

TITLE IX: GENERAL REGULATIONS

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DAYTON - GENERAL REGULATIONS

CHAPTER 90: ABANDONED VEHICLES

Section

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§ 90.01 DEFINITIONS.

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

"ABANDONMENT." A vehicle or any part thereof in a dilapidated or apparently inoperable condition and left unattended on property for more than three (3) consecutive days.

"PERSON." Any person, firm, partnership, association, corporation, company, or organization of any kind.

"PROPERTY." Any real property within the city which is not a street or highway.

"STREET" or "HIGHWAY." The entire width between the boundary lines of every public way when any part thereof is open to the use of the public for purposes of vehicular travel.

"VEHICLE." A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, and which transports persons or property, or pulls machinery, and shall include, without limitations, any automobile, truck, trailer, motorcycle, tractor, buggy, or wagon.
(Ord. 1020.7, passed 1-15-74)

§ 90.02 ABANDONMENT PROHIBITED.

No person shall leave any vehicle at any place within the city for such time and under such circumstances as to indicate abandonment. A vehicle left upon a street or highway for three (3) consecutive days shall be presumed to be abandoned.
(Ord. 1020.7, passed 1-15-74) Penalty, see § 90.99

§ 90.03 LEAVING WRECKED VEHICLE ON STREET PROHIBITED.

(A) No person shall leave any partially dismantled, wrecked, or junked vehicle on any street or highway within the city.

(B) No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, abandoned, or discarded vehicle to remain on the property for more

than three (3) consecutive days, nor shall any person leave any vehicle on any property within the city for longer than three (3) days. However, this prohibition shall not apply to any vehicle in an enclosed building; a vehicle on the premises of operation of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. This exception shall not authorize the maintenance of a public or private nuisance as defined under the provisions of law other than this chapter.

(Ord. 1020.7, passed 1-15-74) Penalty, see § 90.99

§ 90.04 - REMOVAL BY CITY; LIEN.

(A) Abandoned vehicle on private property. If the Superintendent of Public Services has probable cause to believe that a person has violated the terms of this chapter, the Superintendent shall give notice to the owner of the property to remove or have removed any vehicle left at any place within the city which reasonably appears to be in violation of this chapter, or appears lost, stolen, or unclaimed. If the property owner fails to remove or have removed said vehicle, then the Superintendent, upon five days' notice, shall have a citation issued to such person ordering him to appear before the appropriate court for violation of the provisions of this section.

(B) Abandoned vehicle on public property. Any such vehicle abandoned on a public street or highway or other public property shall be impounded by the city until lawfully claimed or disposed of. The city shall have a lien against the property for the reasonable value of the labor and materials used in remedying the situation. The vehicle may be sold to satisfy the lien.

(Ord. 1020.7, passed 1-15-74)

§ 90.99 PENALTY.

In addition to the penalty provisions of § 90.04, any person in violation of §§ 90.02 or 90.03 shall be guilty of a misdemeanor and, upon conviction, fined not less than \$5 nor more than \$100, be imprisoned not less than ten days nor more than 30 days, or both. Each day of violation shall constitute a separate offense.

(KRS 189.751) (Ord. 1020.7, passed 1-15-74)

CHAPTER 91: ANIMALS

Section

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GENERAL REGULATIONS

§ 91.01 DEFINITIONS.

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

"CAT." Any member of the feline family.

"DOG." Any member of the canine family.

"OWNER." Any person having a right of property in a dog and every person who keeps, harbors, or cares for a dog.
(Ord. 840.03, passed 11-18-86)

§ 91.02 ANIMAL WARDEN.

There is hereby created the position of Animal Warden whose duty shall be to enforce the provisions of this chapter. The Warden shall be paid the sum of twelve dollars and fifty cents (\$12.50) for each lawful impoundment of an animal under this chapter or the laws of the Commonwealth.
(Ord. 840.03, passed 11-18-86)

§ 91.03 LICENSE REQUIRED; DUE DATE.

Every owner of a dog or cat within the corporate limits of the city shall be required to purchase annually an animal license from the City Clerk/Treasurer's office or from any person appointed by the Mayor to collect the fee, and to pay the sum of five dollars (\$5) for each of these licenses. All licenses are to be purchased no later than July 15 of each year and shall be valid until July 14 of the following year. The owner shall provide to the collector the age, breed, sex, and color of each animal to be licensed.

(Ord. 840.03, passed 11-18-86; Am. Ord. 1995-5, passed 2-21-95) Civil offense, see § 91.98

§ 91.04 MAXIMUM NUMBER OF DOGS PERMITTED.

It shall be unlawful for any of the residents of any housing unit to maintain more than two (2) dogs and/or two (2) cats at any one time except during the time of whelping a new litter, and then only until such time as the litter obtains the age necessary to be safely separated from the female dog or female cat, or twelve (12) weeks after whelping, whichever shall occur first.

(Ord. 840.03, passed 11-18-86; Am. Ord. 1990-15, passed 11-20-90; Am. Ord. 2001-14, passed 7-17-01) Civil offense, see § 91.98

§ 91.05 DOGS AND CATS TO BE KEPT UNDER CONTROL OF OWNER.

It shall be unlawful for the owner of any dog or cat, licensed or unlicensed, to permit the dog or cat to leave or be beyond the private premises upon which the dog or cat is kept, except when accompanied or controlled by its owner, and secured by means of a collar or harness with chain or leash attached thereto and held by the owner. Said owner shall not permit the dog or cat to be present upon any public property unless the requirements of this section are met; further, the owner shall not permit the dog or cat to go upon the private property of another without the permission of the owner of such private property.

(Ord. 840.03, passed 11-18-86) Civil offense, see § 91.98

§ 91.06 NOISE DISTURBANCE PROHIBITED.

It shall be unlawful for any person to possess, harbor, or keep any dog or cat that, by its habitual barking, howling, or other act, causes public alarm, annoyance, or disturbance.

(Ord. 840.03, passed 11-18-86) Civil offense, see § 91.98

§ 91.07 REMOVAL OF EXCREMENT REQUIRED.

