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GENERAL PROVISIONS**§ 90.01 DEFINITIONS.**

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

ABANDON. To forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support or an animal by its owner or his or her agent. The abandonment shall constitute the relinquishment of all rights and claims by the owner to the animal.

AT LARGE. Off the premises of the owner, and not under the control of the owner or his or her agent either by leash, cord, chain or otherwise.

FARM ANIMAL. One or more of the following domesticated animals, regardless of age: cattle, oxen, buffalo, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, ratites (ostrich, rhea, emu), and poultry (chickens, ducks, geese, turkeys, or other similar fowl) based on KRS 247.4015.

FARM, LIVESTOCK. Property that has one or more farm animals contained on such property.

OWNER. Every person having a right of property to an animal and every person who keeps or harbors an animal, has it in his or her care or permits it to remain on or about the premises owned or occupied by him or her.

(Am. Ord. 18, 2009, passed 9-28-09)

§ 90.02 ANIMALS RUNNING AT LARGE.

(A) No person who is the owner of any animal shall permit it to run at large in any public road, highway, street, lane or alley, or upon or enclosure without the consent of the owner of the yard, lot or enclosure.

(B) The owner of an animal who permits it to run at large in violation of this section is liable for all damages caused by the animal upon the premises of another.

Penalty, see § 90.99

§ 90.03 CRUELTY TO ANIMALS IN THE SECOND DEGREE.

(A) A person is guilty of cruelty to animals in the second degree when, except as authorized by law, he or she intentionally or wantonly:

(1) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in § 90.03 in causing it to fight for pleasure or profit (including, but not limited to, being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing, tormenting any animal other than a dog or cat, failing to provide adequate food, drink, space, health care or by any other means;

(2) Subjects any animal in his custody to cruel neglect; or

(3) Kills any animal other than a domestic animal killed by poisoning. This section shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(B) Nothing in this section shall apply to the killing of animals:

(1) Pursuant to a license to hunt, fish or trap;

(2) Incident to the processing as food or for other commercial purposes;

(3) For humane purposes;

(4) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(5) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(6) For bona fide animal research activities of institutions of higher education; or a business entity registered with the U.S. Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(7) In defense of self or another person against an aggressive or diseased animal;

(8) In defense of a domestic animal against an aggressive or diseased animal;

(9) For animal or pest control; or

(10) For any other purpose authorized by law.

(KRS 525.130) Penalty, see § 90.99

Statutory reference:

Cruelty to animals in the first degree, a class D felony, see KRS 525.125

§ 90.04 DYEING OR SELLING DYED CHICKS OR RABBITS.

No person shall sell, exchange, offer to sell or exchange, display or possess living baby chicks, ducklings or other fowl or rabbits which have been dyed or colored; nor dye or color any baby chicks, ducklings or other fowl or rabbits; nor sell, exchange, offer to sell or exchange or to give away baby chicks, ducklings or other fowl or rabbits, under two months of age in any quantity less than six, except that any rabbit weighing three pounds or more may be sold at an age of six weeks.

(KRS 436.600) Penalty, see § 90.99

§ 90.05 ABANDONING DOMESTIC ANIMALS PROHIBITED.

No owner of a domestic animal shall abandon the animal.

Penalty, see § 90.99

§ 90.06 DESTRUCTION OF ABANDONED AND SUFFERING ANIMAL.

(A) Any peace officer, animal control officer, or any person authorized by the Board may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for or appearing to be injured, diseased or suffering past recovery for any useful purpose.

(B) Before destroying the animal, the officer shall obtain the judgment to that effect of a veterinarian, or of two reputable citizens called by him or her to view the animal in his or her presence, or shall obtain consent to the destruction from the owner of the animal.

(C) (1) Any animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which shall be unclaimed by its owner or his or her agent for a period of more than ten days after written notice by registered or certified mail, return receipt requested, is given the owner or his or her agent at his or her last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society or animal shelter or disposed of as the custodian may deem proper.

(2) The giving of notice to the owner or the agent of the owner of the animal by the licensed veterinarian, shall relieve the licensed veterinarian and any custodian to whom the animal may be given of any further liability for disposal.

(KRS 257.100)

§ 90.07 STOCKYARDS/BARNS/PENS FOR LIVESTOCK OR EXOTIC ANIMALS.

(A) (1) It is unlawful for any person, firm or corporation to operate or maintain a stockyard, barn or enclosure for the purpose of buying, selling, keeping, harboring, or boarding one or more of the following animals:

(a) Livestock such as horses, mules, cattle, hogs, sheep, goats, oxen, ponies, ratites (ostrich, rhea, emu), poultry (chicken, ducks, geese, or turkeys); or

(b) Exotic animals such as tigers, lions, monkeys, bears, zebras, alligators, venomous reptiles, or other similar animal(s) commonly held captive at a zoo;

(2) Within the limits of the city without the permission of the Board of Commissioners granted at a regular meeting thereof, upon written application therefor filed in the Office of the City Clerk at least ten days prior to the granting thereof. ('70 Code, § 8.12.010)

(B) The Board of Commissioners shall not grant permission to any person, firm or corporation to operate or maintain within the limits of the city a stockyard, barn or enclosure for a purpose set forth in (A) above, unless it shall appear to the satisfaction of the Board of Commissioners that:

(1) The stockyard, barn or enclosure be located at least 300 feet from all residences and buildings occupied as either a residence or place of business adjoining thereto;

(2) The stockyard, barn or enclosure be equipped with a concrete floor with proper drains into enclosed city sewer and appropriate water facilities to enable a thorough washing away of all offal or other refuse at least once each day;

(3) The public welfare will not be harmed or negatively affected; and

(4) Property shall be zoned Agriculture and contain at least five acres. ('70 Code, § 8.12.020) (Am. Ord. 18, 2009, passed 9-28-09) Penalty, see § 90.99

DOGS AND CATS

§ 90.20 PET LICENSE REQUIRED.

(A) All dogs and cats over the age of six months old which are kept, harbored or owned within the city shall be licensed and registered with the Humane Society and locally participating veterinarians. Dog and cat licenses shall be issued upon payment of an annual license fee.

(B) The license fee for each animal shall be:

(1) Neutered or spayed dogs and cats: \$10.

(2) Unneutered or unspayed dogs and cats: \$40.

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(C) An unneutered or unspayed animal shall be exempt from the higher license fee if the owner/harbinger provides the licensing authority a statement to show that the animal cannot be safely altered due to the age, health condition.

(D) Failure to comply with this section constitutes a violation of this subchapter and subjects the owner or harbinger to the penalties and fees sections of this subchapter.

('70 Code, § 8.04.010) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 14, 2014, passed 8-18-14; Am. Ord. 7, 2015, passed 4-27-15)

§ 90.21 PROCEDURE.

(A) The effective date for the registration and licensing covered shall be July 1 and cover a 12-month period.

(B) The registration and licensing period provided for herein shall be July 1 through June 30 of the following year. Thereafter all dogs and cats shall be licensed and registered as provided herein on or before July 1 of each year.

(1) Each person applying for a dog or cat license shall fill out a form provided by the Humane Society and participating veterinarians containing the following information:

(a) Owner name and address;

(b) Name, breed, sex, color of each dog or cat;

(c) Proof, evidenced by a receipt, statement or certificate, from a veterinarian that the animal to be licensed has been spayed or neutered if applicable; and

(d) Proof that each dog and cat to be licensed has been inoculated against rabies.

(2) The license and registration provisions of this section shall not apply to dogs and cats whose owners or keepers are nonresidents temporarily within the city for a period less than 30 days, or to dogs and cats brought into the city for the purpose of exhibition in dog or cat shows.

(3) All dogs and cats over the age of six months which are brought into the city, except as provided in division (B)(2) above, shall be registered and licensed as provided herein within 30 days of arrival.

(4) All dogs and cats in the city must be licensed and registered within 30 days of purchase or acquisition, if they are not licensed and registered when purchased or acquired.

(5) (a) Upon receipt of the properly executed application and payment of the license fee, the Humane Society and participating veterinarian shall issue to the applicant a license certificate and a tag for each dog or cat so licensed.

(b) The tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate.

(6) Persons obtaining dog and cat license tags shall see that each licensed dog and cat constantly wear the tag along with the rabies tag, except if the animal is in a show or exhibition or if the animal is in training and the owner is present and has the license in his or her actual possession.

(7) Lost, stolen or destroyed tags may be replaced by the Humane Society upon presentation of the receipt or registration showing that the license fee has been received for the current year, and the payment of \$1 fee for the duplicate tag.

(8) If there is a change of owners of a licensed dog or cat during the current license period, the new owner may have the registration transferred to his or her name upon the payment of a \$1 transfer fee to the Humane Society.

(C) Failure to comply with this section constitutes a violation of this subchapter and subjects the owner or harborer to the penalties and fees sections of this subchapter.
(‘70 Code, § 8.04.020) (Ord. 9-92, 1992, passed 10-12-92)

§ 90.22 PROHIBITION AGAINST DOGS AND CATS RUNNING AT LARGE.

(A) It shall be unlawful for any dog or cat to be allowed to run at large within the city, except on land zoned agriculture.

(B) A cat is defined as running at large if it is off the owner’s or harborer’s property and is not under the owner’s or harborer’s direct control and supervision.

(C) (1) Dogs shall be confined behind a fence or within an enclosed area or otherwise securely restrained at all times while on the owner or harborer’s property.

(2) A dog may be unconfined or unrestrained while on the owner or harborer’s property where the dog is in the direct company of the owner or harborer and the dog is under the owner’s or harborer’s direct control and supervision.

(D) A dog shall be permitted off the owner’s or harborer’s property only if it is restrained by a chain or leash or under the owner’s or harborer’s direct control and supervision.

(E) Any dog found to be unconfined or unrestrained while off the owner’s/harborer’s property, unattended by the owner or harborer, shall be presumed to be running at large and may be impounded by the Animal Control Officer of the city with the owner subject to the penalties and fines section of this subchapter.

(‘70 Code, § 8.04.030) (Ord. 9-92, 1992, passed 10-12-92) Penalty, see § 90.99

§ 90.23 IMPOUNDMENT.

(A) Any dog or cat found running at large, or any nuisance animal within the city limits whether licensed or unlicensed, may be taken up by the Animal Control Officer and impounded in the shelter designated as the city animal shelter and, there, confined in a humane manner for a period of not less than five days exclusive of the date of seizure unless sooner claimed by the owner, harborer, custodian or person entitled to possession thereof, and may thereafter be destroyed in a humane manner if not otherwise claimed or adopted. Cats will be held for five days and may be destroyed in a humane manner, if not otherwise claimed or sold thereafter, unless they are wild, based upon Humane Society guidelines of what constitutes “feral,” and cannot be handled then they may be euthanized humanely as soon as possible. A reasonable effort shall be made by the animal shelter to contact the animal’s owner within impoundment periods before the animal is destroyed.

(B) (1) Notwithstanding any other provision of Chapter 90 of the city of Frankfort code of ordinances, the city hereby establishes a five year pilot program to address the issue of the increasing population of feral cats within in the city. For such feral cats, the Humane Society is hereby authorized to develop and implement a program to trap, neuter and release back into their environment these feral cats after sterilization, vaccination against the threat of rabies and other diseases as determined to be necessary, and ear tipped for easy identification.

(2) The Humane Society shall maintain records necessary to determine whether this pilot program is effective in reducing the number of feral cats within the city and provide a written report to the city concerning this pilot program every six months.

(3) The Humane Society is authorized to euthanize feral cats that, due to poor health and other reasons as determined by the Humane Society, should not be released back into the environment.

(4) This pilot program shall expire five years from April 27, 2015 unless amended or renewed by the Board of Commissioners.
(‘70 Code, § 8.04.040) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 7, 2015, passed 4-27-15)

§ 90.24 RECLAMATION BY OWNER OR CUSTODIAN.

Any owner, custodian or other person entitled to possession of a dog or cat may reclaim the dog or cat upon payment of a pickup fee of \$30 for altered animals and a pickup fee of \$80 for unaltered animals and a boarding fee, both payable to the city designated animal shelter. There must also be proof that the animal has been or is licensed according to ordinance and proof that the dog has been inoculated against rabies.

(‘70 Code, § 8.04.050) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 7, 2015, passed 4-27-15)

§ 90.25 ADOPTION OF DOG OR CAT; TIME LIMIT.

(A) The manager of the animal shelter may transfer title to any dog or cat held after the legal detention period provided herein has expired and the animal has not been claimed by its owner, harbinger, custodian or other person entitled to possession thereof.

(B) The person to whom title is being transferred must license the dog or cat according to city ordinance and secure and pay for a rabies inoculation for the animal, the applicable pickup fee, boarding fee and any other applicable charges as determined by the Humane Society.

(‘70 Code, § 8.04.060) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 7, 2015, passed 4-27-15)

§ 90.26 SHELTER.

The County Humane Society, Inc., small animal shelter, is hereby designated as the city animal shelter for purposes of this subchapter.

('70 Code, § 8.04.070) (Ord. 9-92, 1992, passed 10-12-92)

§ 90.27 PUBLIC NUISANCE ANIMAL.

(A) It shall be unlawful for any person to own or harbor within the city an animal that unreasonably annoys humans, endangers the life or health of other animals or persons or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property.

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

PUBLIC NUISANCE ANIMAL. Any animal that:

- (a) Is found at large;
- (b) Damages the property of anyone other than its owner;
- (c) Molests or intimidates pedestrians or passers-by;
- (d) Excessively makes disturbing noises, including, but not limited to continued and repeated, defined as "behavior which generates two or more complaints after initial warning by the Animal Control Officer," howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (e) Caused fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (f) Cause unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (g) Is offensive or dangerous to the public health, safety or welfare by virtue of the number and/or types of animals maintained; and/or
- (h) Attacks other domestic animals.

(C) Failure to comply with this section constitutes a violation of this subchapter and subjects the owner or harbinger to the penalties and fees sections of this chapter.

(‘70 Code, § 8.04.080) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 18, 2009, passed 9-28-09)

Penalty, see § 90.99

§ 90.28 VICIOUS DOGS.

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

VICIOUS ANIMAL.

(a) Any dog with a tendency or disposition to attack, to cause injury to or to otherwise endanger the safety of human beings or domestic animals;

(b) Any dog which chases or approaches a person upon the streets, sidewalks or any public place in a menacing fashion or apparent attitude of attack;

(c) Any dog owned or harbored primarily or in part for purposes of fighting or dog trained for fighting; and

(d) Any dog which attacks a human being or domestic animal without provocation.

(B) It shall be unlawful for any person to own or harbor within the city a vicious dog unless:

(1) While off the owner’s or harbinger’s property, it is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the supervision and control of an adult; and

(2) While on the owner’s or harbinger’s property it is securely confined indoors or in a securely enclosed and locked outdoor pen or shelter suitable to prevent the entry of young children and designed to prevent the animal from escaping.

(3) The pen or structure must have minimum secure sides of five feet by ten feet and must have secure sides and a secure top. If it has no concrete, cement or asphalt bottom, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog.

