole, wiring or any fixture erected in accordance with ' ' 91.65 through 91.68 for the purpose of extinguishing any electric lighting of the public streets shall be fined not less than \$50, nor more than \$500, for each such offense. It shall be a defense to prosecution of a violation hereunder that the person causing the damage or impeding the function of the light did so with the advance authority of the city or the utility service vendor.

(D) Any person or entity violating ' 91.75 shall be entitled to one warning from the City of Lebanon, or its agencies, officers, or representatives; if any person or entity violates ' 91.75 subsequent to receipt of a warning, then said violator shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500.

(Ord. 84-1, passed 1-16-84; Am. Ord. 06-05, passed 7-12-06; Am. Ord. 07-09, passed 6-18-07)

CHAPTER 92: NUISANCES

Section

General Provision

- 92.01 Definition
- 92.02 Common law and statutory nuisances
- 92.03 Certain conditions declared a nuisance
- 92.04 Abatement procedure
- 92.05 Nuisance created by others
- 92.06 Suspension of license

Pigeon Roosting

- 92.20 Restriction on pigeon roosts
- 92.21 Notification; remediation
- 92.22 Intervention

- 92.99 Penalty

Cross-reference:

Animals and livestock, see Chapter 90

Statutory reference:

Private nuisances, see KRS 411.500 through 411.570

GENERAL PROVISIONS

92.01 DEFINITION.

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

NUISANCE. Public nuisance.

• **92.02 COMMON LAW AND STATUTORY NUISANCES.**

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law. Penalty, see ' 92.99

• **92.03 CERTAIN CONDITIONS DECLARED A NUISANCE.**

It shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

(A) *Dangerous trees or stacks adjoining street.* Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.

(B) *Accumulation of rubbish.* An accumulation on any premises of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

(C) *Storage of explosives.* The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

(D) *Weeds and grass.* The excessive growth of weeds, grass, or other vegetation. Unless otherwise provided, **EXCESSIVE** shall mean growth to a height of 12 inches or more.

(E) *Open wells.* The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private premises in any open or unfenced lot or place.

(F) *Trees and shrubbery obstructing streets, sidewalks, and drainage.* The growing and maintenance of trees or shrubbery which in any way interferes with the use, construction, or maintenance of streets or sidewalks, causes injury to streets or sidewalks, or constitutes an obstruction to drainage.

(G) *Keeping of animals.* The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors. Penalty, see ' 92.99

• **92.04 ABATEMENT PROCEDURE.**

(A) Except as provided in KRS 381.770(3), it shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:

(1) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;

(2) One or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked or nonoperative and which are not inhabited;

(3) Rubbish; or

(4) The excessive growth of weeds or grass.

(KRS 381.770(1))

(B) Whenever a nuisance situation is discovered, the authorized city official shall give five days= written notice to remedy the nuisance situation. The notice shall be mailed to the last known address of the owner of property, as it appears on the current tax assessment roll. Upon the failure of the owner of the property to comply, the authorized city official is authorized to send employees upon the property to remedy the situation.

(C) (1) The city shall have a lien against the property for the reasonable value of labor and materials used in remedying the nuisance situation. The affidavit of the authorized city official shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to KRS 381.770, 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 at the rate established by the city thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in division (C)(2) below. The lien may be enforced by judicial proceeding.

(KRS 381.770(7))

(2) The lien provided in division (C)(1) above shall not take precedence or priority over a previously recorded lien if:

(a) The city failed to provide the lien holder a copy of the determination in accordance with KRS 381.770(6); or

(b) The lien holder received a copy of the determination as required by KRS 381.770(6), and the lien holder corrected the violations or paid the fines, penalty charges, and costs incurred in remedying the violation.

(KRS 381.770(8))

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(3) In addition to this remedy or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges, and the city may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of the city to comply with KRS 381.770(6), and the failure of a lien to take precedence over previously filed liens as provided in division (C)(2) above, shall not limit or restrict any remedies that the city has against the owner of the property.

(KRS 381.770(9))

• 92.05 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

• 92.06 SUSPENSION OF LICENSE.