(A) No person shall allow any animal under his or her control to be upon public property or upon the property of another, absent the consent of the owner or occupant of the property, without some device for the removal and containment of the animal's excrement; nor shall any person fail to remove any excrement deposited by any animal under his or her control on public property or private property of another, absent the consent of the owner or occupant of the property.

(B) This section shall not apply to guide dogs under the control of blind persons.

(Ord. 1993-15, passed 8-17-93) Civil offense, see § 91.98

§ 91.08 CONCEALING RABID ANIMAL PROHIBITED.

It shall be unlawful for any person to conceal a dog, cat, or other animal when that person has reasonable grounds to believe that the animal is mad, rabid, or has been bitten by a mad or rabid animal, or to conceal an animal which has been ordered to be impounded or destroyed as set forth by law, or in any manner to prevent or attempt to prevent the execution of lawful orders pertaining to mad or rabid animals or animals bitten by mad or rabid animals.

(Ord. 840.03, passed 11-18-86) Civil offense, see § 91.98

§ 91.09 IMPOUNDMENT; REDEMPTION.

(A) It shall be the duty of the city police officers or the Animal Warden to seize and impound all animals found in violation of the provisions of this chapter, whether or not the animal is in the possession of its owner and whether or not the animal is licensed. The impounding officer shall transport the animal to the Campbell County animal shelter and the animal shall be subject to the regulations of the shelter.

(B) The owner of any animal which has been impounded under the provisions of this chapter may redeem the animal upon the procurement of all vaccinations, compliance with all laws and regulations, and payment of all fines, licenses, and fees due under the terms of this chapter, the regulations of the Campbell County animal shelter, and all applicable state and county law.
(Ord. 840.03, passed 11-18-86)

DANGEROUS ANIMALS

§ 91.20 DEFINITIONS.

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

"DANGEROUS ANIMAL."

(1) Any animal which constitutes a physical threat to human beings or other domestic animals by virtue of a known or displayed propensity to endanger by pursuing, wounding, or attacking any other domestic animal or human being, whether or not such dangerous animal bears any license tag required by state law. Exceptions - Any animal shall not be deemed dangerous if:

(a) It bites, attacks, or menaces anyone assaulting its owner, or any person or other animal who has tormented or abused it; or

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

(c) It is protecting or defending its young or other domestic animal.

(2) Any animal trained, owned, or harbored for the purpose, primarily or in part, of animal fighting.

(3) Any animal which has been trained to attack persons independently or upon oral command, excepting animals owned by public law enforcement agencies.

"DANGEROUS ANIMAL OFFICER." The Mayor or his duly appointed designate, who shall take complaints of an aggrieved party, on a form prescribed by the city, as attached to Ordinance 1988-6 as exhibit B. (Ord. 1988-6, passed - -88; Am. Ord. 2006-2, passed 2-7-06)

§ 91.21 DUTIES AND RESPONSIBILITIES OF ANIMAL OWNERS; ENFORCEMENT OF RESTRICTIONS.

(A) Responsibility of all animal owners. It shall be the duty of every owner of any animal, or anyone having an animal in his possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animals from injuries or damages which might result from their animal's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

(B) Parent or guardian liability. In the event the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to insure that all provisions of this subchapter are complied with.

(C) Duty to keep animal under restraint while on owner, possessor, or custodian's property. It shall be the duty of every owner of any animal, or anyone having any animal in his possession or custody, to insure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor, or custodian, and that it is securely and humanely enclosed within a house, building, fence, pen, or other enclosure out of which it cannot climb, dig, jump or otherwise escape on its own volition. Such enclosure must be securely locked at any time the animal is left unattended, or it must be securely and humanely restrained by chain, cable, and trolley, or other tether of sufficient strength to prevent escape, or it must be on a leash under the control of a competent person.

(D) Additional requirements for precautions that must be taken by owners of dangerous animals. Whenever outside of its enclosure as provided herein, but is on the owner's property, a dangerous animal must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent its escape. No dangerous animal shall be chained, tethered, or otherwise tied to any inanimate object, such as a tree, post, or building outside of its own enclosure as provided herein. Owners of dangerous animals who maintain their animal out of doors, must have a portion of their property fenced with a perimeter or area fence. Within this perimeter fence, the dangerous

animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or fence must have secure sides, a secure top attached to all sides, the sides must either be buried two (2) feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked.

(E) Duty to keep animal under restraint while off property. It shall be the duty of the owner of any animal or anyone having an animal in his possession to keep the animal under restraint and in control at all times while the animal is off the real property limits of the owner, possessor, or custodian. For purposes of this section, the animal is deemed under control when, it is securely confined within a vehicle parked or in motion, or it is properly confined within a secure enclosure with the permission of the owner of the property where the enclosure is located, or it is securely restrained by a leash or other device held by a competent person.

(F) Additional requirements that must be taken by owners of dangerous animals. Except when being transported in, and securely confined within, a vehicle, no dangerous animal shall be permitted off the property of his owner except when it is attended by its owner, and is restrained by a secure collar and leash (not to exceed six (6) feet in length), both collar and leash to be of sufficient strength to prevent escape, and muzzled by sufficient means to prevent its biting other persons or domestic animals.

(G) Enforcement of restrictions on dangerous animals.

(1) In the event that any law enforcement officer has probably cause to believe that a dangerous animal is being harbored in violation of this subchapter he may:

(a) Order the violation immediately corrected and cite the owner or keeper to appear in court for the violation, or

(b) If the violation cannot be immediately corrected and the animal is posing an imminent serious threat to human beings or other domestic animals, the animal may be seized and impounded, in which case the owner or keeper will be cited to appear in court for the violation. At the owner's request and expense, such impoundment may be at a veterinarian or licensed kennel of the owner's choosing. If the court rules that the animal is not dangerous as defined, it will be released to the owner. If the court rules that it is dangerous as defined, the animal will be released to the owner after payment of any fees and penalties, and upon presentation of proof that the animal will now be kept restrained or confined as specified in this subchapter.

(2) If the owner or keeper of any alleged dangerous animal impounded for violation of this subchapter presents proof that the animal will not be kept in compliance with this subchapter, the animal will be released upon payment of any fees and penalties due.