(C) When any dog is required by this section to be confined, it shall also be required that a conspicuous notice be posted at the place of confinement of a nature as to warn the public of the nature of the dog therein confined.

(D) No person under the age of 18 years shall be permitted to own, harbor or handle a vicious dog.

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(E) (1) Any person who shall be convicted of not keeping the animal confined after having been requested to do so by the Animal Control Officer shall be fined for each offense pursuant to the penalty section of this subchapter.

(2) Nothing in this section shall apply to any case wherein a person provoking the dog to bite or attack shall have broken or entered without permission any enclosure and shall have been pursued therefrom by the dog.

(F) The Animal Control Officer, in impounding an at large vicious animal, may destroy the dog without prior notice to the owner if the impoundment cannot be made with safety.
(‘70 Code, § 8.04.090) (Ord. 9-92, 1992, passed 10-12-92) Penalty, see § 90.99

§ 90.29 KENNEL; LICENSES, PERMITS AND STANDARDS.

(A) Any person who keeps or operates a kennel may, in lieu of the license for each dog or cat as required by KRS 258.135 or this subchapter, apply to the Animal Control Officer for a kennel license entitling him or her to keep or operate a kennel. The one-time fee shall be \$100 for the license. In addition to complying with the zoning ordinance, each person who keeps or operates a kennel shall obtain from the Animal Control Officer, at no charge, a kennel permit, signifying that the kennel meets the following standards:

(1) Enclosures must be provided which allow adequate protection against weather extremes. Floors of buildings and runs shall be of an impervious material or covered throughout with a minimum of three inches of gravel. Walls must be impervious material. Runs must be cleaned daily with a disinfectant, cleanser or chlorine bleach. Cleaning materials must be present at the time of any inspection in an amount sufficient to clean the entire facility.

(2) Building temperature shall be maintained at a comfortable level. Adequate ventilation shall be maintained.

(3) Each dog or cat shall have sufficient space to stand up, lie down and turn around in a natural position without touching the sides or tops of cages.

(4) Cages are to be of a material and construction that permit cleaning and sanitizing.

(5) Cage floors must be of concrete, unless radiantly heated, and shall have resting board or some type of bedding.

(6) Runs shall provide an adequate exercise area and protection from the weather.

(7) All dog and cat quarters and runs are to be kept clean, dry and in a sanitary condition.

(8) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutrition value to meet the normal daily requirements for the condition and size of the dog or cat.

(9) All dogs and cats shall have fresh water available at all times. Water vessels shall be mounted or secure in a manner that prevents tipping and be of the removable type.

(B) (1) Application for a kennel permit shall be made to the Animal Control Officer and a validly issued permit will be in effect from July 1 to June 30 of each year. Prior to initial issuance and each year prior to permit renewal, the Animal Control Officer shall inspect the premises for compliance with the above standards and no permit shall be issued without compliance.

(2) A permit may be revoked for repeated noncompliance. The basis for the revocation shall be verified by reinspections and stated in writing, dated and delivered or mailed to the kennel owner.

(C) Failure to comply with this section constitutes a violation of this subchapter and subjects the owner or harborer to the penalties and fees sections of this subchapter.
(‘70 Code, § 8.04.100) (Ord. 9-92, 1992, passed 10-12-92) Penalty, see § 90.99

§ 90.30 RESPONSIBILITY OF OWNER TO REMOVE ANIMAL DUNG.

The owner/harbinger of every animal shall remove any dung deposited by his or her animal(s) on any property not belonging to him or her within the corporate limits of the city.
(‘70 Code, § 8.04.110) (Ord. 9-92, 1992, passed 10-12-92) Penalty, see § 90.99

§ 90.31 CRUELTY TO ANIMALS UNLAWFUL.

(A) It shall be unlawful for any person within the corporate limits of the city to beat, cruelly ill treat, abuse or torture any animal whether his or her own or that of another.

(B) Other forms of cruelty declared unlawful include:

(1) No person shall fail to provide his or her animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter, space and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment.

(2) No owner of an animal shall abandon the animal.

(3) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render the assistance as may be possible and shall immediately report the injury or death to the animal’s owner. In the event the owner cannot be ascertained or located, the operator shall, at once, report the accident to the Animal Control Officer.

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(4) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall be lawful for a person to expose on his or her own property common rat poison.

(5) Minimum standards for restraint of dogs.

(a) It shall be a violation of this section for the owner or person in possession of any dog to tie, chain, or otherwise tether a dog; provided, however, that a dog may be temporarily tethered, tied or chained if attended by its owner or any person over the age of 14 years. A person walking a dog on a leash shall not be considered to be tethering a dog.

(b) The prohibition of this section does not apply to a temporary restraint during a lawful animal event, veterinary treatment, grooming, or law enforcement activity.

(c) A person restraining a dog with a chain or tether shall attach the chain or tether to a properly fitting collar or harness worn by the dog. A person may not wrap a chain or tether directly around a dog's neck. All collars used for the purpose of tethering animals must be made of durable and non-metallic material. Using a chain, choke or pinch collar while tethering is prohibited. A person may not restrain a dog with a chain or tether that weighs more than 1/18 of the dog's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.

(d) Where an officer authorized to enforce this section pursuant to § 90.32 observes a dog being kept on a chain or tether in violation of this section, the officer may notify the owner of the violation in person or by means of a notice placed at the entry to the property. If the owner does not comply with this section within seven days of issuance of this notice, the dog may be impounded and the owner shall be fined as set forth in § 90.99 (C).

(e) A person is considered to be attending a dog while tethered if the dog is under the person's direct and immediate control and supervision.
(‘70 Code, § 8.04.120) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 19, 2010, 12-16-10) Penalty, see § 90.99

§ 90.32 ENFORCEMENT.

(A) The provisions of this chapter shall be enforced by the Animal Control Officer of the city regardless of title, sworn law enforcement officers or any animal control officer of the County Humane Society or the county when requested to do so by the Chief of Police through cooperative, reciprocal and written agreement.

(B) It shall be a violation of this subchapter to interfere with any of the aforementioned officers when they are acting in the performance of their duties.
(‘70 Code, § 8.04.130) (Ord. 9-92, 1992, passed 10-12-92) Penalty, see § 90.99

§ 90.33 FEES.

(A) All fees collected from the sale of city dog and cat licenses shall go to the Humane Society, except that portion of the State Department of Agriculture license fee (\$.75 per license) encompassed in the city license fee and the amount due, as determined by the Humane Society, to any participating veterinarian for the service of selling licenses on behalf of the city and Humane Society.

(B) This delegation of fee retention is based upon the Society serving as the city's agent in rendering a public service that the city would be authorized to perform in its own right. ('70 Code, § 8.04.150) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 14, 2014, passed 8-18-14)

§ 90.34 REPORTING.

The Humane Society shall provide a monthly report to the city to include an accounting of all funds received and expended, incoming and outgoing inventory of animals processed. It shall also provide the city with a copy of its annual audit and minutes of Board meetings. ('70 Code, § 8.04.160) (Ord. 9-92, 1992, passed 10-12-92)

§ 90.99 PENALTY.

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

(B) Any person, firm or corporation violating the provisions of § 90.07 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$10 nor more than \$100. ('70 Code, § 8.12.030)

(C) (1) Any owner, custodian, harbinger or possessor of any dog or cat who violates all or part of §§ 90.20 through 90.23, 90.27 and 90.29 through 90.32 as a first offender receiving a citation may be dismissed at the Court's discretion, provided that the owner/harbinger/possessor can show that he or she has complied with the section or sections for which he or she was cited prior to appearing in court.

(2) Failure to establish compliance as provided in Section 99 (C)(1) shall upon conviction result in a fine for the first time offender of not less than \$50 nor more than \$500; not less than \$100 nor more than \$500 for the second offense; and not less than \$150 nor more than \$500 for the third and all subsequent offenses.

(D) Any owner, custodian, harbinger or possessor of any dog who violates all or part of § 90.28, in particular, fails to keep his or her dog confined after being requested to do so by an Animal Control

Officer, shall receive a citation and upon conviction as a first offender be fined not less than \$250 and not more than \$500; not less than \$500 and not more than \$1,000 for the second offense. Also, the animal shall be impounded by the Animal Control Officer and destroyed at the owner or harborer's expense together with same paying the boarding fees during any required quarantine period ordered prior to the animal being destroyed.

('70 Code, § 8.04.140) (Ord. 9-92, 1992, passed 10-12-92; Am. Ord. 19, 2010, passed 12-16-10)

CHAPTER 91: STREETS AND SIDEWALKS

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Cross-reference:

Damaging trees or plants, see § 130.01

Obstruction; cleaning or washing things in streets, see § 130.07

GENERAL PROVISIONS**§ 91.01 HOUSE NUMBERING; DIVIDING LINES.**

The city will be divided by the river north and south and by Capital Avenue east and west on the south side and by High Street east and west on the north side.

('70 Code, § 12.16.010)

Cross-reference:

Naming and numbering of streets and properties, see § 93.52

§ 91.02 STREET NAMES.

Whenever any new street is laid off in the city, by any property owner or subdivider, the street names shall be approved by the Planning Commission by approval of the final subdivision plat.

('70 Code, § 12.20.010) (Ord. 27-69, 1969, passed - -69)

§ 91.03 STATE HIGHWAYS.

(A) Authority for state contract.

(1) Whenever the Commissioner of Highways of the Commonwealth, by authority of KRS 177.041 to 177.047 designates any streets or portions thereof, including viaducts and bridges, as connecting links of state and federal maintained highways, or necessary feeder streets thereto and thereby undertakes the future maintenance, repair, construction or reconstruction of the streets, bridges, or viaducts in the manner provided by the aforesaid statutes, the Mayor of the city is hereby expressly authorized, instructed and directed to enter into any and all contracts and agreements with the Department of Highways necessary to carry out the purposes and provisions of the statutes.

(2) Should the Department of Highways construct or reconstruct any streets in the city, the work shall be done by the Department as the agent of the city, as set out in KRS 177.044(3). ('70 Code, § 12.24.010)

(B) Execution of right-of-way deeds.

(1) The Mayor of the city is hereby expressly authorized, empowered and directed to convey to the commonwealth all rights-of-way for the use and benefit of the Department of Highways of the Commonwealth, to any streets, viaducts or bridges affected by KRS 177.041 to 177.047 whenever the department of highways designates the same as part of the state primary roads.

(2) All provisions of KRS 177.041 to 177.047 are hereby expressly accepted by the city.

(3) It is the purpose of this section to clothe the Mayor with the authority to at any time without the passage of specific ordinance to enter into the necessary contracts and agreements and convey the necessary rights-of-way at any time the State Department of Highways shall declare its intention to construct or maintain any street, viaduct or bridge within the corporate limits of the city, by declaring the same to be an integral part of the state highway system of roads.

(4) The Board of Commissioners through the passage of this section or the acceptance of the benefits of KRS 177.041 to 177.047 does not intend to impair or that the passage of the ordinance or the performance of any act authorized to be done pursuant thereto shall be construed as impairing the existing rights, duties and obligations of the city and the Department of Highways of the Commonwealth, respectively, under the contract between the Board of Commissioners and the city and the Departments of Highways of the Commonwealth. ('70 Code, § 12.24.010)

EXCAVATIONS AND CONSTRUCTION

§ 91.15 PERMIT FOR WORK WITHIN THE RIGHT-OF-WAY.

(A) Except during an emergency, individuals or entities shall not disturb, modify, engage in construction activities or change the primary or regulated use of, the roads, streets, rights-of-way, easements or property belonging to or maintained by the City without first applying for and receiving a permit to engage in such activities from the City of Frankfort Public Works Department, which permit shall be signed by the Director of Public Works or its designee.

(B) The applicant or permittee shall have the right to appeal the decision of the Director of Public Works to deny or revoke a permit application. The appeal must be made to the City Manager within ten

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working days from issuance of notice of denial or revocation. An appeal does not stay the denial or revocation of the permit. A hearing shall be held by the City Manager or his or her designee within a reasonable time. The City Manager shall thereafter notify the permittee or applicant of his or her determination in writing.

(C) The Director of Public Works shall promulgate and publish a Right-of-Way Standard that specifies rules, regulations, guidelines and procedures related to the permitting of any work, construction, installation, maintenance, closure, temporary use, disturbance, modification or change of the primary usage within the roads, streets or rights-of-way belonging to or maintained by the City. The Right-of-Way Standard referenced in this document is the City of Frankfort Right-of-Way Standard, 2016 Edition, a copy of which shall be provided to the City Clerk.

(D) At the time of application the necessary permit fee must be paid as follows:

<i>Permit Type</i>	<i>Fee</i>
Street Cut - Service Line	\$50
Street Cut - Minor	\$100
Street Cut - Major	\$300
Street/Sidewalk Closure	\$20
Driveway	\$20
Sidewalk	\$20
Storage Pod	\$20
Dumpster	\$20
Tree Trimming/Landscape	\$20
Temporary Parking	\$20
General	\$20
Annual	\$1,500

(Am. Ord. 22, 2016, passed 11-28-16)

§ 91.16 RESTORATION OF EXCAVATED STREET.

(A) On any project that damages city owned or maintained pavement the permittee will follow the established standards in repairing the damage and the city will coordinate, perform or have performed the final pavement repairs. Permit applicants that may damage or excavate pavement shall pay a fee to

the city that will be equal to the pavement repair estimate plus 10%. The Director of Public Works or their designee shall prepare the estimate which will be based upon the proposed scope of work, category of road and either the City's competitively bid pavement repair contract or prevailing rates for such work. Exceptions to this rule must be approved by the Director of Public Works as outlined in the Right-of-Way Standard.

(B) The City will require bonding of all excavation, trenching, boring or other construction work performed on or under the pavement surface as detailed in the Right-of-Way Standard. The city reserves the right to require bonding on other work that damages or has the potential to damage city property. The lack of bonding or an expired bond does not release the permittee or contractor from any liability related to work in the right-of-way or on City owned or maintained property. The Permittee will be the responsible party for all bonding, not the Permittee's subcontractor.
(Am. Ord. 22, 2016, passed 11-28-16)

§ 91.17 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

§ 91.18 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

§ 91.19 SIDEWALK CONSTRUCTION.

(A) It shall be the duty of the Director of Public Works, or his or her designee, to supervise construction, repair or replacement of sidewalks owned by the city or within the city right-of-way, hereinafter referred to as public sidewalks. He or she shall cause specifications to be prepared for the construction of the various kinds of public sidewalk pavements and transmit the specifications to the Board of Commissioners for approval. Any public sidewalk determined by the Director of Public Works to be deteriorated or otherwise in a condition unsafe or unfit for use shall be repaired or replaced by the city in accordance with the specifications and policies adopted by the Board of Commissioners, except as set forth below.

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(B) The Public Works Director or designee, shall, on an annual basis, inspect all public sidewalks to determine the condition of same, and develop a program for the repair and/or replacement of any public sidewalk determined to be in need of repair and/or replacement. The Director shall, annually, provide to the Board of Commissioners for approval a listing of the public sidewalks proposed to be repaired and/or replaced. Upon the approval of the listing, the Board of Commissioners shall authorize the Director of Public Works to advertise for proposals to do all the work which may be ordered by the city in maintaining, replacing and/or repairing public sidewalks, and shall authorize the contract therefore.