(A) Whenever it is brought to the attention of the City Council that a nuisance exists and the City Council deems that there is an immediate threat to the public health, safety, or welfare, the City Council may by majority vote suspend the license of any person conducting business upon the premises where the nuisance exists.

(B) The City Clerk shall cause notice of the suspension to be served personally upon the licensee or at the premises where the nuisance exists.

(C) Upon application of the licensee, the City Council may remove the suspension upon such terms as it may direct.

PIGEON ROOSTING

• 92.20 RESTRICTION ON PIGEON ROOSTS.

It shall be unlawful to allow or permit the interior of any structure originally intended for human occupation to be used by one or more wild pigeons as a roost, nesting place or breeding area.

(Ord. 01-07, passed 6-28-01) Penalty, see ' 92.99

• **92.21 NOTIFICATION; REMEDIATION.**

Upon receipt of written notice from the city through its Building Inspector or other designated official that the interior of a building originally intended for human occupation is being utilized by wild pigeons in violation of ' 92.20, the owner of such structure shall have 30 days in which to clean the interior of the structure of all pigeon waste, feathers and nesting materials and to seal all entrances utilized by the pigeons to access the structure so as to prevent continued utilization of the structure in violation of ' 92.20.

(Ord. 01-07, passed 6-28-01)

• **92.22 INTERVENTION.**

Upon the failure of the property owner to fully and promptly comply with the provisions of ' 92.21, the city may do so without further notice to the owner and may place a lien against the property for all costs thereof, including but not limited to labor, materials and disposal of any waste removed.

(Ord. 01-07, passed 6-28-01)

• **92.99 PENALTY.**

(A) Whoever violates ' ' 92.01 through 92.06 shall be guilty of a misdemeanor and shall be fined not more than \$500 for each offense. Each day's continued violation shall constitute a separate offense.

(B) Any person violating ' 92.20 shall be fined not less than \$50 nor more than \$300 for each offense and each day in which a violation of ' 92.20 shall occur shall be deemed to constitute a separate offense.

(C) Any person violating ' 92.21 shall be fined not less than \$50 nor more than \$300 for each offense and each day in which a violation of ' 92.21 shall occur shall be deemed to constitute a separate offense.

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fireworks

- 93.01 Definitions; legality of items
- 93.02 Sale or use prohibited; exception for public display
- 93.03 Consumer fireworks; restrictions on sale
- 93.04 Bond or liability insurance requirement
- 93.05 Exempted sales and uses
- 93.06 Sale or disposal of seized fireworks

Fire Prevention

- 93.20 Blasting permit
- 93.21 Storage of flammables and other matter

- 93.99 Penalty

FIREWORKS

• **93.01 DEFINITIONS; LEGALITY OF ITEMS.**

(A) As used in this subchapter, **FIREWORKS** means 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 Aconsumer fireworks@ as defined in division (D) below and as set forth in the U.S. Department of Transportation=s (DOT) hazardous materials regulations. **FIREWORKS** does not include:

(1) *Exception number 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) *Exception number 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.

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(3) *Exception number 3.* Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects. (KRS 227.700)

(B) As used in this subchapter, **CONSUMER FIREWORKS** means fireworks that are suitable for use by the public, designed primarily to produce visible effects by combustion and must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission. The types, sizes, and amount of pyrotechnic contents of these devices are limited as enumerated in this chapter. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. **CONSUMER FIREWORKS** are further defined by the Consumer Product Safety Commission in CPSC, 16 CFR Pts. 1500 and 1507, are classified as Division 1.4G explosives by the U.S. Department of Transportation and include the following:

(1) *Ground and hand-held sparkling devices.*

(a) *Dipped stick-sparkler or wire sparkler.* These devices consist of a metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to 100 grams of pyrotechnic composition per item. Those devices containing any perchlorate or chlorate salts may not exceed five grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item are not included in this category, in accordance with DOT regulations.

(b) *Cylindrical fountain.* Cylindrical tube containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(c) *Cone fountain.* Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, the total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(d) *Illuminating torch.* Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held. When more than one cone is mounted on a common base, the total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch.