(3) If the owner or keeper of an alleged dangerous animal fails to either provide proof that the animal will now be kept

restrained or confined in compliance with the provisions of this subchapter, or fails to reclaim it after impoundment, and if it cannot be adopted by someone providing proof that it will be kept restrained or confined as specified in this subchapter, it will be humanely euthanized.

(H) Warning signs. All owners, keepers, or harborers of any guard dog or dangerous animal shall display in a prominent place on their premises, and at each entrance or exit to the area where such animal is confined, a sign easily readable by the public using the words "Beware of Dangerous Animal" or "Beware of Dog". (Ord. 1988-6, passed - -88, Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 91.98

§ 91.22 COMPLAINTS.

(A) Any person who has been pursued or attacked by an allegedly dangerous animal, or anyone on behalf of such person, may make a complaint before the Dangerous Animal Officer or District Court, charging the owner, possessor, or custodian of such animal with harboring a dangerous animal. A copy of such complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil cases, or by any law enforcement officer of the city with a return receipt, directing such person to appear before the District Court for a hearing of such complaint at a time fixed. If upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner, possessor, or guardian of the animal in question, and that such animal has without cause, pursued, wounded, or attacked a human being or other domestic animal, the court shall declare such animal a dangerous animal and order the owner, possessor, or guardian to henceforth keep such dangerous animal securely confined as set forth herein, and impose the penalties set forth in § 91.99.

(B) If a subsequent complaint is filed against the same owner, possessor or guardian for an animal previously determined or found to be a dangerous animal, and the court finds the person so charged is in violation hereof, the court shall order the owner, possessor, or guardian of said dangerous animal to immediately remove the animal from the city or order the animal humanely euthanized. (Ord. 1988-6, passed - -88)

§ 91.23 OTHER REGULATIONS.

Nothing in this subchapter shall be construed to limit, or prohibit application of any other public law or governmental regulation. Further, nothing in this subchapter shall in any manner limit the civil liability of any owner, possessor, or guardian of any animal to any aggrieved person for damages. (Ord. 1988-6, passed - -88)

§ 91.24 PIT BULL TERRIERS.

(A) As used herein the following words shall have the following meanings:

(1) The word "person" shall mean any natural person, corporation, partnership, joint venture, unincorporated association, or any combination thereof;

(2) The words "Pit Bull Terrier" (also commonly known as pit bull dog) shall mean any dog which either:

(a) Is registered with the American Kennel Club as either an American Staffordshire terrier or a Staffordshire bull terrier;

(b) Is registered with the United Kennel Club as an American pit bull terrier;

(c) Conforms to any of the attached standards of the American Kennel Club for the American Staffordshire terrier or the Staffordshire bull terrier (as attached hereto and made part hereof by reference) or to any of the attached standards of the United Kennel Club for the American pit bull terrier (as attached hereto and made part hereof by reference); or

(d) Has predominant physical characteristics which are those of either the American Staffordshire terrier or the Staffordshire bull terrier indicated in the attached standards of the American Kennel Club or the American pit bull terrier of the United Kennel Club.

(B) It is hereby determined that pit bull terriers have inherently vicious and dangerous propensities; and are potentially hazardous and unreasonably dangerous to the health, safety and welfare of the citizens, residents and inhabitants of the city. Therefore, the ownership, location, maintenance, keeping, harboring or use of pit bull terriers in the city is hereby declared to be a public nuisance.

(C) No person shall cause, permit, promote, aid, assist, encourage or engage in the ownership, location, maintenance, keeping, harboring or use of pit bull terriers in the city, unless such person is a veterinarian licensed by the Commonwealth of Kentucky, and engages in the business thereof, at the address indicated in the occupational license issued therefor, by the city.

(Ord. 2006-2, passed 2-7-06)

PROHIBITED ANIMALS

§ 91.30 FINDINGS.

(A) The City of Dayton is an urban area with a population living in close proximity to each other and extensive vehicular traffic.

(B) The urban character of the community and the health and safety of its citizens requires that livestock, poultry and undomesticated and exotic animals, reptiles or fish be prohibited from the territorial limits of the city.

(C) The keeping of livestock and poultry creates noxious and hazardous odors and can cause the spread of disease and attracts vexatious and disease carrying insects and varmints which are detrimental to the health and safety of the public.

(D) The keeping of undomesticated and exotic animals, reptiles or fish, in addition to creating the same noxious and hazardous conditions associated with livestock and poultry, creates dangerous and unsafe conditions to persons residing in proximity to such animals due to attacks, bites, clawing, and other activities which are instinctive to such animals.

(E) The keeping of livestock, poultry, undomesticated and exotic animals, reptiles or fish within an urban setting constitutes cruelty to such animals in that said animals require large spaces for their habitats, are instinctively wary of human contact, and are oblivious to the dangers of urban life such as vehicular traffic.
(Ord. 1996-12, passed 9-3-96) Civil offense, see § 91.98

§ 91.31 AGRICULTURAL HUSBANDRY PROHIBITED.

The keeping of livestock and poultry normally kept for agricultural husbandry, including, but not limited to horses, cattle, goats, sheep, swine, rabbits, ducks, geese, chickens and turkeys is prohibited within the city. (Ord. 1996-12, passed 9-3-96) Civil offense, see § 91.98

§ 91.32 UNDOMESTICATED AND EXOTIC ANIMALS PROHIBITED.

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

"DANGEROUS ANIMAL." Any animal potentially threatening to humans and not ordinarily a companion animal of humans that may or may not be considered non-indigenous to the United States, including, but not limited to, all animals in the following classes:

(a) Class Mammalia.

1. Animals from the Mammalia class identified as dangerous include:

a. Infraclass Metatheria (Marsupialia)
(examples include: opossums, kangaroos, wallabies).