(Am. Ord. 24, 2009, passed 12-17-09)

Statutory reference:

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

Sidewalks; ramps for wheelchairs, see KRS 66.660

§ 91.20 DEFACING, DAMAGING OR DESTROYING CITY SIDEWALKS.

(A) No person or entity shall remove, deface, damage, destroy or otherwise alter the condition of any public sidewalk within the city right-of-way without the express written authorization of the Director of Public Works. This prohibition shall not apply to easily removable chalk markings (which are water soluble) on public sidewalks, written or drawn in connection with traditional children's games, or in any lawful business or public purpose or activity.

(B) Any damage or destruction to a public city sidewalk which is occasioned by the abutting property owner, whether accidental or otherwise, shall be repaired or replaced immediately by the abutting property owner. In the event the abutting property owner fails to repair or replace the public sidewalk within a reasonable time period as designated by the Director of Public Works, the city may undertake such repairs and/or replacement and the abutting property owner shall be required to pay for the cost of the repair and/or replacement. All work shall be done in accordance with such regulations and directions as the city may impose. In the event the damage or destruction is occasioned by a third party, whether accidental or otherwise, said public sidewalk shall be repaired or replaced immediately by the Director of Public Works of the city or his or her designee, and the third party shall be required to pay for the cost of the repair or replacement.

(C) No utility company shall remove, deface, damage, destroy or otherwise alter the condition of any sidewalk within the city without the express written authorization of the Director of Public Works of the city. Any utility construction work performed which removes, defaces, damages, destroys or otherwise alters the condition of any sidewalk shall be caused to be repaired or replaced immediately by the utility company. All work shall be done in accordance with such regulations and directions as the city may impose.

(Am. Ord. 24, 2009, passed 12-17-09)

§ 91.21 SIDEWALK MAINTENANCE.

Every person, firm or corporation owning all or part of any property abutting and/or fronting upon a public sidewalk or utility strip shall maintain such sidewalk and abutting aprons at his, her or its own expense by keeping such sidewalk and utility strip free of trash, debris, leaves, branches, snow and ice and other items or conditions that may interfere with the use of said public sidewalks and utility strips. (Ord. 2, 2010, passed 1-25-10)

ROAD AND BRIDGE PROJECTS

§ 91.35 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)

§ 91.36 NOTICE REQUIREMENTS.

(A) 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.

(B) 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))

§ 91.37 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

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

§ 91.38 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))

§ 91.39 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))

§ 91.40 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 human-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

§ 91.50 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

§ 91.51 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

§ 91.52 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

DRIVEWAY STANDARDS

§ 91.65 DEFINITIONS.

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

APRON. The portion of a passageway that lies between the street side of the sidewalk and the curb line or edge of roadway surface.

DIRECTOR OF PUBLIC WORKS. The Director of Public Works of the city.

JOINT DRIVEWAY. A passageway for vehicle ingress or egress to two or more parcels of property.

NONRESIDENTIAL DRIVEWAY. A passageway for vehicle ingress or egress to private property meeting one or more of the criteria for a residential driveway and which must be for the purpose of passageway to an area of sufficient size between the street right-of-way line and the building line to permit storage and maneuvering of a vehicle or vehicles in a manner as not to encroach upon the street right-of-way, except at an approved driveway.

RESIDENTIAL DRIVEWAY. A passageway for vehicle ingress and egress to private property meeting one or more of the following criteria:

- (1) Must extend into an enclosed area such as a garage or carport;
- (2) Must extend a sufficient distance beyond the front building line for a parked vehicle to completely clear the front building line; and
- (3) In the event of a corner lot, where the passageway leads from the street side lot line, then the passageway must extend a sufficient distance beyond the street side building line for a parked vehicle to completely clear the street side building line.

SIDEWALK. A public passageway within or adjacent to the street right-of-way intended for the use of pedestrians and generally separated from the curb or roadway surface by a utility strip or grass plot.

('70 Code, § 12.08.010) (Ord. 17-68, 1968, passed - -68)

§ 91.66 PERMIT REQUIRED.

(A) Any person, firm or corporation desiring to construct a driveway, to depress the curb or change the grade of any public sidewalk for the purpose of constructing or reconstructing or altering a driveway or driveways, either residential or nonresidential, to provide ingress to and egress from property owned by them or under their control shall apply for a permit for the work from the Director of Public Works.

(B) It shall be the duty of the Director of Public Works, before issuing the permit, to first determine the type of driveway proposed, its width and location, and if, in his or her opinion, the proposed construction conforms to the requirements of this chapter.

(C) Final approval shall be contingent on the work being done so as to conform to all other requirements of this chapter.

('70 Code, § 12.08.020) (Ord. 17-68, 1968, passed - -68)

§ 91.67 RESIDENTIAL DRIVEWAYS.

(A) When application for a permit is made to the Director of Public Works, it shall be the duty of the Director of Public Works, before issuing the permit, to first determine the type of driveway proposed, its width and location, and if, in his or her opinion, the proposed construction conforms to the requirements of this subchapter.

(B) Final approval shall be contingent on the work being done in conformance with the following specifications:

(1) (a) Driveway width measured at any point on the sidewalk shall not exceed 12 feet for a single driveway or 20 feet for a double and/or joint driveway.

(b) In the event the sidewalk is not separated from the curb by a utility strip or grass plot at any point along the frontage of the property, then the point at which the above measurement is made will be determined by the Director of Public Works in accord with good engineering practices.

(2) Width of driveway apron, measured at the curb line, shall not exceed 18 feet for a single driveway or 26 feet for a double driveway.

(3) The sidewalk portion of the driveway shall be of Portland cement concrete with a minimum thickness of four and one-half inches.

(4) The apron shall be either six inches of rock base with a one and one-half inch bituminous surface or a six-inch thickness of Portland cement concrete.

('70 Code, § 12.08.030) (Ord. 17-68, 1968, passed - -68)

§ 91.68 NONRESIDENTIAL DRIVEWAYS.

(A) When application for a permit is made to the Director of Public Works, it shall be the duty of the Director of Public Works, before issuing the permit, to first determine the type of driveway proposed, its width and location, and if, in his or her opinion, the proposed construction conforms to the requirements of this subchapter.

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(B) However, final approval shall be contingent on the work being done in conformance with the following specifications:

(1) (a) At the time a request is made for a permit, there shall be submitted to the Director of Public Works a plat and plan of the area to be improved.

(b) The plat shall be drawn to a scale of not less than one-eighth inch to one foot and with all principal dimensions shown.

(c) The plan shall show the location of all existing walks, curbs and the relative elevation of the gutters, the top of the curb, and the sidewalk, all existing trees, their size and kind, fire hydrants, mail boxes, traffic signs, water shut-off boxes, storm sewer inlets, utility poles and conduits and any other structures existing on or in the street adjacent to the property, and shall also show the proposed locations of tanks, buildings, air hose, wash racks, oil pits, pump islands and all other equipment which applicant proposes to install on the property, together with the distance from the equipment to the street property line.

(2) Where the property line on any street extends for a distance of 150 feet or less, there shall not be more than two driveways constructed at not more than 30 feet in width at the property line and not more than 40 feet at the curb line.

(3) Where the property line on any street extends for a distance greater than 150 feet there shall not be more than three driveways of the same dimensions set forth in division (B)(2) above.

(4) Where two or more driveways are constructed on any one property there shall be a curb between each driveway of not less than six feet in length measured at and parallel to the curb line.

(5) The curb for the driveway shall not be cut except in front of the property for which the driveway is to be used and in no event shall it be cut to a point closer than three feet from the side property line.

(6) When property used for nonresidential purposes is located at an intersection of two streets, no driveway or any part thereof which is intended to serve the property shall be closer than five feet to the intersection of the street right-of-way lines, but in no event shall be closer than 25 feet from the point of intersection of a projection of the face of the curb line or edge of the pavement surface.

(7) The apron shall be of Portland cement concrete of a minimum depth of six inches and where it adjoins the gutter line shall be faced with a raised vertical lip of not less than one and five-eighths inch.

(8) The sidewalk portion of the driveway shall be of Portland cement concrete with a minimum thickness of six inches.

(9) To prevent any part of any vehicle using the driveway from projecting over or crossing the public sidewalk, except at points designated, there shall be installed on the property six inches inside the property line a curb or other suitable barrier to be approved by the Director of Public Works. ('70 Code, § 12.08.040) (Ord. 17-68, 1968, passed - -68)

§ 91.69 UNLAWFUL USES OF DRIVEWAYS.

(A) It is unlawful for the owner of any property to regularly use or permit to be used any part of any public sidewalk abutting his or her property for vehicle ingress or egress to same, except over an approved driveway.

(B) It is unlawful for any owner or occupant of any property to erect or permit to be erected any wooden or metal ramp from the gutter line to the top of the curb. It is unlawful for any person to place dirt, ashes, drain pipes or other material in the gutter for the purposes of building up an approach for a driveway.

(C) It is unlawful, in the case of nonresidential driveways, to permit surface or roof drainage water to flow over that portion of the driveway that is on the public right-of-way. ('70 Code, § 12.08.050) (Ord. 17-68, 1968, passed - -68) Penalty, see § 91.99

§ 91.70 ABANDONED DRIVEWAYS.

Whenever a driveway has been abandoned, either by closing the entrance to the property, or by changing the use of the property, in a way as to no longer make the driveway necessary, it shall be the duty of the property owner to have the driveway removed, and the sidewalk and curb restored to the line and grade of the adjoining sidewalk and curb. The Director of Public Works is hereby authorized to order the removal of the driveway and any property owner shall comply with the order within ten days after receipt of same.

('70 Code, § 12.08.060) (Ord. 17-68, 1968, passed - -68)

§ 91.71 UTILITIES.

Wherever there are encountered within the right-of-way, cables, poles, guys, water main or other utilities, that interfere with the proposed driveway location, the applicant shall obtain the consent of the utility company involved and the reasonable expense and cost of the changes shall be a matter between the two parties.

('70 Code, § 12.08.070) (Ord. 17-68, 1968, passed - -68)

§ 91.72 PROTECTION OF CONSTRUCTION SITE.

Applicants for a driveway permit shall, during construction, reconstruction or alteration, maintain the premises in a safe manner and shall provide adequate barricades and lights at his or her own expense to protect the safety of the public using the adjacent streets and sidewalks and shall hold the city free from any damages incurred by his or her operations. All debris and surplus material shall be removed immediately.

('70 Code, § 12.08.080) (Ord. 17-68, 1968, passed - -68)

§ 91.99 PENALTY.

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

(B) Any person, firm or corporation violating any provisions of §§ 91.65 through 91.72 shall be fined not less than \$10 nor more than \$100. Each day during which any violation continues shall be considered a separate offense.

(C) Should any individual fail to comply with the requirements of § 91.15 or § 91.16 of the City of Frankfort Code of Ordinances or the City of Frankfort Right-of-Way Standard, the City may take any or all of the following actions;

- (1) Require payment of double the applicable Permit fee.
- (2) Suspend or revoke existing Permits or prohibit future Permits.
- (3) Impose a fine of \$100 per day for each day of non-compliance.
- (4) Call the bond applicable to the project.

(5) Remove the facilities or correct the actions and obtain reimbursement for the costs incurred, including but not limited to attorney's fees and court costs.

- (6) Pursue all other legal remedies available to the City.

('70 Code, § 12.08.090) (Ord. 17-68, 1968, passed - -68; Am. Ord. 22, 2016, passed 11-28-16)

CHAPTER 92: HEALTH AND SANITATION; NUISANCES

Section

92.01 Removal of dead animals

92.02 Water as nuisance

92.03 Stagnant water

92.99 Penalty

Cross-reference:

Junk dealers, see § 111.30

Peddlers, Itinerant Merchants and Solicitors, see Chapter 112

Purchase of used beverage bottles, see § 111.02

Statutory reference:

Private nuisances, see KRS 411.500 through 411.570

§ 92.01 REMOVAL OF DEAD ANIMALS.

The owner or possessor of any animal which shall have died from disease, or been accidentally or intentionally killed, who shall knowingly suffer the same to lie on any street, alley or public place, or on any private lot or premises within the city, for more than ten hours after death of the animal, shall be fined.

(‘70 Code, § 6.20.040) Penalty, see § 92.99

§ 92.02 WATER AS NUISANCE.

Whenever any cellar, vault, pool, sink, sewer, stagnant water or putrefying material of any kind upon premises or grounds belonging to or occupied by any person, corporation or entity within the city shall become foul, offensive or injurious to the public health, same is hereby declared to be a nuisance, and the person or persons on whose premises the same is suffered or permitted shall be deemed guilty of suffering and permitting a nuisance and shall upon conviction, be fined in accordance with § 92.99.

§ 92.03 STAGNANT WATER.

Any person who shall allow any water from any well, spring, water pipe, ice house or other place over which he has control, to run to waste, so that it shall form or be liable to form a stagnant pool or

mud hole, on any premises belonging to him or under his or her control or in any street, alley or public place in the city, shall upon conviction be fined in accordance with § 92.99.

§ 92.99 PENALTY.

Whoever violates any provision of this chapter for which no specific penalty is prescribed 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.

[Text continues on page 35]

CHAPTER 93: FIRE PREVENTION

Section

Fire Code

- 93.01 Adoption of Kentucky Fire Prevention Code
- 93.02 Enforcement

Fire Prevention

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- 93.31 Scope
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- 93.35 Access roadways for fire apparatus
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- 93.37 Key box
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- 93.39 Timing of installation
- 93.40 Private fire protection systems
- 93.41 Color of private hydrants
- 93.42 Water supplies
- 93.43 Water mains
- 93.44 Water main; intersections
- 93.45 Water main; sizes
- 93.46 Distribution systems
- 93.47 Fire hydrants
- 93.48 High-density residential
- 93.49 Low-density residential
- 93.50 Fire hydrant installations
- 93.51 Hydrant measurements
- 93.52 Naming and numbering of streets and properties
- 93.53 Applicability
- 93.54 Blasting agents; permit
- 93.55 Storage of flammables and other matter

Fireworks

- 93.65 Definitions
- 93.66 Sale of display fireworks
- 93.67 Use of display fireworks
- 93.68 Sale of consumer fireworks
- 93.69 Use of fireworks
- 93.70 Inspection and enforcement

- 93.99 Penalty

Cross-reference:

Burning refuse, see § 130.09

FIRE CODE**§ 93.01 ADOPTION OF KENTUCKY FIRE PREVENTION CODE.**

The State Uniform Fire Code (Standards of Safety), as promulgated in 815 KAR 10:060 by the Commissioner of the Department of Housing, Buildings and Construction on the advice and recommendation of the State Fire Marshal, a copy of which is on file in the Office of the City Clerk and copies available through the Department of Housing, Buildings and Construction of the commonwealth, is hereby adopted in full as an ordinance of the city as if set out at length herein.