(e) *Wheel*. A device attached to a post or tree by means of a nail or string. A wheel may have one or more drivers, each of which may contain not more than 60 grams of pyrotechnic composition. No wheel may contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) *Ground spinner*. Small device containing not more than 20 grams of pyrotechnic composition, similar in operation to a wheel but intended to be placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) *Flitter sparkler*. Narrow paper tube attached to a stick or wire and filled with not more than 100 grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make the device function.

(h) *Toy smoke device*. Small plastic or paper item containing not more than 100 grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(2) *Aerial devices*.

(a) *Sky rockets and bottle rockets*. Cylindrical tube containing not more than 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(b) *Missile-type rocket*. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

(c) *Helicopter, aerial spinner*. A tube containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(d) *Roman candles*. Heavy paper or cardboard tube containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

(e) *Mine, shell*. Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition.) Upon ignition, stars, components producing reports containing up to 140 milligrams of explosive composition per report, or other devices are propelled into the air. The term **MINE** refers to a device with no internal components containing a bursting charge, and the term **SHELL** refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one tube provided the tubes fire in sequence upon ignition of one external fuse. The term **CAKE** refers to a dense-packed collection of mine or shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed 200 grams. The maximum quantity of lift charge in any one tube of a mine or shell device shall not exceed 20 grams, and the maximum quantity of burst or bursting charge in any component shall not exceed 25% of the total weight of chemical composition in the component. The tube remains on the ground.

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(f) *Aerial shell kit, reloadable tube.* A package kit containing a cardboard, high-density polyethylene (HDPE), or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed one and three-fourths inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of chemical composition in the shell. The total chemical composition of all the shells in a kit, including lift charge, shall not exceed 400 grams. The user lowers a shell into a launching tube, at the time of firing, with the fuse extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission.

(3) *Audible ground devices.*

(a) *Firecrackers, salutes.* Small paper-wrapped or cardboard tube containing not more than 50 milligrams of pyrotechnic composition. Those used in aerial devices may contain not more than 130 milligrams of explosive composition per report. Upon ignition, noise and a flash of light is produced.

(b) *Chaser.* Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 milligrams.

(KRS 227.702)

(C) Items listed below are classified as **NOVELTIES** and **TRICK NOISEMAKERS** and are not classified as consumer fireworks by the U.S. Department of Transportation, and their transportation, storage, retail sale, possession, sale, and use shall be allowed throughout the state at all times.

(1) *Snake, glow worm.* Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) *Smoke device.* Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(3) *Wire sparkler.* Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed 100 grams of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five grams of composition per item.

(4) *Trick noisemaker.* Item that produces a small report intended to surprise the user. These devices include:

(a) *Party popper.* Small plastic or paper item containing not more than 16 milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) *Booby trap.* Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) *Snapper.* Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

(d) *Trick match.* Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

(e) *Cigarette load.* Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) *Auto burglar alarm.* Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, when ignited. A small quantity of explosive, not exceeding 50 milligrams may also be used to produce a small report. A squib is used to ignite the device.
(KRS 227.704)

(D) As used in this subchapter, **DISPLAY FIREWORKS** means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, firecrackers containing more than two grains (130 milligrams) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as consumer fireworks. **DISPLAY FIREWORKS** are defined by the Consumer Product Safety Commission in CPSC, 16 CFR Pts. 1500 and 1507, and are classified as class B explosives by the U.S. Department of Transportation.
(KRS 227.706)

(E) *Legality of items.*

(1) Items described in division (B)(1) above are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

(2) Items described in divisions (B)(2), (B)(3), and (D) are not legal for retail sale but are legal under permits granted pursuant to this chapter for the purposes specified in this chapter for public displays and may be sold at wholesale as provided in this chapter.

(3) Items described in division (C) are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.
(KRS 227.708)

93.02 SALE OR USE PROHIBITED; EXCEPTION FOR PUBLIC DISPLAY.

No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode, any display fireworks, except for the following:

(A) (1) The Chief of the Fire Department or other authorized city official may grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Every display shall be handled by a competent display operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, to not be hazardous to property or endanger any person.