- b. Infraclass Eutheria (Placentalia).
- i. Order Artiodactyla (examples include: hippopotamuses, giraffes, camels, deer).
 - ii. Order Insectivora (examples include: shrews, moles, hedgehogs).
 - iii. Order Scandentia (examples include: tree shrews).
 - iv. Order Dennoptera (examples include: colugos).
 - v. Order Chiroptera (examples include: bats).
 - vi. Order Carnivora.
 - A. Family Felidae (examples include: lions, tigers, cougars, leopards, ocelots, servals).
 - B. Family Canidae (examples include: wolves, coyotes, foxes, jackals).
 - C. Family Ursidae (examples include: bears).
 - D. Family Mustelidae (examples include: weasels, martins, minks).
 - E. Family Procyonidae (examples include: coatis, ringtail cats).
 - F. Family Hyaenidae (examples include: hyenas, aardwolf).
 - G. Family Viverridae (examples include: civets, genets).
 - H. Family Herpestidae (examples include: mongooses).
 - vii. Order Cetacea (examples include: whales, dolphins).
 - viii. Order Sirenia (examples include: dugongs, manatees).
 - ix. Order Hyracoidea (examples include: hyraxes).

- x. Order Edentata (examples include: anteaters, armadillos, sloths).
- xi. Order Tubulidentata (examples include: aardvarks).
- xii. Order Pholidota (examples include: pangolins, spiny anteaters).
- xiii. Order Perissodactyla (examples include: rhinoceroses, tapirs).
- xiv. Order Primates (examples include: lemurs, monkeys, chimpanzees, gorillas).
- xv. Order Proboscidae (examples include: elephants).
- xvi. Order Rodentia (examples include: squirrels, beavers, porcupines).
- xvii. Order Macroscelididae (examples include: elephant-shrews).

2. Exemptions. Animals belonging to the Orders listed in IA that are not considered dangerous for purposes of this section include: cattle, swine, sheep, goats, domestic cats, domestic dogs, ferrets, sugar gliders, horses, donkeys, mules, guinea pigs, domestic rats, mice, gerbils, hamsters, skunks, and raccoons.

(b) Class Reptilla.

1. Animals from the Reptilla class identified as dangerous include:

a. Order Squamata.

i. Family Varanidae (only large monitors exceeding two kilograms are restricted).

ii. Family Iguanidae. Subfamily Iguaninae (all species whose adults can exceed one kilogram are restricted).

iii. Family Boidae and Family Pythonidae (all species whose adult length has the potential to exceed eight feet in length are restricted).

iv. Family Colubridae (only boomslangs, Boiga brown tree snakes, and African twig snakes are restricted). Subfamily Nactricinae (only keelback snakes are restricted).

v. Family Elapidae (examples include: coral snakes, cobras, mambas).

vi. Family Helodermatidae (examples include: gila monsters).

vii. Family Viperidae (examples include: copperheads, cottonmouths, rattlesnakes).

viii. Family Atractaspididae (examples include: mole vipers and stiletto snakes).

b. Order Crocodylia.

i. Family Gavialidae.

ii. Family Alligatoridae.

iii. Family Crocodylidae.

2. Exemptions. Animals belonging to the orders listed in (b)1. that are not considered dangerous for purposes of this section include: Green Iguanas (Iguana iguana).

(c) Class Amphibia. Animals from the Amphibia class that are considered dangerous include: Order Anura. Family Dendrobatidae (only Dendrobates and Phyllobates are restricted).

"ZOOLOGICAL PARK." Any organization that is a member of the American Zoo or Aquarium Association

(B) No person shall own, harbor, sell, or keep as a pet a dangerous animal except in strict accordance with this section.

(1) Persons and organizations exempt from this prohibition include: zoological parks, properly licensed transient animal exhibits, circuses, licensed veterinarians, licensed caregivers to wild animals, state or federally licensed rescue societies, colleges, universities, high schools, elementary schools, research institutions, owners of birds of prey in compliance with all state and federal regulations, persons possessing state or federal commercial or noncommercial captive wildlife permits, and persons with appropriate state and federal permits for owning animals approved for sale and retention.

(2) Should a student or employee need to temporarily house a dangerous animal at his or her residence a supervisor (department head, superintendent, or director) of the school or institution responsible for the animal must provide written certification of the need to temporarily keep the animal(s) at a personal residence as part of his or her job duties.

(C) Breeding dangerous animals, even if with a domesticated animal, is prohibited. (Ord. 1996-12, passed 9-3-96; Am. Ord. 2005-2, passed 2-1-05) Civil offense, see § 91.98

§ 91.33 IMPOUNDMENT.

The Animal Warden or any police officer may seize and impound an animal prohibited by §§ 91.31 and 91.32 above and deliver same to any organization which is authorized by law to accept such animal. To affect such seizure and impoundment, the animal may be rendered immobile by mean of tranquilizers or other safe drugs. If safety requires, the animal may be destroyed. The Animal Warden or police officer shall also issue or cause to be issued a citation for violation of any of the above provisions in lieu of or in addition to seizure and impoundment. Any reasonable costs incurred in undertaking seizure, impoundment, immobilization, care or destruction of any animal shall be considered a debt to the city by the owner, keeper, or harbinger of such animal, payment of which may be enforced by any legal means. (Ord. 1996-12, passed 9-3-96) Civil offense, see § 91.98

§ 91.98 CIVIL OFFENSE.

(A) Violation of any provision of Chapter 91, §§ 91.03, 91.04, 91.06, or 91.07, is declared to be a civil offense. Any person violating any provision shall be fined not more than fifty dollars (\$50.00). Any person electing not to contest citation for said offense shall be fined fifty dollars (\$50.00). Each day of violation shall constitute a separate offense.

(B) Violation of any provision of Chapter 91 § 91.05 is declared to be a civil offense. Any person violating any provision shall be fined not more than fifty dollars (\$50.00) for the first offense, seventy-five dollars (\$75.00) for the second offense and one hundred dollars (\$100.00) for each offense thereafter. Any person electing not to contest citation for said offense shall be fined fifty dollars (\$50.00) for the first offense, seventy-five dollars (\$75.00) for the second offense and one hundred dollars (\$100.00) for each offense thereafter. Each day of violation shall constitute a separate offense.