(‘70 Code, § 15.08.010) (Ord. 3-64, 1964, passed - -64; Am. Ord. 11-78, 1978, passed 4-27-78; Am. Ord. 16-98, 1698, passed 8-6-98; Am. Ord. 18, 2010, passed 12-16-10)

§ 93.02 ENFORCEMENT.

The Chief of the Fire Department along with all other officers, agents and employees of the city, are hereby charged with the enforcement of the provisions of the State Uniform Fire Code (Standards of Safety) as promulgated in 815 KAR 10:060.

(‘70 Code, § 15.08.020) (Ord. 16-98, 1998, passed 8-6-98; Am. Ord. 18, 2010, passed 12-16-10)

FIRE PREVENTION

§ 93.30 INTENT.

(A) It is the intent of this subchapter to prescribe regulations consistent with state and nationally recognized codes and good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

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(B) Where no specific standards or requirements are specified in this subchapter or contained within other applicable laws (or adopted codes) or ordinances, compliance with the National Fire Protection Association's codes and standards, and in particular N.F.P.A. #1, N.F.P.A. #24, N.F.P.A. #291, current editions, or as may be updated from time to time, as are approved by the city, shall be deemed as prima facie evidence of compliance with this intent. ('70 Code, § 15.46.010) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.31 SCOPE.

(A) The provision of this subchapter shall supplement any and all laws relating to fire safety and shall apply to all persons without restrictions unless specifically exempted.

(B) The provisions of this subchapter shall apply to existing conditions as well as to conditions arising after the adoption thereof, except that conditions legally in existence at the adoption of this subchapter and not in strict compliance therewith shall be permitted to continue only if they do not constitute a distinct hazard to life or property (for example, multifamily residential, congested one- and two-family development with sufficient water supply for fire suppression absent).

(C) Where there is a conflict between a general requirement and a specific requirement for an individual occupancy, the specific requirement shall be applicable. ('70 Code, § 15.46.020) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.32 AUTHORITY.

This subchapter is adopted under the authority of KRS 96.160. ('70 Code, § 15.46.030) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.33 ENFORCEMENT.

(A) The Fire Department shall be responsible for enforcement of this subchapter. The Electric and Water Plant Board shall be responsible for the administration of those subsections that come under their authority.

(B) Building plans showing location and placement of fire hydrants and fire lanes on public and private property, accompanied with detailed specification of other applicable fire protection materials or devices, shall be submitted to the Fire Chief or his or her designated representative for review and approval prior to the issuance of any construction permits. ('70 Code, § 15.46.040) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.34 EXCEPTIONS.

Modification of any of the provisions of this subchapter will be considered by the enforcement authority only when written application is submitted verifying impractical difficulties created by strict compliance with the fire prohibition requirements.

(‘70 Code, § 15.46.050) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.35 ACCESS ROADWAYS FOR FIRE APPARATUS.

(A) (1) Access roadways for fire apparatus shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed by way of access roadways with all-weather driving surface of not less than 20 feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum of 13 feet, six inches of vertical clearance.

(2) Fire lanes shall be provided for all buildings that are set back more than 150 feet from a public road or exceed 30 feet in height and are set back over 50 feet from a public road.

(3) Dead-end Fire Department access roads in excess of 150 feet long shall be provided with approved provisions for the turning around of fire apparatus.

(B) During periods of utility work or street and roadway construction or repairs, access of one lane of travel with a minimum of ten feet shall be maintained to provide access for fire apparatus to all areas upon which buildings or portions of buildings are hereafter constructed.

(C) Fire lanes shall be marked with free standing signs and marked curbs, sidewalks or other traffic surfaces that have the words “fire lane - no parking” painted in contrasting colors at a size and spacing approved by the Fire Department.

(‘70 Code, § 15.46.060) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.36 OBSTRUCTION OF FIRE PROTECTION EQUIPMENT.

(A) No person shall place or keep any post, fence, vehicle, growth, trash or storage or other material or thing near any fire hydrant, Fire Department connection or fire protection control valve that would prevent the equipment or hydrant from being immediately discernable or in any other manner deter or hinder the Fire Department from gaining immediate access to the equipment or hydrant.

(B) A minimum three-foot clear space shall be maintained around the circumference of the fire hydrants, except as otherwise required or approved by the Fire Chief.

(‘70 Code, § 15.46.070) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.37 KEY BOX.

(A) When access to or within a structure or any area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving and firefighting purposes, the Fire Chief may require a key box to be installed in an accessible location.

(B) The key box shall be a type approved by the Chief and shall contain keys to gain access. ('70 Code, § 15.46.080) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.38 APPROVAL AND TESTING.

All fire systems, fire hydrants and other fire protection systems and appurtenances there to shall meet the approval of the authority having jurisdiction as to the installation, location and testing as required in N.F.P.A. 13, 13A, 13D, 13E, 13R and the State Building Code and the applicable National Fire Codes and Standards.

('70 Code, § 15.46.090) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.39 TIMING OF INSTALLATION.

When fire hydrants and other fire protective systems are to be installed by the developer, the facilities including all surface roads shall be installed and made serviceable prior to construction beyond the foundation stage. All surface roads shall meet the dense grade specification of the City Engineer.

('70 Code, § 15.46.100) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.40 PRIVATE FIRE PROTECTION SYSTEMS.

(A) (1) Private fire protection systems consist of automatic sprinklers, hose standpipes, hydrants or a combination of these.

(2) The cost of installation, maintenance and periodic inspection and repair cost shall be borne by the property owner as outlined in N.F.P.A. 291.

(B) Whenever buildings are constructed, added to or located in a manner where access to a public fire hydrant is minimal or of a distance such that firefighting operations would be impaired, the Fire

Chief may require the provisions of a water supply system (public or private) installed in accordance with the provisions of N.F.P.A. 24. All costs for the installation shall be borne by the property owner. ('70 Code, § 15.46.110) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.41 COLOR OF PRIVATE HYDRANTS.

All private hydrants, when in public streets, shall be painted entirely red to distinguish them from public hydrants (N.F.P.A. 291). ('70 Code, § 15.46.120) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.42 WATER SUPPLIES.

(A) Water supplies capable of supplying required fire flows or established by the Plant Board Engineering Division shall be provided to all premises upon which building or portions of building are hereafter constructed.

(B) All premises which the fire department may be called upon to protect from fire or provide emergency medical services shall be provided suitable access as required in N.F.P.A. 1997 or current edition, as adopted by the commonwealth. ('70 Code, § 15.46.130) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.43 WATER MAINS.

(A) Water mains shall be not less than six inches in diameter, including fire hydrant branch connections for low-density residential properties (for example, one- to two-family residences).

(B) Main sizes for high value commercial and high-density residential properties shall be established on the basis of the type, size, occupancy and exposures of the building(s), based upon sound engineering judgment. But in no case shall any main be less than six inches in diameter. All installations of water mains must be in compliance with the regulations of the Frankfort Plant Board. ('70 Code, § 15.46.140) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.44 WATER MAIN; INTERSECTIONS.

Water mains shall be arranged so that the distance between intersecting mains does not exceed 800 feet. When intersecting mains are a distance in excess of 800 feet, the size of the main shall be eight inches or larger as determined by sound engineering judgment. ('70 Code, § 15.46.150) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.45 WATER MAIN; SIZES.

A minimum of eight-inch mains shall be used where dead end and poor circulation grid-ironing is likely to exist for a considerable period of time or where the layout of the streets and topographical characteristics are not well adapted to a circulating system.

('70 Code, § 15.46.160) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.46 DISTRIBUTION SYSTEMS.

Distribution systems shall be equipped with a sufficient number of valves, so located that breakage will not cause the shutdown of any portion of a main greater than 800 feet.

('70 Code, § 15.46.170) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.47 FIRE HYDRANTS.

(A) The location, number and type of fire hydrants connected to the Water Plant Board service shall meet the required design of the Water Plant Board Engineering Division.

(B) All hydrants shall be accessible to the Fire Department and located by the authority having jurisdiction.

(1) *Flow requirements.* All hydrants installed shall be capable of delivering the necessary fire flow for protecting the zone-approved occupancies. The Water Plant Board Engineering Division shall be responsible for those determinations based on pertinent data.

(2) *Outlets.* All fire hydrants shall be equipped with two two and one-half inch outlets and one four and one-half inch main steamer or pumper outlet. Installation shall be in a manner so that the four and one-half inch outlet will be at least 18 inches above the final pavement level or ground.

(3) *Gate valves.* All fire hydrant installations must be accompanied by the installation of an approved gate valve between the hydrant connection and the street main.

(4) *Spacing.* Hydrant spacing shall be determined by the fire flow demand established by engineering studies and based on upon the size and type of occupancy and exposure of structures.

(5) *Distance between hydrants and buildings.* All fire hydrants shall be placed at approximately 50 feet from the exterior wall of any building to be protected. When the placement is impossible, hydrants shall be placed where the chance of injury by falling walls is minimized and where firefighters are not likely to be driven away by smoke or heat. Height of building shall be considered for minimum distance when the 50-foot distance is not possible.

(6) *Hydrant distances from Fire Department connections.* Hydrants shall be located within 50 feet of pumper vaults and standpipe and/or sprinkler connections unless otherwise approved by the Fire Department.

(7) *Required protection for hydrants.* Hydrants that must be installed in areas subject to heavy traffic shall be protected against damage for collision.
(‘70 Code, § 15.46.180) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.48 HIGH-DENSITY RESIDENTIAL.

High-density residential, three units and above, and commercial property shall have hydrants located as to keep hose lines at a maximum of 500 feet. At a minimum, there shall be enough hydrants so spaced to make two streams available, capable of providing a flow of 500 gallons per minute, each line, at every part of the interior and exterior of each building not covered by standpipe protection.
(‘70 Code, § 15.46.190) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.49 LOW-DENSITY RESIDENTIAL.

For low-density residential areas (one- and two-family development), hydrant spacing shall not exceed 800 feet between hydrants. In high-density residential and commercial developments, hydrant spacing shall not exceed 500 feet between hydrants, nor shall any portion of a building be farther than 500 feet from a hydrant installed to protect it.
(‘70 Code, § 15.46.200) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.50 FIRE HYDRANT INSTALLATIONS.

Fire hydrants shall be located as close to a street intersection as possible with intermediate hydrants along the street or on the site of the premises so as to meet area requirements. Hydrants should be located between seven to 12 feet from the road right-of-way.
(‘70 Code, § 15.46.210) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.51 HYDRANT MEASUREMENTS.

Measurements for distances shall be made along all-weather hard surface road (never measured through or across yards, fields, woods, creeks, major thoroughfares or other avenues not accessible to fire apparatus) for laying hose lines.
(‘70 Code, § 15.46.220) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 21-89, 1989, passed 6-12-89; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.52 NAMING AND NUMBERING OF STREETS AND PROPERTIES.

(A) The Planning and Building Codes Department shall be furnished a list of all proposed street names and numbers for purposes of review and approval to avoid conflict with existing named streets and for informational use.

(B) Each structure and each unit of a multi-tenant structure to which a street number has been assigned shall have such number displayed in a position easily observed from the public right-of-way. Numbers shall contrast with their background so as to be easily distinguished. All numbers shall be in Arabic numbers at least three inches high and ½ inch stroke.

(‘70 Code, § 15.46.230) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01; Am. Ord. 8, 2007, passed 4-23-07)

§ 93.53 APPLICABILITY.

This subchapter shall be applicable to all properties within the city limits and to all development within five miles of the city limits and which is served by the Electric and Water Plant Board and all industrial and major commercial development to which the Fire Department provides initial fire response.

(‘70 Code, § 15.46.240) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

§ 93.54 BLASTING AGENTS; PERMIT.

(A) (1) This section shall apply to the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents.

(2) This section shall not apply to:

(a) Explosives or blasting agents while in the course of transportation via railroad, water, highway or air when the explosives or blasting agents are moving under the jurisdiction of, and in conformity with, regulations adopted by any federal or state department or agency.

(b) The transportation and use of explosives or blasting agents in the normal and emergency operation of state or federal agencies nor to municipal Fire and Police departments, providing they are acting in their official capacity and in the proper performance of their duties.

(c) Small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968, 18 USC 44, and regulations promulgated thereunder.

(d) Blasting standards KRS 351.320, 351.330, and 351.340 and regulations 805 KAR 4:010 through 4:060.

(e) Explosives or blasting agents being used on the site of federal or state projects.
(‘70 Code, § 15.30.010)

(B) All activities within the scope of this section shall conform to the regulations of the State Department of Mines and Minerals, 805 KAR 4:070 through 4:080 and 805 KAR 4:090 through 4:145 (E&B R900 through 914). (‘70 Code, § 15.30.020)

(C) (1) No person or corporation shall conduct a blasting operation within the city without first obtaining a permit from the Fire Inspector.

(2) The fee for a blasting permit or permit renewal shall be \$200.

(3) No person or corporation shall be issued a permit to blast on public property unless the person to be in charge of the blasting holds a valid state blaster’s license.

(4) No person or corporation shall be issued a permit to blast on private property with more than five pounds of explosives unless the person in charge of the blasting holds a valid state blaster’s license.

(5) The blasting permits shall specify the times and locations of the blasting to be permitted.

(6) In the event that a project is not completed, blasting permits must be renewed annually, 12 months after date of issuance, upon the applicant’s payment of the renewal fee.

(7) A permit allowing blasting shall be issued upon application but, on public property, shall not become valid until seven days after its issuance.

(8) If unanticipated blasting on public property is required, the permit may become valid as soon as the Fire Inspector notified the Police Chief, City Engineer, City Manager, Fire Chief and managers of the Sewer Department and Electric and Water Plant Board.

(9) On any contract issued by an agency of the city, blasting permits shall be required unless otherwise specified in the contract.

(10) False statements, made for the purpose of obtaining a permit, shall render the permit null and void from the time of issuance.

(11) Copies of blasting permits shall be distributed by the Fire Inspector to the following persons: Police Chief, City Engineer, Fire Chief, City Manager and managers of the Sewer Department and Electric and Water Plant Board.
(‘70 Code, § 15.30.030)

(D) (1) No person or corporation shall operate a business establishment where explosives are maintained for sale, or manufactured for sale, in the city without first obtaining a permit from the Fire Inspector.

(2) The fee for the permit is \$40 per calendar year or any portion thereof.
(‘70 Code, § 15.30.040) (Ord. 26-76, 1976, passed 7-26-76; Am. Ord. 2, 2004, passed 1-15-04)

(E) (1) 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.

(2) The authorized city official, before granting the 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

§ 93.55 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 the 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

FIREWORKS

§ 93.65 DEFINITIONS.

(A) ***FIREWORKS.*** Any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, detonation or ignition.