(3) **COMPETENT DISPLAY OPERATOR** shall be defined as the person with overall responsibility for the operation and safety of a fireworks display. The **COMPETENT DISPLAY OPERATOR** shall have a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five public displays. A **COMPETENT DISPLAY OPERATOR** is also an employee possessor. A permit under division (A)(1) above shall be issued only to a competent display operator holding an ATF license.

(4) At least one competent display operator shall be on site during display setup and firing. This competent display operator shall maintain a copy of the permit application, as signed by the local authority having jurisdiction as identified in this section, on site and at all times the display is in place, and shall be presented on demand of the State Fire Marshal or local Fire Chief. All public displays that require issuance of a permit shall be conducted in accordance with the provisions of National Fire Protection Association (NFPA) 1123 - Code for Fireworks Display (adopted edition).

(5) Permits shall be filed with the State Fire Marshal at least 15 days in advance of the date of the display. After the privilege is granted, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this division shall be transferable. For the purposes of this subchapter, Apublic display of fireworks@ shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.

(6) Any person remaining within the display area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display area shall be at least 18 years of age.

(7) The Commissioner of the Department of Housing, Buildings and Construction with recommendation from the State Fire Marshal shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this division (A). The regulations shall address the process by which permits are issued and any other procedures that are reasonably necessary to effectuate this division (A).

(B) The sale, at wholesale, of any display fireworks for permitted displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, and Firearms and Explosives if the sale is to the person holding a display permit as outlined in division (A) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.

(C) The sale of display fireworks in accordance with a license issued by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

(D) The sale and use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.

(E) The use of fuses and railway torpedoes by railroads.

(F) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(G) The use of any pyrotechnic device by military organizations.

(H) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

(I) Nothing in this section shall prohibit a person, firm, co-partnership, non-profit, or corporation from offering for sale, exposing for sale, selling at retail, keeping with intent to sell, possessing or using consumer fireworks as defined in ' 93.01(B) and as permitted pursuant to ' 93.03.

(KRS 227.710) Penalty, see ' 93.99

' 93.03 CONSUMER FIREWORKS; RESTRICTIONS ON SALE.

Except as provided in ' 93.02, the consumer fireworks described in ' 93.01(B) may be offered for sale, sold at retail, or kept with the intent to sell, only if the following requirements are met:

(A) Any person, firm, co-partnership, nonprofit, or business intending to sell consumer fireworks described in ' 93.01(B)(1) shall register annually with the State Fire Marshal, who may assess a fee of no more than \$25 for each site at which fireworks shall be sold. The registration requirement under this section shall not apply to permanent business establishments which are open year round and in which the sale of fireworks is ancillary to the primary course of business. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;

(B) Permanent business establishments open year-round and in which the sale of consumer fireworks is ancillary to the primary course of business shall only be permitted to sell those consumer fireworks described in ' 93.01(B)(1), or shall meet the criteria for Aseasonal retailer@ described in division (C) of this section;

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(C) **SEASONAL RETAILERS** shall be defined as any person, firm, co-partnership, nonprofit, or corporation intending to sell consumer fireworks between June 10 and July 7, or December 26 and January 4 of each year or both, and shall include permanent businesses, temporary businesses, stores, stands, or tents. A seasonal retailer shall register with the State Fire Marshal, who may assess a fee of no more than \$250 for each site at which fireworks shall be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;

(D) Any person, firm, co-partnership, nonprofit, or corporation intending to sell consumer fireworks, as defined in ' 92.01(B)(2) and (3) as the primary source of business, that is not a seasonal retailer as defined in division (C) above, shall register with the state fire marshal, who may assess a fee of no more than \$500 for each site at which fireworks will be sold. Each location shall be required to charge sales tax at the current rate imposed on retailers in KRS 139.200;

(E) The annual registration required by this section shall be received by the State Fire Marshal at least 15 days prior to offering fireworks for sale at the site for which the registration is intended. Evidence that a sales and use tax permit has been obtained from the Department of Revenue shall be presented to the state fire marshal as a condition of registration. If the registration is received less than 15 days prior to offering fireworks for sale at the site for which registration is intended, an additional assessment of \$100 shall be added to the initial fee;