(C) Violation of any provision of Chapter 91, §§ 91.08, 91.21 or 91.30 to 91.33, is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(D) In addition to the fines provided in divisions (A), (B), and (C) above, for any violation of §§ 91.03, 91.04, 91.05, 91.06, 91.07, 91.08, 91.21 or 91.30, an additional fine of fifty dollars (\$50.00) shall be assessed. Such additional fine shall be reimbursed to the

owner of the animal if the owner submits written documentation to the city within 30 days of the date of payment of the fine confirming that the animal has been spayed if female or neutered if male. Such written documentation shall be in the form of a letter from the veterinarian performing the spay or neuter procedure. Such written confirmation shall give descriptive detail of the animal which has been spayed or neutered in such a manner that will allow it to be identified.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02; Am. Ord. 2002-9, passed 8-6-02; Am. Ord. 2006-3, passed 2-21-06)

§ 91.99 PENALTY.

Any person found in violation of any section of Chapter 91 for which no other penalty has been specifically provided shall be guilty of a Class B misdemeanor and shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) or confinement of not more than 90 days or both.

(Am. Ord. 2006-2, passed 2-7-06)

CHAPTER 92: EXCESSIVE NOISE

Section

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§ 92.10 FINDINGS.

Loud and unnecessary noise is hereby declared to be a nuisance to the public health and safety. No person shall make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either injures the safety or health of humans or animals, or annoys or disturbs a reasonable person or normal sensitivities or endangers or injures personal or real property within the limits of the city.

(Ord. 1996-16, passed 10-15-96) Civil offense, see § 92.98

§ 92.11 LOUD, UNNECESSARY, AND UNUSUAL NOISES.

The following acts are declared to be loud, unnecessary and unusual noises in violation of this subchapter, but shall not be deemed to be exclusive:

(A) Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound, the sounding of any such device for an unnecessary and unreasonable period of time, the use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

(B) Radios, phonographs. The using, operating or permitting the use or operation of any radio receiving set, television, musical instrument, phonograph, or other machine of device for the producing or reproducing of sound in such manner as to annoy or disturb a reasonable person or normal sensitivities or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 10 feet from the building, structure or vehicle in

which it is located or 25 feet from the source of the noise if not located within a building, structure or vehicle shall be prima facie evidence of a violation of this section. The operation of any such set, instrument, phonograph, machine or device at other hours in such a manner as to be plainly audible at a distance of 25 feet from the building, structure or vehicle in which it is located or 50 feet from the source of the noise if not located within a building, structure or vehicle shall be prima facie evidence of a violation of this section.

(C) Loudspeakers, amplifiers for advertising. The using, operating, or permitting the use or operation of any loudspeaker, radio receiving set, sound amplifier or other similar machine or device for the producing or reproducing of noise for the purpose of commercial advertising.

(D) Unnecessary yelling, shouting. Unnecessary yelling, shouting, hooting or whistling on public streets between the hours of 11:00 p.m. and 7:00 a.m. in a manner so as to create noise which would annoy or disturb a reasonable person of normal sensitivities.

(E) Vehicles and engines. The discharge into the open air of the exhaust of any stationary internal combustion engine, motor vehicle engine or motor boat engine except through a muffler or other device which effectively prevents loud or explosive noises therefrom. Further, the use of any motor vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise which would annoy or disturb a reasonable person of normal sensitivities.

(F) Loading and unloading. The loading, unloading, opening or other handling of boxes, crates, containers, building materials, garbage cans and other loads in residential areas in such a manner as to create noise which would annoy or disturb a reasonable person of normal sensitivities.

(G) Construction or repair. Construction (including excavation), demolition, alteration or repair work other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and Saturdays, except in the interest of public health and safety and, then, only with a permit from the City Inspector which permit may be granted for a period not to exceed three (3) days while the emergency continues and may be extended another three (3) days.

(H) Hawkers, peddlers. Offering for sale or advertising by the shouting or outcry of hawker, peddlers or vendors in such a manner as to create noise which would annoy or disturb a reasonable person or normal sensitivities.

(I) Power tools, lawn mowers. The operation or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool or similar tool between 11:00 p.m. and 7:00 a.m. unless such equipment is operating inside a building so that the sound does

not travel across any residential real property line. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.

(J) Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period of longer than five (5) minutes in any hour while the vehicle is stationary for reasons other than traffic congestion within one hundred fifty (150) feet of a residential area between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. 1996-16, passed 10-15-96) Civil offense, see § 92.98

§ 92.12 DECIBEL LIMITATIONS.

Without limiting the prohibitions contained in 92.10 and 92.11 above, it shall be a prima facie violation of this subchapter for any person to create a noise measured at street level in excess of the following:

(A) Seventy-five (75) decibels at any time.

(B) Fifty (50) decibels between 11:00 p.m. and 7:00 a.m. or for more than one hour during any 24 hour period.

(Ord. 1996-16, passed 10-15-96) Civil offense, see § 92.98

§ 92.13 NOISE LEVEL READINGS AS EVIDENCE.

The city shall equip the police department with standard meters for measuring noise. The noise level readings may be used as evidence to prove violations of this subchapter but are not required if there is sufficient other evidence to prove a violation of this subchapter.

(Ord. 1996-16, passed 10-15-96)

§ 92.14 EXCEPTIONS.

The provisions of this subchapter shall not apply to the following:

(A) Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community or to restore property to a safe condition following an emergency or calamity. This exception includes, but is not limited to, the sounding or sirens or horns of an emergency vehicle and the sounding of a public emergency siren.

(B) Noise caused at public sporting events, parades, fairs, circuses or other similar public entertainment event provided that such event shall have received all permits otherwise required by law.

(C) The giving of information for religious, cultural or political purposes or the usual and reasonable operation of motor vehicles, automobile warning device, church bells, lawful public or semi-public meetings or celebrations or the right of free speech guaranteed to the citizens of the United States.

§ 92.15 REMEDIES.

Upon determination by any law enforcement officer or citation officer that a source of noise is being conducted in violation of this subchapter, in addition to other remedies provided in this subchapter or by other federal, state or local laws, the city may cause to be instituted any appropriate legal actions to restrain, correct or abate such violations or otherwise prevent the unlawful use of such noise operation by any person.

(Ord. 1996-16, passed 10-15-96)

§ 92.98 CIVIL OFFENSE.

Violation of any provision of Chapter 92, §§ 92.10, 92.11 or 92.12, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred fifty dollars (\$250.00). Any person electing not to contest citation for said offense shall be fined two hundred fifty dollars (\$250.00). Each violation shall constitute a separate offense.