(B) ***CONSUMER FIREWORKS.*** Fireworks that are suitable for use by the public which are designed primarily to produce visible and audible effects by combustion, deflagration, detonation or ignition, and contain 50 milligrams (“mg.”), or less of explosive composition, and if an aerial device, contains 130 mg. or less of explosive composition which comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission. Such fireworks include, but are not limited to the following:

(1) *Ground and Hand-Held Sparkling Devices:*

(a) *Dipped Stick-Sparkler or Wire Sparkler:* Consists of a metal wire or wood dowel that has been coated with pyrotechnic composition, which upon ignition, produces a shower of sparks. 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 Department of Transportation regulations;

(b) *Cylindrical Fountain:* Cylindrical tube containing not more than 75 grams of pyrotechnic composition, where upon ignition, a shower of and sometimes a whistling or smoking effect, 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 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 distance of at least one-half inch;

(e) *Wheel:* A pyrotechnic 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 wood 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 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). Upon ignition, “stars,” components producing reports containing up to 130 mg. 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 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 break 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;

(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 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 the 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 mg. of pyrotechnic composition. Those used in aerial devices may contain not more than 130 mg. 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 mg.

(C) **DISPLAY FIREWORKS**. Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, detonation or ignition. This term includes, but is not limited to, firecrackers containing more than two grains (130 mg.) 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." Such definition meets the Consumer Product Safety Commission definition for display fireworks in 16 C.F.R. Pts. 1500 and 1507 and are classified as Class B explosives by the United States Department of Transportation.

(D) **SMOKE DEVICES**. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(E) **SNAKES/GLOW WORMS**. Pressed pellet of pyrotechnic compositions that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. Such devices may NOT contain mercuric thiocyanate.

(F) **TRICK NOISEMAKERS**. Item that produces a small report intended to surprise the user. These devices include:

(1) *Party Popper*: Small plastic or paper item containing not more than 16 mg. 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.

(2) *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.

(3) *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.

(4) *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.

(5) *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.

(6) *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 mg. may also be used to produce a small report. A squib is used to ignite the device.

(G) **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 pyrotechnic composition per item. Devices containing any chlorate or percholate salts may not exceed five grams of pyrotechnic composition per item.

(H) **ANCILLARY FIREWORKS RETAILER**. Shall mean any person, business entity, association, or corporation of any kind which is open to the public year round and at least 20 calendar days per month, and which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell only those fireworks as described in (B)(3)(b), (D), (E), (F), and (G) of this section and which such sales are ancillary to its primary course of business.

(I) **PERMANENT FIREWORKS RETAILER**. Shall mean any person, business entity, association or corporation of any kind which is open to the public year round and at least 20 calendar days per month, and, which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell any Consumer Fireworks as its primary course of business.

(J) **SEASONAL FIREWORKS RETAILER**. Shall mean any person, business entity, association, or corporation which is not considered a Permanent Fireworks Retailer, and which offers for sale, exposes for sale, sells at retail or wholesale, or keeps with intent to sell any Consumer Fireworks.

(Ord. 5, 2012, passed 5-21-12)

§ 93.66 SALE OF DISPLAY FIREWORKS.

It shall be unlawful for any person, firm, corporation or other entity to offer for sale, expose for sale, sell at retail, keep or possess with the intent to sell any display fireworks within the City of Frankfort.

(Ord. 5, 2012, passed 5-21-12) Penalty, see § 93.99

§ 93.67 USE OF DISPLAY FIREWORKS.

It shall be unlawful for any person, firm, corporation or other entity to use or detonate any display fireworks within the City of Frankfort except as follows:

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(A) Pyrotechnic devices and distress signals for marine, aviation and highway use in emergency situations.

(B) Blank cartridges used in a show or theater or for use as a signal or ceremonial purpose in athletics, sports, or for military commemoration or ceremony.

(C) Pyrotechnic devices authorized for use under the supervision of a military organization.

(D) Pyrotechnic devices for use in training by fire service, law enforcement, or similar governmental agencies.

(E) Fireworks for agricultural purposes under the direct supervision of the United States Department of the Interior or any equivalent agency.

(F) Supervised public displays of fireworks by municipalities or other organizations conducted by a competent display operator to be approved by the Frankfort Fire Chief and who shall have the qualifications and meet the requirements set forth in KRS Chapter 227 and further provided that organizations other than the City of Frankfort shall be required to pay a permit fee of \$250 which may be waived in the sole discretion of the City of Frankfort and apply for the permit not less than 15 days prior to the event.

(G) Display fireworks shall only be used at times specifically authorized by the City of Frankfort. (Ord. 5, 2012, passed 5-21-12) Penalty see, § 93.99

§ 93.68 SALE OF CONSUMER FIREWORKS.

(A) The sale of consumer fireworks shall be permitted in the City of Frankfort with the exception of the sales set forth in the following sub-sections (B), (C), (D) and (E), which sales are prohibited.

(B) Notwithstanding the foregoing, consumer fireworks may not be offered for sale, exposed for sale, sold at retail, kept or possessed with intent to sell if said fireworks have as part of their devices any wings, fins or other mechanisms designed to cause the devices to fly or are designed to operate as aerial devices or if said consumer fireworks carry a cautionary label which includes in their description any of the following terms: “explosive,” “emits flaming pellets,” “flaming balls,” “firecrackers,” “report” or “rocket.”

(C) It shall be unlawful for any person under the age of 18 to sell or possess with intent to sell or display consumer fireworks.

(D) It shall be unlawful for any person, firm, corporation or other entity to employ any person under the age of 18 for the sale of consumer fireworks within the City of Frankfort.

(E) It shall be unlawful for any person, firm, corporation or other entity to give, offer for sale or sell any consumer fireworks to any person who is under the age of 18 years within the City of Frankfort.

(F) It shall not be a violation of this subchapter for any person, firm, corporation or other entity to transport within the City of Frankfort consumer or display fireworks, so long as such products are being transported through the City of Frankfort to a location where such products can be sold, stored or used in compliance with law. Commercial transportation of all fireworks are required to be in accordance with city, state and federal regulations regarding explosive materials.

(G) In addition to a City of Frankfort business license, any person, firm, co-partnership, or corporation desiring to sell consumer fireworks within the City of Frankfort shall comply with the requirements of the Commonwealth of Kentucky and obtain a permit to sell consumer fireworks from the City of Frankfort Fire Department at least 15 days prior to offering consumer fireworks for sale at the site for which the permit is intended. A permit fee of \$250 shall be paid to the City of Frankfort for each permit required for a Seasonal Fireworks Retailer (which seasonal permit shall expire 30 days after the date of issuance), and a permit fee of \$1,000 shall be paid to the City for each permit required for a Permanent Fireworks Retailer (which permanent permit shall expire 365 days after the date of issuance). A copy of the permit shall be posted on site. No permit shall be issued unless the applicant shall give bond or evidence of liability insurance deemed adequate by the City of Frankfort in the sum of not less than \$1,000,000. If any person, firm, co-partnership, or corporation has more than one site, a permit shall be required for each additional site complying with said provisions required above. Any failure to comply with the provisions of this subchapter shall result in the revocation of this permit and such permit will be held to be void or forfeited by that business. Exempt from the aforesaid permitting requirements are Ancillary Fireworks Retailers.

(H) The location of any temporary structure or retail display for the purpose of displaying for sale any consumer fireworks, such as a tent, booth, makeshift stand, or retail shelf shall not be within 100 feet of any combustible or flammable dispenser, or within 50 feet of any combustible structure, or within 50 feet of any combustible or flammable liquid container, or within 25 feet of any non combustible structure.

(1) Fire Safety Requirements for temporary structures or retail displays permitted or authorized to sell fireworks.

(a) Fire Extinguishers will be required in accordance with NFPA # 10 Standards as referenced by the current adopted Kentucky Standards of Safety.

(b) No Smoking signs will be posted, and there will be no open flame devices permitted within 100 feet of said temporary structure. No demonstration of Fireworks will be permitted near or around the display of fireworks for sale.

(c) All temporary electrical wiring will be required to meet NFPA # 70 Standards as referenced by the current adopted Kentucky Standards of Safety.

(d) All retail sales and storage of pyrotechnic material must follow NFPA # 1123, 1124, 1125, 1126 and 1127 which is the current adopted National Fire Protection Association Code Book by the State of Kentucky.

(Ord. 5, 2012, passed 5-21-12) Penalty, see § 93.99

§ 93.69 USE OF FIREWORKS.

(A) Except as set forth in this subchapter, it shall be unlawful in the City of Frankfort for any person, firm, corporation or other entity to use or detonate fireworks on private property in such manner as to create a circumstance of wanton endangerment or disorderly conduct.

(B) It shall be unlawful in the City of Frankfort for any person, firm, corporation or other entity other than as duly authorized by the City, to use or detonate any fireworks within the City of Frankfort except for products defined herein under § 93.65(B)(3)(b), (D), (E), (F) and (G).

(C) The fireworks as defined in § 93.65(B)(1), (B)(3)(b), (D), (E), (F) and (G) may only be used, ignited, fired, or exploded between the hours of 10:00 a.m. and 10:00 p.m., except, that they may be used, ignited, fired, or exploded between the hours of 10:00 a.m. on December 31st to 1:00 a.m. on January 1st, and also between the hours of 10:00 a.m. and midnight on the following dates or holidays: July 3rd, July 4th, and Memorial Day. However, in the event the City of Frankfort Fire Chief determines that a high hazard condition exists, the Fire Chief may issue an emergency order pursuant to KRS Chapter 227 prohibiting the use of fireworks while the high hazard condition exists.

(D) Notwithstanding any provision herein to the contrary, and regardless of the day of the week on which July 4th falls, persons may use, ignite, fire, or explode the fireworks as defined in § 93.65(B)(1), (B)(3)(b), (D), (E), (F) and (G) on any date specifically named or designated by the Board of Commissioners of the City of Frankfort, Kentucky as the date to celebrate Independence Day for the City, if other than the actual date of July 4th between the hours of 10:00 a.m. and midnight.
(Ord. 5, 2012, passed 5-21-12; Am. Ord. 20, 2016, passed 11-28-16) Penalty, see § 93.99

§ 93.70 INSPECTION AND ENFORCEMENT.

(A) The City of Frankfort Fire Chief or his designated representative and in cooperation with the City of Frankfort Police Chief or his designated representative are hereby determined to be the enforcement authority and are authorized and directed to enforce all sections of this subchapter. Final determination concerning compliance shall be in the discretion of the Fire Chief or Police Chief.

(B) The enforcement authority may enter any premises covered by this subchapter in the performance of duties imposed herein.
(Ord. 5, 2012, passed 5-21-12)

§ 93.99 PENALTY.

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

(B) (1) Any and all persons, firms or corporations convicted of violating any provision of KRS 227.200 through KRS 227.500, §§ 93.01 and 93.02 or any ordinance or resolution established pursuant to the provisions of the State Fire Prevention Code (Standards of Safety), or who violate or fail to comply with an order or regulation made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall severally for each and every violation and noncompliance respectively be fined in the sum of not less than \$25 nor more than \$500 or imprisoned for not more than 50 days or both. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy the violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(2) The imposition of the penalties herein prescribed shall not preclude the city from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

(‘70 Code, § 15.08.030) (Ord. 13-87, 1987, passed 4-27-87; Am. Ord. 16-98, 1998, passed 8-6-98)

(C) Any person or persons who shall violate any provision of §§ 93.30 through 93.55 shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$25 nor more than \$500 or imprisonment for not more than one year or both. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Each days that prohibited conditions are maintained shall constitute a separate offense. (‘70 Code, § 15.46.250) (Ord. 20-87, 1987, passed 7-13-87; Am. Ord. 4, 2001, passed 5-10-01)

(D) Any person or corporation violating the provisions of § 93.54 shall be fined not more than \$500 and/or shall be imprisoned up to, but no more than, 90 days. (‘70 Code, § 15.30.050) (Ord. 26-76, 1976, passed 7-26-76)

(E) (1) Violations of §§ 93.65 through 93.70 may be prosecuted in proceedings by the Frankfort District Court.

(2) Any person, firm, corporation or other entity found to be in violation of §§ 93.65 through 93.70 by the Franklin District Court shall receive a fine in an amount not less than \$50 per day for each violation, nor more than \$500 per day for each violation.

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(3) Enforcement authorities shall immediately confiscate any fireworks believed to be in violation of §§ 93.65 through 93.70. Following an appropriate hearing, if no violation is found to have occurred, said confiscated fireworks shall be returned by the enforcement authorities to the person, firm, corporation or other entity from whom they were obtained. Following an appropriate hearing, if a violation is found to have occurred, in accordance with KRS 227.750, the confiscated fireworks shall be destroyed by the appropriate enforcement authority or sold by closed bid to a properly certified manufacturer, distributor or wholesaler. Proceeds from the sale of such confiscated fireworks shall be deposited into the Frankfort Fire Department's fire prevention fund.
(Ord. 5, 2012, passed 5-21-12)

CHAPTER 94: [RESERVED]

CHAPTER 95: ABANDONED VEHICLES

Section

- 95.01 Removal of vehicles
- 95.02 Parking on private property
- 95.03 Removal from private premises
- 95.04 Impoundment
- 95.05 Prerequisite to release of vehicle
- 95.06 Contract for towing and storage

§ 95.01 REMOVAL OF VEHICLES.

Any abandoned vehicle may, after failure of the owner to comply with the notice of removal, be towed away by authorization of officers of the Police Department and the cost of towing and any storage charges which may accrue must be paid by the owner of the vehicle before the vehicle is released from the custody of the Police Department.

(‘70 Code, § 10.24.020) (Ord. 11-65, 1965, passed - -65)

§ 95.02 PARKING ON PRIVATE PROPERTY.

Any person who shall park any motor vehicle in any residential driveway or upon any private yard or upon any private or commercial parking lot which is clearly marked as such shall be prima facie guilty of trespassing, but proof of permission by the owner shall be a defense, with the burden being on the person to prove consent.

(‘70 Code, § 10.24.030) (Ord. 3-69, 1969, passed - -69; Am. Ord. 12-66, 1966, passed - -66)

§ 95.03 REMOVAL FROM PRIVATE PREMISES.

The motor vehicle of any person so trespassing may be removed from the private premises by the owner, lessee or person in control thereof upon notification to the Police Department of his or her intention to remove the vehicle together with the license number and information as to the place to which the vehicle is being removed. The owner of the illegally parked vehicle shall be responsible for all towing and storage charges.

(‘70 Code, § 10.24.050) (Ord. 3-69, 1969, passed - -69; Am. Ord. 12-66, 1966, passed - -66)

§ 95.04 IMPOUNDMENT.

Any motor vehicle used in the commission of a public offense or any motor vehicle illegally parked or left standing on the public streets or private property within the city in violation of any law or ordinance may be impounded, towed away and stored at the expense of the owner or operator thereof by order of the Police Department or any officer thereof.
(‘70 Code, § 10.24.060) (Ord. 22-68, 1968, passed - -68)

§ 95.05 PREREQUISITE TO RELEASE OF VEHICLE.

(A) All violators shall be subject to the schedule of fines levied for parking and traffic offenses. Violators shall pay all reasonable towing and handling charges, and all reasonable storage charges.

(B) Impounded vehicles shall be released only upon advance payment of the towing, handling and storage charges imposed thereon. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession.

(C) The provisions of KRS 376.275, or other applicable statute, shall prevail for any vehicle not released to the owner or other person entitled to possession within ten business days of its impoundment.
(‘70 Code, § 10.24.080) (Ord. 22-68, 1968, passed - -68)

§ 95.06 CONTRACT FOR TOWING AND STORAGE.