(F) Each site at which fireworks are offered for sale shall have its registration certificate displayed in a conspicuous location at the site;

(G) Each site at which fireworks are offered for sale shall comply with all applicable provisions of the International Building Code, with Kentucky 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);

(H) No person or business shall give, offer for sale, or sell any consumer fireworks listed in ' 93.01(B) to any person under 18 years of age;

(I) No person under 18 years of age may be employed by a fireworks distribution facility or manufacturing facility. No person under 18 years of age shall sell consumer fireworks at a consumer fireworks retail sales facility registered under this section unless the individual is supervised by a parent or guardian;

(J) The State Fire Marshal may revoke the registration of any site which is in violation of a requirement of this section, or any other requirement provided pursuant to this chapter. If the violation renders any property especially susceptible to fire loss, and there is present such hazard to human life or limb that the public safety imperatively requires emergency action, the State Fire Marshal may take that action, as provided in KRS 227.330(6); and

(K) A person lawfully possessing consumer fireworks, as defined in ' 93.02(B)(2) and (3) may use those items if:

(1) He or she is at least 18 years of age;

(2) Fireworks are not ignited within 200 feet of any structure, vehicle, or any other person; and

(3) Use of the fireworks does not place him or her in violation of any lawfully enacted local ordinance.

(KRS 227.715) Penalty, see ' 93.99

' 93.04 BOND OR LIABILITY INSURANCE REQUIREMENT.

No permit shall be issued under ' 93.02 unless the applicant shall give bond or evidence of liability insurance deemed adequate by the official to whom application for the permit is made, in a sum not less than \$1,000,000. However, the appropriate city official or the State Fire Marshal may require a larger amount if in their judgment the situation requires it, conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, and arising from any acts of the licensee, his agents, employees or subcontractors.

(KRS 227.720) Penalty, see ' 93.99

' 93.05 EXEMPTED SALES AND USES.

Nothing in this chapter shall prevent the retail sale and use of explosives or signaling flares used in the course of ordinary business or industry, or gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, or shells or cartridges, used as ammunition in firearms, or blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or the sale of any kind of fireworks provided the same are to be shipped by the seller directly out of the state.

(KRS 227.730)

' 93.06 SALE OR DISPOSAL OF SEIZED FIREWORKS.

(A) The State Fire Marshal, or any fire department having jurisdiction which has been deputized to act on behalf of the State Fire Marshal, shall cause to be removed at the expense of the owner all stocks of fireworks which are stored and held in violation of this chapter. After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified fireworks wholesaler.

(B) After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified manufacturer, distributor, or wholesaler. All seized fireworks or explosives with a Class 1.3G or Adisplay@ designation shall require the notification of the United States Bureau of Alcohol,

Tobacco, Firearms and Explosives. The State Fire Marshal shall provide the owner or possessor a receipt containing the complete inventory of any fireworks seized within five business days of the seizure.

(C) Before any seized fireworks may be disposed of:

(1) If the owner of the seized fireworks is known to the State Fire Marshal, the State Fire Marshal shall give notice by registered mail or personal service to the owner of the State Fire Marshal's intention to dispose of the fireworks. The notice shall inform the owner of the State Fire Marshal's intent. The State Fire Marshal shall conduct an administrative hearing in accordance with KRS Chapter 13B concerning the disposal of fireworks; or

(2) If the identity of the owner of any seized fireworks is not known to the State Fire Marshal, the State Fire Marshal shall cause to be published, in a newspaper of general circulation in the county in which the seizure was made, notice of the seizure, and of the State Fire Marshal's intention to dispose of the fireworks. The notice shall be published once each week for three consecutive weeks. If no person claims ownership of the fireworks within ten days of the date of the last publication, the State Fire Marshal may proceed with disposal of the fireworks. If the owner does claim the fireworks within ten days of the date of the last publication, a hearing as set out in division (C)(1) above shall be held.

(D) Nothing in KRS 227.700 to 227.750 shall restrict a local government from enacting ordinances that affect the sale or use of fireworks within its jurisdiction.

(KRS 227.750)

FIRE PREVENTION

• 93.20 BLASTING PERMIT.