(Ord. 1996-16, passed 10-15-96; Am. Ord. 2002-3, passed 5-7-02)

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fireworks

93.01 Fireworks regulations

Fire Prevention

93.20 Blasting permit

93.21 Storage of flammables and other matter

Fire Alarm Systems in Schools

93.35 Definition

93.36 Schools required to have and maintain fire alarm systems

93.37 Improper use of system

93.38 Inspection of system

93.99 Penalty

FIREWORKS

§ 93.01 FIREWORKS REGULATIONS.

(A) No fireworks as described in KRS 227.702, 227.704 or 227.706 shall be ignited, exploded, or detonated within the city between the hours of 12:00 midnight and 9:00 a.m. with the exception of January 1 (New Years day) when no fireworks as described in KRS 227.702, 227.704 or 227.706 shall be ignited, exploded, or detonated within the city between the hours of 1:00 a.m. and 9:00 a.m.

(B) No fireworks as described in KRS 227.702, 227.704 or 227.706 shall be ignited, exploded, or detonated within the city on any public street, public street, public sidewalk, public alley or other public right-of-way, in any public park or on any other publicly owned property without first obtaining a permit from the city. The Mayor, by executive order, may adopt regulations for the orderly, safe, and peaceful use of fireworks on any public street, public sidewalk, public alley or other public right-of-way, in any public park or on any other publicly owned property.

(Ord. 2011-8, passed 9-13-11)

FIRE PREVENTION

§ 93.20 BLASTING PERMIT.

No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from

the authorized city official. The authorized city official, before granting such permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see § 93.99

§ 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

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

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

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

Penalty, see § 93.99

FIRE ALARM SYSTEMS IN SCHOOLS

§ 93.35 DEFINITION.

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

"TELEPHONIC FIRE ALARM SYSTEM." Any mechanism, equipment, or device which is designed to operate automatically through the use of public telephone facilities so as to transmit a signal, message, or warning to another location.

(Ord. 310.4, passed 9-6-77)

§ 93.36 SCHOOLS REQUIRED TO HAVE AND MAINTAIN FIRE ALARM SYSTEMS.

Every school located within the city limits, whether public, private, or parochial, shall have and maintain an operable telephonic fire alarm system.

(Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.37 IMPROPER USE OF SYSTEM.

(A) The use of the alarm system to transmit a signal, message, or warning to the Fire Department telephone line shall not interfere with the orderly conduct of city business, and the person installing the system shall maintain an adequate service organization to repair, maintain, and otherwise service the system.

(B) It shall be unlawful for any school to install, operate, or maintain a telephonic fire alarm system which automatically transmits a signal, message, or warning to the Fire Department other than through the use of the telephone number or numbers designated for that purpose. (Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.38 INSPECTION OF SYSTEM.

The Fire Chief or other designated individual shall have the right to inspect any telephonic fire alarm system on the premises where it is to function. The Fire Chief may cause an inspection of the system to be made periodically to ensure that the system is working properly. (Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Any person violating § 93.01, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$500 or imprisoned for not more than 30 days, or both.

(B) Any person who violates any other provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. (Am. Ord. 2011-4, passed 6-27-11; Am. Ord. 2011-8, passed 9-13-11)

[Text continues on page 25]

explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as common fireworks. Special fireworks are classified as class B explosives by the U.S. Department of Transportation.

(KRS 227.706)

(E) Legality of items.

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

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

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

(KRS 227.708)

(F) Age requirement. No person or business shall give, offer for sale, or sell any common fireworks listed in KRS 227.702 to any person under sixteen (16) years of age.

§ 93.02 SALE OR USE PROHIBITED; EXCEPTION FOR PUBLIC DISPLAY.

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

(A) The Chief of the Fire Department or other authorized city official shall have the power to grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations or groups of individuals. Every display shall be handled by a competent operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, shall not be hazardous to property or endanger any person. Applications for permits shall be filed with the State Fire Marshal at least fifteen (15) days in advance of the date of the display. After this privilege shall have been granted, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this section shall be transferable. For the purposes of this subsection, "Public Display of Fireworks" shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.

(B) The sale, at wholesale, of any fireworks for supervised displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco

and Firearms, if the sale is to a person holding a display permit as outlined in subsection (A) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.

(C) The sale, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, provided such fireworks are intended for shipment directly out of state in accordance with regulations of the U.S. Department of Transportation.

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

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

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

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

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

(I) The sale of common fireworks as permitted pursuant to KRS 227.715.

(KRS 227.710) Penalty, see § 93.99

§ 93.03 BOND OR LIABILITY INSURANCE REQUIREMENT.

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

(KRS 227.720) Penalty, see § 93.99

§ 93.04 EXEMPTED SALES AND USES.

Nothing in this chapter shall prevent the retail sale and use of explosives or signaling flares used in the course of ordinary business or industry, or gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, or shells or cartridges, used as ammunition in firearms, or blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or the sale of any kind of fireworks provided the same are to be shipped by the seller directly out of the state. (KRS 227.730)

§ 93.05 DESTRUCTION OF FIREWORKS.

The State Fire Marshal shall seize, take, remove, or cause to be removed at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter. All fireworks held, possessed, or used in violation of this chapter shall be destroyed as contraband. (KRS 227.750)

FIRE PREVENTION

§ 93.20 BLASTING PERMIT.

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

Penalty, see § 93.99

§ 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

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

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

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire. Penalty, see § 93.99

FIRE ALARM SYSTEMS IN SCHOOLS

§ 93.35 DEFINITION.

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

"TELEPHONIC FIRE ALARM SYSTEM." Any mechanism, equipment, or device which is designed to operate automatically through the use of public telephone facilities so as to transmit a signal, message, or warning to another location.
(Ord. 310.4, passed 9-6-77)

§ 93.36 SCHOOLS REQUIRED TO HAVE AND MAINTAIN FIRE ALARM SYSTEMS.

Every school located within the city limits, whether public,

private, or parochial, shall have and maintain an operable telephonic fire alarm system.

(Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.37 IMPROPER USE OF SYSTEM.