All towing, impounding and storage which shall be required hereunder by the Police Department shall be handled by the duly authorized grantee of a contract to be entered into with the city after duly advertised bids.
(‘70 Code, § 10.24.090) (Ord. 22-68, 1968, passed - -68)

CHAPTER 96: FAIR HOUSING, PUBLIC ACCOMMODATIONS AND EMPLOYMENT

Section

- 96.01 Policy
- 96.02 Definitions
- 96.03 Housing, unlawful practice
- 96.04 Discrimination in sales or rentals
- 96.05 Discrimination in financing
- 96.06 Discrimination in brokerage services
- 96.07 Exemption
- 96.08 Unlawful practices in connection with public accommodations
- 96.09 Unlawful practices in connection with employment
- 96.10 Employment exceptions
- 96.11 General exception
- 96.12 Administration
- 96.13 Education and conciliation
- 96.14 Enforcement
- 96.15 City of Frankfort Commission on Human Rights
- 96.16 Powers of the City of Frankfort Commission on Human Rights
- 96.17 Enforcement of orders of the City of Frankfort Commission on Human Rights
- 96.18 Enforcement by private action
- 96.19 Prevention of intimidation

- 96.99 Penalty

§ 96.01 POLICY.

It is the policy of the City of Frankfort for all individuals within the City of Frankfort to be free from discrimination in housing, employment and public accommodation because of race, color, religion, national origin, familial status, age forty (40) and over, disability, sex, gender identity, or sexual orientation.

(‘70 Code, § 2.96.010) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.02 DEFINITIONS.

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

DISCRIMINATION. Any direct or indirect act or practice of exclusion, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.

DISCRIMINATORY PRACTICE. An act that is unlawful under this chapter.

DWELLING. Any building, structure or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure or portion thereof.

EMPLOYEE. Any individual employed by an employer, but not including an individual employed by his or her parents, spouse or child, or an individual employed to render services as a nurse, domestic or personal companion in the home of the employer.

EMPLOYER. A person who has eight (8) or more employees within the City in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, excluding the United States and the Commonwealth of Kentucky or one of its agencies or corporations, or an Indian Tribe.

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years and are being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of ***FAMILIAL STATUS*** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual, spouse, and children, whether related by blood, legal guardianship, adoption or marriage.

GENDER IDENTITY. Manifesting a gender identity not traditionally associated with one's biological or psychological maleness or femaleness.

PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT. Any place, building, facility, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly by government funds; except that a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests: and ***PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT*** does not include a dwelling or rooming or boarding house containing not more than one room for rent or hire and which is within a building occupied by the proprietor as his or her residence.

SEXUAL ORIENTATION. An individual's actual or imputed heterosexuality, homosexuality or bisexuality.

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

('70 Code, § 2.96.020) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.03 HOUSING, UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below and §§ 96.07 and 96.11, the prohibitions against discrimination in the sale or rental of housing set forth in this section shall apply to:

(A) All dwellings, except as exempted by division (B) below; and

(B) Nothing in § 96.04 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that the private individual owner does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this section shall apply only with respect to one sale within any 24-month period. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of this chapter only if the house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and

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(b) Without the publication, posting or mailing, after notice of any advertisement or written notice of any advertisement in violation of § 96.04, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer the title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(C) For the purposes of division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

('70 Code, § 2.96.030) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.04 DISCRIMINATION IN SALES OR RENTALS.

As made applicable by § 96.03, and except as exempted by § 96.03(B) and §§ 96.07 and 96.11, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bonafide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;

(C) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;

(D) To represent to any person because of race, color, religion or national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available; and

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status.

(‘70 Code, § 2.96.040) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)
Penalty, see § 96.99

§ 96.05 DISCRIMINATION IN FINANCING.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of the loan or other financial assistance, because of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status of the person or of any person associated with him or her in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given. Nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 96.03(B).

(‘70 Code, § 2.96.050) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)
Penalty, see § 96.99

§ 96.06 DISCRIMINATION IN BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions such access, membership or participation, on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status.

(‘70 Code, § 2.96.060) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)
Penalty, see § 96.99

§ 96.07 EXEMPTION.

(A) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the persons, unless membership in the religion is restricted on account of race, color, national origin, sex, age forty (40) and over, familial status or disability status.

(B) Nor shall anything in this chapter prohibit a private club, not in fact open to the public, which, incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than commercial purposes for limiting the rental or occupancy of the lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(‘70 Code, § 2.96.070) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.08 UNLAWFUL PRACTICES IN CONNECTION WITH PUBLIC ACCOMMODATIONS.

(A) Except as otherwise provided herein, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement as defined in § 96.02, on the ground of race, color, religion, national origin, sex, age forty (40) and over, disability, sexual orientation or gender identity.

(B) It shall be an unlawful practice to deny an individual, because of race, color, religion, national origin, sex, age forty (40) and over, disability, sexual orientation or gender identity, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, motel, or any facility supported directly by government funds.

(1) The provisions of this subsection shall not apply to:

(a) Restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;

(b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) The exemptions contained in the definitions of “Place of Public Accommodations, Resort or Amusement” set forth in § 96.02;

(d) Hospitals, nursing homes, penal or similar facilities, with respect to any requirement that men and women not be in the same room.

(Ord. 7, 2013, passed 8-29-13) Penalty, see § 96.99

§ 96.09 UNLAWFUL PRACTICES IN CONNECTION WITH EMPLOYMENT.

(A) It is a prohibited, unlawful practice for an employer:

(1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(2) To limit segregate, or classify his or her employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(B) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his or her race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, or to classify or refer for employment an individual on the basis of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation.

(C) It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership or to otherwise discriminate against a member or applicant for membership because of race, color, religion, national origin, age 40 and over, disability, sex, gender identity, or sexual orientation; or

(2) To limit segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way or manner which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect one's status as an employee or as an applicant for employment because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(D) It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training

programs to discriminate against any individual because of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, in admission to or employment in, any program established to provide such apprenticeship, training, or retraining.

(E) It is an unlawful practice for any employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or classification or referral for employment by such a labor organization or classification or limitation, specification, or discrimination based on race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, except that such a notice or advertisement may indicate a preference, limitation, or specification, based on religion, national origin, age forty (40) and over, disability or sex when religion, national origin, age forty (40) and over, disability or sex is a bona fide occupational qualification for employment.

(F) Nothing herein shall be construed to prevent an employer from:

(1) Enforcing a written employee dress policy; or

(2) Designating appropriate restroom and shower facilities.

(Ord. 7, 2013, passed 8-29-13) Penalty, see § 96.99

§ 96.10 EMPLOYMENT EXCEPTIONS.

(A) Notwithstanding any other provisions of this chapter, it shall not be an unlawful practice for:

(1) An employer to hire and employ employees, or an employment agency to classify or refer for employment an individual, or for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of his religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;

(2) A religious organization, corporation, association, or society to employ an individual on the basis of his or her religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity;

(3) A school, college, university, or other educational institution to hire and employ individuals of a particular religion, if the school, college, university, or other educational institution is in whole or substantial part owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion, and the choice

of employees is determined by such organization to promote the religious principles for which it is established or maintained;

(4) An employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, national origin, sex, age 40 and over, disability, gender identity, or sexual orientation, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed competency or ability test provided that the test, its administration or action based upon the test results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, age forty (40) and over, disability, gender identity, or sexual orientation.
(Ord. 7, 2013, passed 8-29-13)

§ 96.11 GENERAL EXCEPTION.

(A) The City of Frankfort is prohibited from substantially burdening a person's freedom of religion by the provisions of KRS 446.350. Accordingly, where a person, by action or inaction, violates the provisions of Chapter 96 of the City's Code of Ordinances due to a sincerely held religious belief, the individual or entity alleging the violation must prove by clear and convincing evidence that the City has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest to establish the existence of the violation. A "burden" shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities. This Section shall apply in any legal or administrative proceeding brought to enforce the provisions of Chapter 96, whether or not the City or other governmental authority is a party to such proceeding.

(B) The provisions of this Chapter regarding sexual orientation or gender identity shall not apply to a religious institution, association, society or entity or to an organization operated for charitable or educational purposes, which is owned, operated or controlled by a religious institution, association, society or entity, except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other governmental body or agency, or any combination thereof, it shall not be entitled to this exemption.
(Ord. 7, 2013, passed 8-29-13)

§ 96.12 ADMINISTRATION.

(A) The responsibility for administering this chapter shall be borne by the Mayor, or other individual designated by the Mayor, as the Fairness Officer.

(B) The Mayor may delegate any of these functions, duties and powers to the State Human Rights Commission or to a designated employee of the city as appropriate and in accordance with law, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this chapter.

(C) All City departments and agencies shall administer their programs and activities relating to housing, employment and public accommodation in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Mayor or Fairness Officer to further its purposes. ('70 Code, § 2.96.080) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13; Am. Ord. 16, 2013, passed 12-16-13)

§ 96.13 EDUCATION AND CONCILIATION.

Upon the enactment of this chapter or any amendments thereto, the Mayor or Fairness Officer shall commence the educational and conciliatory activities as will further the purposes of this chapter. He or she may shall call conferences or take other effective steps to inform persons in the housing industry, local businesses or employers and other interested parties with the provisions of this chapter and his or her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance.

('70 Code, § 2.96.090) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.14 ENFORCEMENT.

(A) Any person who claims to have been injured by a discriminatory practice made unlawful by this chapter, hereafter "person aggrieved," may file a statement alleging discriminatory treatment with the City Clerk, who shall forward such statement to the Mayor or Fairness Officer. Such statements shall be in writing, signed by the person aggrieved and shall contain the information and be in the form as the Mayor or Fairness Officer requires. Upon receipt of a statement alleging discriminatory treatment, the Mayor or Fairness Officer shall furnish a copy of same to the State Human Rights Commission, the local Human Rights Commission, and to the person or persons who allegedly committed or was about to commit the alleged discriminatory practice. The Mayor or Fairness Officer will endeavor to fully resolve the dispute within sixty (60) days of the date of the filing of the statement with the City Clerk through informal procedures such as conciliation or mediation. Nothing said or done in the course of informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the city who shall make public any information in violation of this provision without authorization shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00.

(B) Should the Mayor or Fairness Officer be unsuccessful in resolving a statement alleging discriminatory treatment, the person aggrieved may: 1) File a Formal Complaint with the State Human Rights Commission where the Complaint is limited to allegations of discrimination based upon only race,

color, religion, national origin, sex, age forty (40) and over, familial status or disability status, or 2) File a Formal Complaint with the local Human Rights Commission where the Complaint contains allegations of discrimination on the basis of gender identity, sexual orientation, as well as other discriminatory practices made unlawful by this Chapter.

(C) The Mayor or Fairness Officer may act as a facilitator and may assist in resolving the complaint when requested by the State Human Rights Commission or the local Human Rights Commission.

(D) A complaint under paragraph (B) above shall be filed with the State Human Rights Commission or local Human Rights Commission within 180 days after the alleged discriminatory practice occurred. Complaints filed with the State Human Rights Commission shall be in compliance with its rules. Complaints filed with the local Human Rights Commission shall be in writing, signed by the person aggrieved, shall state the facts upon which the allegations of a discriminatory practice are based, and the complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the applicable Human Rights Commission, which request for leave shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(E) If, within 30 days after a complaint alleging discrimination in housing is filed with the State Human Rights Commission, the State Human Rights Commission has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The State Human Rights Commission will assist in this filing.

(‘70 Code, § 2.96.100) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.15 CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

(A) There is hereby created a City of Frankfort Human Rights Commission. It shall consist of seven (7) members who shall be appointed on a nonpartisan basis and shall be broadly representative of employers, proprietors, religious groups, human rights groups, and the general public. The Mayor shall appoint the members, subject to the approval of the Board of Commissioners. Of the first members, two (2) shall be appointed for one year, two (2) shall be appointed for two years, and three (3) shall be appointed for three years; after the first appointments, all appointments shall be for a term of three years. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member who he/she is to succeed. A member of the Commission is eligible for reappointment. No elected or appointed City official shall be a member of the Commission. The members shall serve without compensation.

(B) The Commission shall, consistent with this Chapter, encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age (40 and above), gender identity, sexual orientation or disability and shall promote mutual understanding and respect

among all economic, social, racial, sex, age, religious, disability and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between groups and their members because of their race, color, religion, national origin, sex, age religion, gender identity, sexual orientation or disability.

(C) The Commission shall administer such enforceable ordinances forbidding discrimination as the City of Frankfort Board of Commissioners may enact.

(Ord. 7, 2013, passed 8-29-13; Am. Ord. 16, 2013, passed 12-16-13)

§ 96.16 POWERS OF THE CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

The City of Frankfort Commission on Human Rights is authorized to:

(A) Receive, initiate, investigate, hear, and determine Complaints alleging of violations of ordinances and orders forbidding discrimination adopted by the city. All formal hearings shall be conducted by a Hearing Officer qualified and trained in accordance with the provisions of KRS Chapter 13B. The provisions of KRS 13B.050, and KRS 13B.070 through 13B.120 shall apply to the formal hearing and the Hearing Officer shall issue to the local commission findings of fact, conclusions of law and a recommended order, which may include recommended penalties, if any.

(B) Issue subpoenas to compel the attendance of witnesses and the production of evidence at formal hearings. When a subpoena is disobeyed, any party may apply to the Franklin Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(C) The Franklin Circuit Court of the county wherein the local commission is authorized to act.

(D) Issue remedial orders, after notice and hearing, requiring cessation of violations, and orders imposing the penalties set forth in § 96.99.

(E) Employ hearing officers, clerks and other employees and agents, as needed.

(F) Accept grants, gifts, or bequests, public or private to help finance its activities.

(G) Enter into cooperative working agreements with the United States Equal Employment Opportunity Commission created by Section 705 of the Federal Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that act; and with any federal or state agency in order to achieve the purposes of this chapter.

(H) Refer to the commission for resolution a dispute over jurisdiction or other matter with another local commission.

(I) Provide a copy of its annual report to the commission.

(Ord. 7, 2013, passed 8-29-13)

§ 96.17 ENFORCEMENT OF ORDERS OF THE CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

The proceeding for enforcement of an order of the City of Frankfort Commission on Human Rights is initiated by filing a complaint in the Franklin Circuit Court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after the filing of the complaint by the Commission, or within such further time as the court may allow, the Commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The findings of fact of the Commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the Commission, or remanding the case to the Commission for further proceedings.
(Ord. 7, 2013, passed 8-29-13)

§ 96.18 ENFORCEMENT BY PRIVATE ACTION.

The rights granted by this chapter may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory practice occurred. The court shall continue the civil case brought pursuant to this section or § 96.99 from time to time before bringing it to trial if the court believes that the conciliation efforts of the Mayor, Fairness Officer, local Human Rights Commission or State Human Rights Commission are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the court. Any sale encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this chapter, and involving a bona fide purchaser, encumbrance or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this policy shall not be affected.
(‘70 Code, § 2.96.120) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.19 PREVENTION OF INTIMIDATION.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(A) Any person because of his race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been or in order to intimidate the person or any other person or any class or persons from:

(1) Participating, without discrimination on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, in any of the activities, services, organizations or facilities described in division (A) above; or

(2) Affording another person or class or persons opportunity or protection so to participate.