No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the authorized city official. The authorized city official, before granting such permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see ' 93.99

• 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

Penalty, see ' 93.99

' 93.99 PENALTY.

(A) Any person violating the provisions of ' ' 93.02 or 93.04, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$1,000, or imprisoned for not more than 30 days, or both. (KRS 227.990 (4))

(B) Any person who violates any other provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

CHAPTER 94: LITTERING

Section

- 94.01 Throwing litter from vehicle
- 94.02 Tracking foreign matter on streets
- 94.03 Hauling loose material
- 94.04 Sweeping litter into gutters
- 94.05 Litter on private property

- 94.99 Penalty

• **94.01 THROWING LITTER FROM VEHICLE.**

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.

Penalty, see ' 94.99

• **94.02 TRACKING FOREIGN MATTER ON STREETS.**

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, see ' 94.99

• **94.03 HAULING LOOSE MATERIAL.**

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.

Penalty, see ' 94.99

§ 94.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Penalty, see § 94.99

§ 94.05 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not.

Penalty, see § 94.99

§ 94.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 95: PARKS AND RECREATION

Section

95.01 Policies and procedures adopted by reference

• 95.01 POLICIES AND PROCEDURES ADOPTED BY REFERENCE.

The Parks and Recreation Department's Policies and Procedures are hereby adopted by reference and incorporated as if set out at length herein. Copies of the policies and procedures are on file in the office of the City Clerk and shall be available for public inspection during regular business hours.
(Ord. passed 9-9-96)

CHAPTER 96: TREES

Section

- 96.01 Definitions
- 96.02 City Tree Board
- 96.03 Street tree species to be planted
- 96.04 Spacing of trees
- 96.05 Distance from curbs, sidewalks and power lines
- 96.06 Distance from street corners and fireplugs
- 96.07 Public tree care
- 96.08 Tree topping
- 96.09 Pruning, corner clearance
- 96.10 Dead or diseased tree removal on private property
- 96.11 Arborists license and bond
- 96.12 Interference with City Tree Board
- 96.13 Review by City Council

- 96.99 Penalty

• 96.01 DEFINITIONS.

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.
(Ord. 92-2, passed 3-9-92)

• 96.02 CITY TREE BOARD.

(A) *Creation and establishment.* There is hereby created and established a City Tree Board which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the City Council.

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(B) *Term of office.* The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first Board shall be for only one year, and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(C) *Compensation.* Members of the Board shall serve without compensation.

(D) *Duties and responsibilities.*

(1) It shall be the responsibility of the Board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive tree plan for the city.

(2) The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(E) *Operation.* The Board shall choose its own officers, make its own rules and regulations and keep a journal of its findings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 92-2, passed 3-9-92)

• **96.03 STREET TREE SPECIES TO BE PLANTED.**

The Tree Board will formulate an official street tree species list for the city. The list of allowable species shall be broken down into categories of small, medium and large trees. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board.

(Ord. 92-2, passed 3-9-92)

• **96.04 SPACING OF TREES.**

The spacing of street trees will be in accordance with the three species classes referred to in ' 96.03, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet, except in special plantings designed or approved by a landscape architect.

(Ord. 92-2, passed 3-9-92) Penalty, see ' 96.99

▸ 96.05 DISTANCE FROM CURBS, SIDEWALKS AND POWER LINES.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in ' 96.03, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. Only small trees can be planted within 15 feet of powerlines.

(Ord. 92-2, passed 3-9-92) Penalty, see ' 96.99

▸ 96.06 DISTANCE FROM STREET CORNERS AND FIREPLUGS.

No street tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.

(Ord. 92-2, passed 3-9-92) Penalty, see ' 96.99

▸ 96.07 PUBLIC TREE CARE.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with ' ' 96.03 through 96.07 of this chapter.

(Ord. 92-2, passed 3-9-92)

▸ 96.08 TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this chapter at the determination of the City Tree Board.

(Ord. 92-2, passed 3-9-92)

‘ 96.09 PRUNING, CORNER CLEARANCE.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. 92-2, passed 3-9-92) Penalty, see ‘ 96.99

‘ 96.10 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and to recover such amount from the owner(s).