(A) The use of the alarm system to transmit a signal, message, or warning to the Fire Department telephone line shall not interfere with the orderly conduct of city business, and the person installing the system shall maintain an adequate service organization to repair, maintain, and otherwise service the system.

(B) It shall be unlawful for any school to install, operate, or maintain a telephonic fire alarm system which automatically transmits a signal, message, or warning to the Fire Department other than through the use of the telephone number or numbers designated for that purpose.
(Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.38 INSPECTION OF SYSTEM.

The Fire Chief or other designated individual shall have the right to inspect any telephonic fire alarm system on the premises where it is to function. The Fire Chief may cause an inspection of the system to be made periodically to ensure that the system is working properly.

(Ord. 310.4, passed 9-6-77) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Any person violating the provisions of §§ 93.02 or 93.03, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$1,000 or imprisoned for not more than 30 days, or both. (KRS 227.990 (4))

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

CHAPTER 94: LITTERING

Section

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

- 94.98 Civil offense
- 94.99 Penalty

§ 94.01 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.
Penalty, see § 94.99

§ 94.02 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.
Civil offense, see § 94.98

§ 94.03 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.
Civil offense, see § 94.98

§ 94.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.
Civil offense, see § 94.98

§ 94.05 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person or not,

except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not. Civil offense, see § 94.98

§ 94.98 CIVIL OFFENSE.

(A) Violation of any provision of Chapter 94, §§ 94.02 or 94.03, is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(B) Violation of any provision of Chapter 94, §§ 94.04 or 94.05, is declared to be a civil violation. Any person violating any provision shall be fined not more than one hundred dollars (\$100.00). Any person electing not to contest citation for said offense shall be fined one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02)

§ 94.99 PENALTY.

Whoever violates any of the provisions of this chapter for which no other penalty has been specifically provided shall be fined not more than five hundred dollars (\$500.00). Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 95: PARKS

Section

General Provisions

- 95.01 Hours of operation
- 95.02 Permit required for certain activities
- 95.03 Application for permit

Dodd Park

- 95.15 Dedication of Dodd Park
- 95.16 Regulation of vehicles in Dodd Park

Conduct in Parks

- 95.30 Picnics
- 95.31 Alcoholic beverages
- 95.32 Glass bottles or containers
- 95.33 Users to leave premises in good clean condition
- 95.34 Certain activities limited to designated areas
- 95.35 Motor vehicles
- 95.36 Animals
- 95.37 Peddling
- 95.38 Posting advertisements
- 95.39 Amusement for gain
- 95.40 Prohibited conduct

Park Board

- 95.55 Establishment of Board; appointment of members
- 95.56 Oath; qualifications; compensation
- 95.57 Duties; records
- 95.58 Officers

- 95.98 Civil offense
- 95.99 Penalty

GENERAL PROVISIONS

§ 95.01 HOURS OF OPERATION.

(A) The city parks shall be opened daily to the public during hours established by the Park Board and posted in the park.

(B) It shall be unlawful for any person or persons, other than city or Park Board personnel conducting business or persons given specific permission by the Park Board, to occupy or be present in the parks during any hours in which the parks are not open to the public. (Ord. 710.06, passed 5-18-82) Penalty, see § 95.99

§ 95.02 PERMIT REQUIRED FOR CERTAIN ACTIVITIES.

(A) Whenever any group, association, or organization desires to use the park facilities for a particular purpose, such as for sports events, picnics, or theatrical or entertainment performances, a

representative of the group, association, or organization shall first obtain a permit from the Park Board. The Park Board shall adopt an application form to be used for such situations.

(B) Upon application, a permit shall be granted if it appears that the group, association, or organization will not interfere with the general use of the park by the public and if the group, association, or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the city or Park Board from liability of any kind or character and to protect city or Park Board property from damage.

(C) These provisions shall not apply to students' work when constituting a part of their educational activities and under the supervision and immediate direction of the proper school authorities, nor to any governmental agency within the scope of its functions. (Ord. 710.06, passed 5-18-82) Penalty, see § 95.99

§ 95.03 APPLICATION FOR PERMIT.

(A) Any person, firm, or corporation seeking a permit for the use of any of the park facilities shall submit an application to the City Clerk/Treasurer. The permit shall be issued if:

(1) The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(2) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation;

(3) The facilities desired have not been reserved for other use at the day and hour required in the application;

(4) The conduct of the activity will not substantially interrupt the safe and orderly movement of traffic;

(5) The conduct of the activity will not require the diversion of so great a number of city police officers to properly police the activity and the areas contiguous thereto, as to prevent normal police protection to the rest of the city;

(6) The conduct of the activity is not reasonably likely to cause injury to persons or property, incite violence, crime, or disorderly conduct; and

(7) The activity is not to be held for the sole purpose of advertising any product, goods, or event as being endorsed by the city, and is not designed to be held purely for private profit.

(B) The city or Park Board shall act upon the application for a park permit within 14 days after the filing thereof.
(Ord. 710.06, passed 5-18-82) Penalty, see § 95.99

(C) Any person aggrieved shall have the right to appeal the denial of a park permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.
Penalty, see § 95.99

DODD PARK

§ 95.15 DEDICATION OF DODD PARK.

(A) The area of the city which is within the right-of-way of the Dayton Flood levee and all of that area between the northern right-of-way line and the Ohio River within the city shall be, and is hereby declared to be a park for the pleasure, recreation, and enjoyment of the people of the city.

(B) The area declared as a park under division (A) above is dedicated and named Dodd Park.
(Ord. 710.08R, passed 9-18-84)

§ 95.16 REGULATION OF VEHICLES IN DODD PARK.

(A) No person shall drive or take a motor vehicle as defined in Chapter 70 within or upon the streets, roadways, or within the confines of Dodd Park unless:

(1) The vehicle has affixed it to, in the proper place as established by §§ 70.35 through 70.39, a city sticker; or

(2) The vehicle has displayed in a prominent position on the dashboard and observable from outside the vehicle, a permit issued by the Mayor or his designated agent.

(B) This section shall not apply to waste collection vehicles, public safety vehicles, or other public service vehicles while such vehicles are providing services to the city and its residents.
(Ord. 710.09, passed 11-6-84) Penalty, see § 95.99

CONDUCT IN PARKS

§ 95.30 PICNICS.