(C) Any citizen because he is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, in any of the activities, services, organizations or facilities described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$500.

(‘70 Code, § 2.96.140) (Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

§ 96.99 PENALTY.

(A) Any person who willfully fails or neglects to attend an testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the State Human Rights Commission, the local Human Rights Commission or Hearing Officer, shall be fined no more than \$500. Any person who, with intent thereby to mislead the State Human Rights Commission, the local Human Rights Commission or Hearing Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the State Human Rights Commission, the local Human Rights Commission or Hearing Officer pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in the reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than \$500. (‘70 Code, § 2.96.110)

(B) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, and the court may award to the plaintiff actual damages and not more than \$1,000 punitive damages. The prevailing party may recover from the non-prevailing party the cost of the administrative proceeding, court costs and reasonable attorney fees. (‘70 Code, § 2.96.120)

(Ord. 27-96, 1996, passed 12-9-96; Am. Ord. 7, 2013, passed 8-29-13)

CHAPTER 97: HAZARDOUS MATERIALS

Section:

- 97.01 Establishment of Hazardous Materials Response Team
- 97.02 Definitions
- 97.03 Training
- 97.04 Region 14 Hazardous Materials/WMD Response Team
- 97.05 Authority to coordinate response
- 97.06 Cost recovery

§ 97.01 ESTABLISHMENT OF HAZARDOUS MATERIALS RESPONSE TEAM.

(A) The city hereby establishes a Hazardous Materials Response Team (“Haz-Mat Response Team”) to respond to releases or spills of hazardous materials and terrorism incidents involving biological, radiological, nuclear, incendiary, chemical or explosive materials or other weapons of mass destruction. The Haz-Mat Response Team shall be a function of the city’s fire department, and the fire department shall be the oversight agency of the Haz-Mat Response Team.

(B) The city Haz-Mat Response Team shall jointly operate with the county Haz-Mat/WMD Response Team to create and form the Region 14 Haz-Mat Response Team pursuant to KRS 39B.070.

(C) The city hereby authorizes the Mayor to execute an agreement with the County Fiscal Court and the Commonwealth of Kentucky for the formation and operation of the Haz-Mat 14 Response Team, and ratifies the Memorandum of Understanding between the Kentucky Division of Emergency Management and Region 14 Haz-Mat Response Team dated May 12, 2003. (Ord. 9, 2004, passed 6-21-04; Am. Ord. 14, 2012, passed 7-23-12)

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter.

ENVIRONMENT. The navigable waters of the United States and any other surface water, ground water, drinking water supply, soil surface, subsurface strata, storm sewer or publicly owned sanitary sewer or treatment works (other than those handling only wastewater generated at a facility) within the

county. The terms shall include air only for the purposes of reporting releases pursuant to the further provisions of this chapter.

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

HAZARDOUS MATERIALS OR HAZ-MAT. Any element, compound, substance or material or any combination thereof which are toxic, flammable, explosive, corrosive, radioactive, oxidizers, etiological agents, carcinogenic, or are highly reactive when mixed with other substances, including, but not limited to, any substance or material which is a hazardous substance, pollutant or contaminant as defined in KRS 224.01 - 400, designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 USCA 1801, et seq.) or is listed by Appendix A, 40 CFR 302, "List of Hazardous Materials and Reportable Quantities," as amended, published by the U.S. Environmental Protection Agency (EPA), in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

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

RELEASE. Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous materials or any constituent thereof may enter the environment. The term shall not apply to emissions from the engine exhaust due to the normal operation of a motor vehicle, rolling stock, aircraft, vessel, or a pipeline station pumping engine, and the normal application of fertilizers and pesticides.

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

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

THREATENED RELEASE OR POTENTIAL RELEASE. A situation or circumstances which presents a substantial threat of release.

WEAPONS OF MASS DESTRUCTION or WMD: Weapons or agents of terrorism including but not limited biological, nuclear, incendiary, chemical and explosive agents that result in or have the potential to result in mass casualties.
(Ord. 10, 2004, passed 6-21-04)

§ 97.03 TRAINING.

The Hazardous Materials Response Team shall operate within the constraints of its training and available equipment. All sworn personnel of Frankfort Fire and EMS shall be considered a member of the team and shall be trained to HAZ-MAT Operations Level or greater and shall meet requirements to maintain said training. The team shall conduct emergency response operations for releases of, or the substantial threatened releases of, hazardous substances or materials, including agents or weapons of mass destruction that may require the possible close approach to a hazardous substance or material in order to control the actual or potential release, leak, or spill, or to perform initial life safety or incident stabilization protective actions, or to contain or minimize the spread of contamination.
(Ord. 10, 2004, passed 6-21-04)

§ 97.04 REGION 14 HAZARDOUS MATERIALS/WMD RESPONSE TEAM.

The team shall jointly with the Franklin County Fire Department be a part of Kentucky Region 14 Hazardous Materials/WMD Response Team, to be known as HAZ-MAT 14. HAZ-MAT 14 shall operate under its adopted bylaws as approved by the Kentucky Division of Emergency Management and in compliance with KRS 39 A - F.
(Ord. 10, 2004, passed 6-21-04)

§ 97.05 AUTHORITY TO COORDINATE RESPONSE.

The Hazardous Materials Response Team shall have primary authority to coordinate response to any release or threatened release of hazardous materials within the limits of the city. If this agency cannot fulfill this function due to equipment, personnel, or education constraints, or due to the extent or type of event, HAZ-MAT 14 shall respond to the incident as a unified hazardous materials response team. HAZ-MAT 14 may respond in accordance with established bylaws to other areas of the state upon request.
(Ord. 10, 2004, passed 6-21-04)

§ 97.06 COST RECOVERY.

The following persons shall be jointly and separately liable for all costs of removal and remedial actions incurred by local public safety and emergency agencies as a result of a release or threatened release of hazardous materials into the environment. These costs include all expenses incurred by the city, and HAZ-MAT 14 in responding to any hazardous material spill, leak or other release into the environment and for any remedial or removal actions taken to protect and safeguard the public health and safety, property or the environment. Costs recovered shall include but not be limited to costs incurred for personnel, equipment and the use thereof, material, supplies, services, lost wages of personnel, damage or loss of equipment, evacuation expenses and related expenses resulting directly or indirectly from response to a release or threatened release of a hazardous material into the environment.

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

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

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

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

(E) The city and/or HAZ-MAT 14, shall not be responsible for the cost of cleanup of released hazardous materials. All cleanup, disposal, mitigation, response and other related expenses or costs shall be the sole responsibility of the responsible parties.

(Ord. 10, 2004, passed 6-21-04)

CHAPTER 98: SMOKING REGULATIONS

Section

- 98.01 Findings and intent
- 98.02 Definitions
- 98.03 Prohibition
- 98.04 Reasonable distance
- 98.05 Posting signs
- 98.06 Non retaliation and non waiver of rights
- 98.07 Enforcement
- 98.08 Public education

- 98.99 Penalty

§ 98.01 FINDINGS AND INTENT.

The City Commission finds that:

(A) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution. Breathing secondhand smoke is a cause of disease in healthy nonsmokers. These diseases include heart disease, stroke, respiratory disease and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute (NCI), “Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10,” Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.)

(B) The Public Health Service’s National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), “Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens,” U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)

(C) A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke-free workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., A Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study,@ British Medical Journal 328: 977-980, April 24, 2004.)

(D) Secondhand smoke is particularly hazardous to the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", Tobacco Control 6(4): 346-353, Winter, 1997.)

(E) The Americans With Disabilities Act, which mandates access to public places and workplaces for persons with disabilities, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," Nonsmokers' Voice 15(1): 8-9.)

(F) The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. The Health Consequences of Involuntary Smoking: A Report of the Surgeon General. Public Health Service, Centers for Disease Control, 1986.)

(G) The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), "Indoor air facts no. 5: environmental tobacco smoke," Washington, D.C.: Environmental Protection Agency (EPA), June 1989.)

(H) The Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, A Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?@ British Medical Journal, 328: 980-983, April 24, 2004.)

(I) A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," Tobacco Control 11(3): 220-225, September 2002.)

(J) Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased

liability claims for diseases related to exposure to secondhand smoke. (“The high price of cigarette smoking,” Business & Health 15(8), Supplement A: 6-9, August 1997.)

(K) Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A.; Smith, L., The Effect of Ordinances Requiring Smoke-Free Restaurants on Restaurant Sales in the United States. American Journal of Public Health, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., “The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health,” GPI Atlantic, September 2001.)

(L) Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to business health 15(8), Supplement A: 6-9, August 1997.

(M) The smoking of tobacco is a form of air pollution, a danger to health and a material public nuisance.

(N) A survey of the indoor air quality of 11 locations in the city, including ten restaurants and one miscellaneous entertainment venue, reflected that individuals at those locations are exposed to tobacco smoke constituents at approximately 2.7 times the National Ambient Outdoor Standard and the level of indoor air pollution at these locations as measured by the average PM 2.5 level was approximately 9.6 times higher than the Lexington, Kentucky post smoking regulation law average PM 2.5 level. Accordingly, the City Commission hereby adopts the foregoing findings as justification for the chapter, the purpose of which is:

(1) To protect the public health and welfare by regulating smoking in buildings open to the public; and

(2) To guarantee the right of non-smokers to breathe smoke-free air; and

(3) To recognize the public’s need to breathe smoke-free air shall have priority over the individual’s desire to smoke.

(Ord. 17, 2006, passed 7-24-06)

§ 98.02 DEFINITIONS.

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

BUILDING. Any structure open to the public that is enclosed from the weather, whether or not windows or doors are open. If a person owns, leases or possesses only a portion of a building, the term building applies to the ownership, leasehold or possessory interest as well.

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DWELLING. Any place used primarily for sleeping overnight and conducting activities of daily living, including, without limitation, a hotel or motel room, but not a hotel or motel lobby, common elevator, common hallway or other common area. A dwelling does not include a hospital room, hospice facility, or nursing home room.

ELECTRONIC SMOKING DEVICE. Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vapor pen, or under any other product name or descriptor.

ENCLOSED AREA. An area that:

- (1) Is closed in overhead by a roof or other covering of any material, whether permanent or temporary; and
- (2) Has 40% or more of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary.

PRIVATE ORGANIZATION. An establishment which maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest and is not profit oriented.

RETAIL ELECTRONIC CIGARETTE STORE. A retail store devoted primarily to the sale of any electronic smoking device, including but not limited to e-cigarettes, e-cigars, e-pipes, e-hookah, or vapor pen, or under any other product name or descriptor and accessories, and in which the sale of other products is merely incidental. The sale of other such products shall be considered incidental if such sales generate less than 50% of the total annual gross sales.

RETAIL TOBACCO STORE. A retail store devoted primarily to the sale of any tobacco product, including but not limited to cigarettes, cigars, pipe tobacco and chewing tobacco, and accessories and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than 50% of the total annual gross sales.

TOBACCO WAREHOUSE. Any warehouse building offering tobacco for purchase at auction and meeting the definition established in KRS 248.010(4).

SMOKING. The act of inhaling or exhaling from, or the burning, heating or carrying of, any lighted or heated cigarette, cigar, pipe, other combustible tobacco product, or electronic smoking device or any oral smoking device including but not limited to an E-Cigarette or E-Cig. (Ord. 17, 2006, passed 7-24-06; Am. Ord. 16, 2019, passed 12-16-19)

§ 98.03 PROHIBITION.

(A) No person shall smoke within any building except in one of the following locations:

(1) In any dwelling. This exception does not extend to a lobby, common elevator, common hallway, or any other common area of a building containing attached dwelling units, hotel rooms or motel rooms.

(2) In a room or hall being used by a person or group for a private social function that is not open to the public, in any room used for psychological treatment of nicotine addiction by a licensed health care professional, or in a physically separate and independently ventilated room in a hospital, hospice facility, or nursing home open to all residents as a smoking room and for no other purpose.

(3) In a retail tobacco store or retail electronic cigarette store.

(4) A performer as part of a theatrical production so long as adequate notice is provided patrons both before the performance and by specific signage at the theater.

(5) Indoor smoking areas provided in state or federal governmental office buildings or workplaces pursuant to KRS 61.165.

(6) Facilities not open to the public operated by private organizations.

(7) In a tobacco warehouse.

(B) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control of any place, including, without limitation, any motor vehicle, outdoor area, or dwelling, from prohibiting smoking completely in such place, and no person shall fail to abide by such a private prohibition.

(C) Nothing in this chapter shall authorize smoking in any place where it is otherwise prohibited by statute, ordinance, regulation or by order of the Fire Marshal.

(Ord. 17, 2006, passed 7-24-06; Am. Ord. 16, 2019, passed 12-16-19) Penalty, see § 98.99

§ 98.04 REASONABLE DISTANCE.

Smoking is prohibited within a reasonable distance of the outside entrance to or open windows of any building and from the air intake of a ventilation system serving a building in order to ensure that tobacco smoke does not enter the building through entrances, windows, ventilation systems or other means.

(Ord. 17, 2006, passed 7-24-06) Penalty, see § 98.99

§ 98.05 POSTING SIGNS.

(A) “No Smoking” signs or the international No Smoking symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in every building. The party responsible for the placement of the signage is the owner, operator, lessee, manager or other person in control of the building.

(B) A conspicuous sign clearly stating that smoking is prohibited shall be posted at each entrance utilized by the public entering and exiting the building. A conspicuous sign clearly stating that smoking is prohibited shall be posted at each entrance utilized by employees entering or exiting a building.

(C) All ashtrays shall be removed from any building, except for ashtrays displayed for sale and not for use on the premises. Any permanent structure that functioned or was used as an ashtray shall be disabled or altered to prevent its use as an ashtray.

(D) Nothing in this chapter shall authorize smoking in any place where it is otherwise prohibited by statute, ordinance, regulation or by order of the Fire Marshal.
(Ord. 17, 2006, passed 7-24-06) Penalty, see § 98.99

§ 98.06 NON RETALIATION AND NON WAIVER OF RIGHTS.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter.
(Ord. 17, 2006, passed 7-24-06) Penalty, see § 98.99

§ 98.07 ENFORCEMENT.

(A) The City Manager’s office shall designate the departments responsible for enforcing this chapter.

(B) Notice of the provisions of this chapter shall be given to all applicants for a business license in the city.

(C) Any citizen who desires to register a complaint under this chapter may initiate enforcement with any of the authorized persons listed above.

(D) The following departments, or their designees, shall, while in a building performing otherwise legal inspections, inspect for compliance with this chapter;

- (1) Fire Department;

- (2) Code Enforcement Department;
- (3) Public Works Department; and
- (4) Finance Department.

(E) The owner, operator, manager or lessee of a building or the owner, operator, manager, designee or employee of every place of employment in a building shall inform persons violating this chapter of the applicable provisions thereof and require compliance.