(Ord. 92-2, passed 3-9-92)

‘ 96.11 ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$25,000 for bodily injury and \$10,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 92-2, passed 3-9-92)

‘ 96.12 INTERFERENCE WITH CITY TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents or servants while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street tree, park trees or trees on private grounds, as authorized in this chapter.

(Ord. 92-2, passed 3-9-92) Penalty, see ‘ 96.99

• **96.13 REVIEW BY CITY COUNCIL.**

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make the final decision.

(Ord. 92-2, passed 3-9-92)

• **96.99 PENALTY.**

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction or a plea of guilt, be subject to a fine not to exceed \$500.

(Ord. 92-2, passed 3-9-92)

CHAPTER 97: JUNKED APPLIANCES AND MOTOR VEHICLES

Section

- 97.01 Definitions
- 97.02 Conditions constituting public nuisance
- 97.03 Right of entry of enforcement officials
- 97.04 Notice to abate
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- 97.06 Hearing; appeal
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• 97.01 DEFINITIONS.

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

ADMINISTRATIVE OFFICIAL. The City's Building Inspector or his deputy.

JUNKED APPLIANCES. Any unit, or part thereof, of machinery, furniture or equipment, whether functional or ornamental, and whether mechanical or powered by some source of energy or not, including, but not limited to, stoves, refrigerators, television sets, beds, lamps, tools, objects of art, and the like, the condition of which is one of the following: wrecked; dismantled; partially dismantled; inoperative; abandoned; or discarded.

JUNKED MOTOR VEHICLES. Any contrivance, or part thereof, designed to be propelled by power and used for transportation of persons or property on public streets and highways, the condition of which is one or more of the following: wrecked; dismantled; partially dismantled; inoperative; abandoned or discarded.
(Ord. 89-8, passed 6-19-89)

• 97.02 CONDITIONS CONSTITUTING PUBLIC NUISANCE.

(A) The presence of any junked motor vehicle or junked appliance upon a public street or on public property for a period of 72 consecutive hours, or on any private lot, tract or parcel of land for a period of 30 consecutive days shall be deemed a public nuisance. It shall be unlawful for any person to cause or maintain such a public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any junked motor vehicle or junked appliance upon a public street, upon public property or upon his own real property or on the real property of another, or to suffer, permit or allow a junked motor vehicle or junked appliance to be parked, left or maintained upon his own real property, upon a public street, upon public property, or upon the real property of another. Provided, however, that these provisions shall not apply to:

(1) Any junked motor vehicle or junked appliance inside an enclosed building;

(2) Any junked motor vehicle or junked appliance on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise. Nevertheless, any such junked motor vehicle or junked appliance must be hidden from view by an artificial or natural screen or by virtue of natural topography; or

(3) Any junked motor vehicle or junked appliance on property occupied, and regularly and lawfully used for repair, reconditioning and remodeling of motor vehicles or appliances. Nevertheless, any such junked motor vehicle or junked appliance must be hidden from view by an artificial or natural screen or by virtue of natural topography.

(B) The screening required in divisions (2) and (3) above may be effected by the construction of a fence or by planting shrubs, trees or flowering plants, the foliage of which provides a sufficient screen or by making such screening out of foliage already in existence. Any business referred to in divisions (2) and (3) above which is lawfully in operation at the time of adoption of this chapter shall have the required screening in place and effective within six months after the enactment hereof.

(Ord. 89-8, passed 6-19-89) Penalty, see ' 97.99

• 97.03 RIGHT OF ENTRY OF ENFORCEMENT OFFICIALS.

The provisions hereof shall be administered and enforced by the Administrative Official. In the enforcement hereof, such officer and/or his duly authorized agents, assistants, employees or contractors may enter upon private or public property to examine any apparently junked motor vehicle or junked appliance, to obtain information as to the identity of any junked motor vehicle or junked appliance and/or its owner, to obtain information as the identity of the person causing the junked motor vehicle or junked appliance to be located there, and/or to remove or cause removal of any junked motor vehicle or junked appliance deemed to be a nuisance.