(F) No owner, lessee, principal manager, or person in control of a building or place of employment in a building shall fail to:

- (1) Immediately ask smokers to refrain from smoking in any no-smoking area;
- (2) Use any other legal means which may be appropriate to further the intent of this chapter.

(G) No owner, principal manager, proprietor, or any other person in control of a building or place of employment in a building shall fail to ensure compliance by subordinates, employees, and agents with this chapter.

(H) The mere presence of a person smoking within a building governed by this chapter does not constitute a violation on the part of the building's owner, manager, lessee or designee or the owner, manager, lessee, employee or designee of a place of employment in a building. A violation of this chapter shall only be charged if the responsible person or agent[s] of the building or place of employment fails to timely satisfy each responsibility prescribed for them in this chapter.

(I) Notwithstanding any other provision of this chapter, the city, an employee, or any person aggrieved by a failure to comply with this chapter, whether by commission or omission, including violations on the part of an owner, operator, manager, employee or other person[s] in control of a building or place of employment in a building covered by this chapter may bring legal action to enforce this chapter, either by civil action seeking injunctive relief or by criminal complaint in a court of competent jurisdiction.

(Ord. 17, 2006, passed 7-24-06) Penalty, see § 98.99

§ 98.08 PUBLIC EDUCATION.

The city shall take steps to offer a continuing program by which the purpose and requirements of this chapter is made clear to citizens and to the owners, operators, managers and employees required to comply with it. The program may include publication of a brochure, publication of news releases and public meetings.

(Ord. 17, 2006, passed 7-24-06)

§ 98.99 PENALTY.

(A) A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of a violation, punishable by a fine not exceeding fifty dollars (\$50.00).

(B) A person who owns, manages, operates, leases or otherwise controls a building or is an employee in a place of employment within a building and who fails to comply with the provisions of this chapter shall be guilty of a violation, punishable by:

- (1) A fine not exceeding \$50 for a first violation within a one-year period.
- (2) A fine not exceeding \$100 for a second violation within one year.
- (3) A fine not exceeding \$250 for each additional violation within one year.

(C) Persons who smoke in an area where smoking is prohibited and who refuse to extinguish their smoking material when asked, may be required to leave the premises, and shall be subject to prosecution for trespass if they do not leave when asked.

(D) In addition to the fines established by this section, violations of this chapter by a person who owns, manages, operates, leases or otherwise controls a building or place of employment within a building may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

(E) Violation of this chapter is declared to be a public nuisance, which may be abated by the city or its designated agents by restraining order, preliminary and permanent injunction, or other means provided for by law. The city may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.

(F) Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

(Ord. 17, 2006, passed 7-24-06)

CHAPTER 99: PARKS, RECREATION AND PLAYGROUNDS

Section

99.01 Permits and recycling for fairs, festivals and special events

Cross-reference:

Parks and recreation governing bodies, see §§ 36.145 et seq.

§ 99.01 PERMITS AND RECYCLING FOR FAIRS, FESTIVALS AND SPECIAL EVENTS.

All persons or entities holding a fair, festival or special event at which city services are provided shall be required to obtain a permit from the Department of Parks and Recreation at a cost of \$10 per event. The City Parks and Recreation Department will then place containers for the disposal of plastic, glass and aluminum containers at the location of the event so that these items can be recycled and eliminated from the waste stream. The City Parks and Recreation Department shall collect the containers at the conclusion of the event.

(Ord. 37, 2007, passed 10-22-07)

CHAPTER 100: ABANDONED PROPERTY

Section

100.01 Abandoned property classified as real property

Cross-reference:

Vacant, unimproved property with accrued liens, see §§ 38.45 and 38.46

§ 100.01 ABANDONED PROPERTY CLASSIFIED AS REAL PROPERTY.

(A) Abandoned urban property is established as a separate classification of real property for the purpose of ad valorem taxation. As used in this section, abandoned urban property means any vacant structure or vacant or unimproved lot or parcel of ground which has been vacant or unimproved for a period of at least one year and which:

- (1) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use;
- (2) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or
- (3) Has been tax delinquent for a period of at least three years.

(B) The Planning and Building Codes Department shall each year determine which properties are abandoned urban properties and shall prepare and furnish a list identifying the abandoned urban property to the Department of Finance of the city and to the office of the county Property Valuation Administrator prior to January 1 of each year. The final list of abandoned urban properties shall be furnished to the Department of Finance prior to July 1 of each year.

(C) Except as otherwise provided in division (D) of this section, a property classified by the Property Valuation Administrator as abandoned urban property as of January 1 shall be taxed as abandoned urban property for such tax year. If the owner repairs, rehabilitates or otherwise returns the property to productive use so that the property is no longer abandoned urban property, he or she shall notify the Planning and Building Codes Department of the city which shall certify that the property has been repaired, rehabilitated or otherwise returned to productive use, and shall remove the property from the list of abandoned urban properties as of the succeeding January 1.

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(D) (1) No later than March 1 of each year, the Planning and Building Codes Department of the city shall deliver, by first class mail and by posting on the abandoned property, to the owner or other party in interest as listed in the records of the Property Valuation Administrator of each abandoned urban property notice that the property has been classified as abandoned urban property pursuant to this section. The list of abandoned urban properties shall also be posted on the City of Frankfort's website by March 1 of each year.

(2) Property identified as abandoned urban property pursuant to division (A)(3) of this section shall be removed from the current list of abandoned urban properties if, on or before May 31, all delinquent taxes, penalties and interest applicable to said property are paid in full, or an Agreement to pay delinquent taxes for the subject property has been signed by the taxpayer, approved by the Finance Director and the payments on said agreement are current.

(3) Property identified as abandoned urban property pursuant to paragraph (A)(1) or (2) of this section shall be removed from the current list of abandoned urban properties if, on or before May 1, the owner:

(a) Repairs, rehabilitates or remediates such property so that it no longer is dilapidated, unsanitary, unsafe, vermin infested, otherwise dangerous to the safety of persons, is unfit for its intended use, or by reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; and

(b) After receiving written notice from the property owner, the Planning and Building Codes Department certifies to the current state of the property.

(4) The owner or other party in interest of any abandoned urban property who believes that his or her property has been incorrectly classified may appeal such classification to the Board of Zoning Adjustments. Such appeal shall be in writing and shall be made no later than May 31 of that year. The Board of Zoning Adjustments shall afford the owner the opportunity for a hearing. If the Board of Zoning Adjustments finds that the property was incorrectly classified as abandoned urban property it shall cause the property to be removed from the list of properties so classified. Appeal to the Board of Zoning Adjustments may only be made on the basis that the property was incorrectly classified as abandoned urban property in that it did not meet the criteria established in division (A) of this section as of January 1 of the tax year. Appeals to the Board of Zoning Adjustments shall follow the same policies and procedures as other appeals of administrative decisions found in Article 18, Section 18.07 of the Zoning Regulations.

(E) Abandoned urban property is to be taxed at three times the normal tax rate applicable to real property for the purpose of ad valorem taxation.

(Ord. 21, 2009, passed 11-23-09; Am. Ord. 22, 2012, passed 12-17-12)

CHAPTER 101: HISTORIC DISTRICT MURAL GUIDELINES

Section

- 101.01 Purpose
- 101.02 Definitions
- 101.03 Submittal requirements
- 101.04 Review criteria for all murals
- 101.05 Scope of ARB review of proposed murals
- 101.06 Enforcement

§ 101.01 PURPOSE.

(A) The Downtown Frankfort Master Plan includes ten guiding principles. One principle is "Strengthen a Sense of Identity". This guiding principle includes language supporting "Integrating public art elements that infuse the character of Frankfort into its streetscape..." and to provide opportunities to celebrate the City's unique identity. Murals are an avenue to reinforce the uniqueness of Downtown Frankfort as a place that is proud of its identity and authenticity.

(B) These guidelines are also meant to recognize that there should be deliberate consideration to placing murals on historic structures, and in particular that it may be desirable to focus the placement of murals onto non-residential or mixed-use buildings in our Central Business District. An important tenant in supporting our Central Business District is to encourage visual interest and to encourage people to visit the district to see the architecture, public art and amenities and to patronize our local businesses. However, portions of other historic neighborhoods are largely residential, and it may be reasonable to more cautiously place public art on residential structures in those areas.

(C) (1) Proposed murals in the National Historic Districts shall be reviewed by the Planning and Community Development Department ("Department") using these guidelines. Murals that do not meet the criteria shall be taken to the Architectural Review Board ("ARB") for review/approval. Murals applied to buildings in these designated areas prior to the adoption of these guidelines shall be considered legally non-conforming to the degree to which they may not comply with these guidelines.

(2) Property Owners within the National Historic Districts should be aware that painting a mural on their building may negatively affect their ability to apply for and receive Historic Tax Credits. In order to qualify for Historic Tax Credits, the project and the building must meet the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(D) The following guidelines for murals shall apply only to those properties located within the Central Frankfort National Historic District and the South Frankfort National Historic District (and the other directly adjacent national historic districts in the downtown area). Please see enlarged map of the respective districts attached to Ordinance 8, Series 2019.
(Ord. 8, 2019, passed 5-20-19)

§ 101.02 DEFINITIONS.

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

COMMERCIAL SPEECH. An expression related solely to the economic interests of the speaker and its audience. Commercial speech does no more than propose a commercial transaction. Commercial brands, logos, names, or trademarks are considered commercial speech.

MURAL. A painting, mosaic, fresco, or other artwork attached or applied directly to the exterior of a structure. Murals are considered public art, not billboards or signs. Murals containing logos, slogans, or advertising messages of any kind are considered signs and will be subject to regulation as such.

NON-COMMERCIAL SPEECH. An expression that relates to more than a proposition of a commercial transaction.

OBSCENITY. Content that if viewed by the average person applying contemporary community standards would find that the work taken as a whole appeals to prurient interest, whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law, and whether the work taken as a whole lacks serious literary, artistic, political, or scientific value. (Legal definition, *Miller v. California*)

PRINCIPAL FAÇADE(S). The architectural front(s) of a building, often distinguished from the other faces by the use of higher quality materials and greater elaboration of architectural or ornamental details; usually faces a street.
(Ord. 8, 2019, passed 5-20-19)

§ 101.03 SUBMITTAL REQUIREMENTS.

Prior to installing a mural, an applicant shall comply with the following requirements:

(A) A completed Mural Application shall be submitted to the Department.

(B) A written Consent letter from the building owner shall be submitted with the application if the applicant is not the owner.

(C) A sketch or rendering that illustrates the building elevation, showing placement of existing architectural features (such as windows and doors), scale of mural, type of substrate, proposed artwork and design for the mural shall be submitted with the application. This shall include a written description of the type of mural (painted, mosaic, etc.) and details showing how the mural is affixed to the wall surface if it is not a surface applied painted mural and the application technique and paint type for surface applied murals.

(D) Structural Review. The method of attachment of non-surface applied murals shall be reviewed to ensure safety of hanging murals by the City Building Inspector per the discretion of the City Building Inspector.
(Ord. 8, 2019, passed 5-20-19)

§ 101.04 REVIEW CRITERIA FOR ALL MURALS.

(A) Relationship to Historic Design Guidelines:

(1) Murals located within Frankfort's historic zoning Districts (CB, SH, SC) shall comply with the language contained within Article 4, Article 17 and the approved Design Guidelines for those zoning districts as appropriate. For example, painting masonry that has not historically been painted shall not be permitted.

(2) Proposed Murals that do not conform to those standards shall be reviewed by the ARB in conformance with the requirements of the City of Frankfort's Zoning Ordinance and Design Guidelines.

(B) Murals as Signs:

(1) If Murals include commercial speech, they shall comply with the City of Frankfort's sign regulations contained within the Zoning Ordinance. Applicants may appeal Department staff's interpretation of commercial speech to the ARB for review.

(2) Non-commercial speech shall not be regulated as signage.

(3) The name or signature of the mural artist may be placed on the mural but shall be limited in scale.

(C) To the extent no constitutional protection is provided under federal or state law, murals shall not contain obscenity, fighting words, defamation, child pornography, perjury, blackmail, incitement to imminent lawless action, true threats of bodily injury or death, or solicitation to commit crimes.

(D) Mural Location:

(1) Murals shall not be located on the principal façade(s) of a building. Murals may be located on other façades of the building including the side, rear, or alley facing façades. Murals proposed on the principal façade of buildings shall be reviewed by the ARB.

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(2) In accordance with the CB District Design Guidelines ghost signs shall not be painted over.

(3) Murals may be located on a building's flat roof but otherwise shall not be placed above the building's roof line or extend/project beyond eaves, parapets or the sides of a building.

(E) Mural Relationship to Architectural Features. Murals shall not cover or detract from architectural features. Eaves, cornices and other architectural features shall keep their character and remain painted to match the rest of similar architectural features on the building.

(F) Non-Surface applied Murals:

(1) A mural that has been applied to another surface to be hung on a building shall be installed in a manner which does not damage the building it is attached to. Murals hung on historic masonry structures shall attach via the mortar and not by drilling into the historic brick or attached by other method which has been demonstrated not to damage the masonry.

(2) Murals may be applied to a separate material designed for exterior applications upon Department staff approval and secure application to the wall. It shall be demonstrated to Department staff that such materials are removable without damage to the walls at the end of their term.

(G) Mural Maintenance/Removal:

(1) Paint utilized shall be intended for exterior use and of sufficient quality which will not corrode or compromise the integrity of the material to which it is applied. Reference materials for paint, preparation of surface and application information are available at the Planning and Community Development Department.

(2) The property owner shall be responsible for maintenance of the mural, including the repair of material failure (peeling paint) and promptly removing vandalism. Damaged, chipped, cracked or peeling paint shall be enforced in accordance with Section 304.2 Exterior Painting contained within the City of Frankfort Nuisance Code.

(3) Property owners may apply for a permit to remove an approved mural or apply for consideration of a different mural to replace one approved under the authority of this regulation at any time. The removal permit is required so that planning staff may review the removal method to ensure it will not damage the building in accordance with the City of Frankfort's Historic Design Guidelines.

(H) Additional guidelines for Murals in the SC, SH and RH Zoning Districts within the National Historic Districts. All Murals proposed on residential structures or on non-residential structures which directly face adjacent residential structures within the SC, SH and RH Districts shall be reviewed by the ARB.

(Ord. 8, 2019, passed 5-20-19)

§ 101.05 SCOPE OF ARB REVIEW OF PROPOSED MURALS.

When the ARB reviews a proposed mural the Board's review shall be limited to judgments about the scale, location, and degree to which the proposed mural damages or detracts from the architectural features of the façade of the building it is to be placed upon. The ARB shall make no judgments in regard to the content of the mural with the exception of determinations regarding commercial and non-commercial speech as referenced above and defined in these regulations.

(Ord. 8, 2019, passed 5-20-19)

§ 101.06 ENFORCEMENT.

(A) Violations to these guidelines or murals placed in contradiction to these guidelines shall be enforced in accordance with Article 21 of the City of Frankfort Zoning Ordinance.

(B) Note: Other public agencies/entities that may be generally exempt from local planning regulations may still be subject to restrictions based on their own respective governing regulations.

(Ord. 8, 2019, passed 5-20-19)