(Ord. 89-8, passed 6-19-89)

• **97.04 NOTICE TO ABATE.**

(A) Whenever the Administrative Official deems a nuisance to exist in violation of this chapter, he shall issue a notice to the parties hereinafter stated, and such notice shall:

- (1) Be in writing;
- (2) Specify the public nuisance and its location;

(3) Advise such party that he has 30 days in which to abate the nuisance or to make a written demand for a hearing before the Administrative Official, or else the public nuisance will be removed and abated by the city at such party's expense.

(B) Such notice shall be sent by certified or registered mail, return receipt requested, to the last known address of the owner of the property upon which the nuisance is located. In the event that the owner of the property is not the occupant thereof, such notice shall also be similarly mailed to the occupant of the property. The Administrative Official shall coordinate his efforts to determine ownership of junked motor vehicles with the Police Department and notice in accordance herewith shall be sent to the last registered and legal owner of record of junked motor vehicles, unless the owner is the owner or occupant of the premises upon which the nuisance is located and unless identification numbers are not available to determine ownership of the junked motor vehicle. If the owner, or his address, of any junked motor vehicle is not known or cannot be readily ascertained, the notice to him to abate, and of his right to a hearing may be given by attaching such notice to the junked motor vehicle not less than ten days before action is to be taken. If the latter method of providing notice is used, the Administrative Official shall make an affidavit attesting to such facts. Where a junked motor vehicle is found to be upon any public property within the city, notice send to the last registered and legal owner of the junked motor vehicle is all that shall be required. Where a junked appliance is found on public property, no notice is required.

(Ord. 89-8, passed 6-19-89)

• **97.05 ABATEMENT BY CITY.**

Upon failure, neglect or refusal to abate a nuisance hereunder by any occupant or owner of private property who has been notified and ordered to abate such nuisance under the provisions hereof, the Administrative Official is hereby authorized, empowered and directed to remove and dispose of the nuisance. The cost of removal and disposal shall be accounted for by the Administrative Official and a demand for reimbursement in such amount shall be provided to such occupant or owner in accordance with the notice provisions hereof. In the event that the full amount due to the city for such service is not paid within 30 days after the mailing of such notice, the Administrative Official may proceed in the name of the city to collect such amount by any legal process, including initiating legal action against the person or persons responsible for payment.

(Ord. 89-8, passed 6-19-89)

• 97.06 HEARING; APPEAL.

(A) In the event any affected person demands a hearing as provided for under ' 97.04 above, such hearing shall be held within ten days after written demand is made and shall be conducted by the Administrative Official, who shall hear all the facts and testimony on the condition of the junked motor vehicle or junked appliance and the circumstances concerning the location. Such hearing shall not be limited by technical rules of evidence. The Administrative Official may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purposes hereof. He may delay the time for removal of the nuisance if, in his opinion, circumstances justify it. At the conclusion of any hearing the Administrative Official may find that a junked motor vehicle or junked appliance has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and order disposal of same. The order requiring removal shall include a description of the junked motor vehicle or junked appliance and the correct identification number and state license tag number, if any, of the junked motor vehicle.

(B) Any interested party may appeal the decision of the Administrative Official by appealing to a court of competent jurisdiction within seven days after the Administrative Official's decision is made. If no appeal is taken within the time prescribed, and if the person or persons responsible have not abated the nuisance within such time, the Administrative Official shall cause the junked motor vehicle or junked appliance to be removed and be disposed of in such manner as he may provide and shall proceed to recover the costs thereof from the responsible party in accordance with the provision of ' 97.05.

(Ord. 89-8, passed 6-19-89)

• 97.07 REGULATIONS SUPPLEMENTAL.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles and appliances within the city, but is supplemental and in addition to all other regulatory codes, statutes and ordinances.

(Ord. 89-8, passed 6-19-89)

• 97.99 PENALTY.

In addition to the civil remedies provided for in this chapter, it is deemed to be unlawful for any person to allow or continue to maintain a public nuisance as described herein, and any person violating any provisions hereof shall be guilty of a violation and fined not less than \$25 and not more than \$100 for each offense and each day in which a violation of this chapter shall occur shall be deemed to constitute a separate offense.

(Ord. 89-8, passed 6-19-89)