(A) No person in a park shall picnic or lunch in a place other than those designated for that purpose. Attendants or police shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(B) No person in a park shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded, except for those groups authorized under § 95.02 hereof. (Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.31 ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to sell or to have in his possession, custody, or control any alcoholic beverages of any kind whatsoever in any park within the city except as follows:

(A) The beverages are consumed by persons twenty-one (21) years of age or older by members of a private group which has obtained a permit from the city for the exclusive use of the park at a park designated specifically for the exclusive use of private groups; or

(B) The beverages are consumed by persons twenty-one (21) years of age or older by persons attending a special event for which application has been made to and special permit has been received from City Council. No such permit shall be granted unless:

(1) The special event is sponsored by a non-profit organization whose funds are used exclusively for the benefit of the youth of the city or by a community church whose funds are used exclusively for benefit of the church or by a school which serves a substantial number of students from the city whose funds are used exclusively for the benefit of the school or by the Dayton Park Board exclusively for maintenance of and improvements to the public parks of Dayton;

(2) The sponsoring organization has been given a permit for the exclusive use of the park by the organization;

(3) The sponsoring organization obtains the proper permits from the city alcohol beverage administrator and the state alcohol beverage control board;

(4) The sponsoring organization provides adequate security and supervision in the discretion of the City Council.

(5) The sponsoring organization provides proof of adequate liability insurance for any injuries or damages which may occur as a result of the event in the discretion of the City Council.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 1998-15, passed 11-17-98; Am. Ord. 2003-24, passed 12-16-03; Am. Ord. 2004-2, passed 6-1-04; Am. Ord. 2006-5, passed 3-21-06) Civil offense, see § 95.98

§ 95.32 GLASS BOTTLES OR CONTAINERS.

It shall be unlawful for any person to have in his possession, custody, or control any glass bottle or container within the park grounds.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98



§ 95.33 USERS TO LEAVE PREMISES IN GOOD CLEAN CONDITION.

Each person, firm, or corporation using the public parks and grounds shall clear up all debris, extinguish all fires when fires are permitted, and leave the premises in good order and the facilities in a neat and sanitary condition.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.34 CERTAIN ACTIVITIES LIMITED TO DESIGNATED AREAS.

It shall be unlawful to engage in special activities including bicycling, flying model airplanes, golf practice, ice skating, skateboarding, scooter riding, rollerblading, games, and picnics except at locations specifically designated for such activities by the Park Board. Areas for such activities may be reserved by groups for use at specified times.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2003-14, passed 6-17-03) Civil offense, see § 95.98

§ 95.35 MOTOR VEHICLES.

(A) It shall be unlawful to drive or park any motor vehicle (except those vehicles involved in maintenance and supply of the parks) within any park except on a designated street or parking lot.

(B) No person shall drive or take a bus, house car, van, mobile home, or truck of any kind or description, including a pick-up truck, within or upon the streets, roadways, or confines of any city-owned park without first obtaining a written permit from the Mayor or his designated agent. This division shall not apply to vans, maximum 1/2 ton, with passenger seats and windows other than front seats and windows. This division (B) shall not apply to waste collection vehicles, public safety vehicles, or other public service vehicles while such vehicles are providing services to the city and its residents.

(Ord. 710.06, passed 5-18-82; Ord. 710.10, passed 11-6-84; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.36 ANIMALS.

It shall be unlawful to bring any dangerous animal (as defined in § 91.20) into any park, and it shall be unlawful to permit any animal to be in any park unless the animal is on a leash not more than six feet long.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.37 PEDDLING.

It shall be unlawful for any person other than persons acting on behalf of or with the permission of the Park Board, to sell, vend, peddle, or offer for sale any commodity or article within any park.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.38 POSTING ADVERTISEMENTS.

(A) It shall be unlawful for any person to paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever in any park, or on public lands, highways, or roads adjacent to a park, unless that person is a properly authorized government official in pursuit of an official duty. Permission to place any sign in any park may be obtained from the Park Board, at their sole discretion.

(B) Any person aggrieved shall have the right to appeal the denial of permission to place a sign to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.
(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.39 AMUSEMENT FOR GAIN.

No amusement for gain or for which a charge is made shall be conducted in a park without the consent of the Park Board, and such amusement must be conducted in accordance with all regulations pertaining thereto.

(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 95.98

§ 95.40 PROHIBITED CONDUCT.

It shall be unlawful for any person, firm, or corporation using such parks to either perform or permit to be performed any of the following acts:

(A) Willfully mark, deface, disfigure, injure, climb upon, tamper with, displace, or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities, or parts or appurtenances thereof; any signs, notices, or placards, whether temporary or permanent; monuments, stakes, posts, fences, or other boundary markers; or any other structures or equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(B) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, river, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of the waters.

(C) Bring in or dump, deposit, or leave any bottles, broken glass, ashes, paper boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

- (D) Disorderly conduct as defined under KRS 525.060.
- (E) Endanger the safety of any person by any conduct or act.
- (F) Commit any assault, battery, or engage in fighting.
- (G) Violate any rule or regulation governing conduct in the park which has been approved by the Park Board.
- (H) In any area designated for skateboarding: be in the facility before 8:00 a.m. or after dark; use any surfaces for skateboarding other than those designed therefor and provided by the city; use any motorized equipment; use the facility to the exclusion of other persons in the facility who want to use the equipment; use profanity; fight or otherwise attack another person physically or engage in other disruptive behavior; damage the facility or its surrounding areas; bring beverages, including water, or food inside the facility; be under the influence alcohol or drugs, or use alcohol drugs or tobacco in the facility
(Ord. 710.06, passed 5-18-82; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2012-1, passed 2-7-12) Civil offense, see § 95.98

PARK BOARD

§ 95.55 ESTABLISHMENT OF BOARD; APPOINTMENT OF MEMBERS.

(A) The City Council shall appoint five persons who will constitute and serve as members of the Park Board. Their terms of office shall be for two years and until their successors are appointed and qualified, except that three members of the first Board appointed shall be appointed for terms of only one year. The Board shall be a corporation with power of perpetual succession and may contract in its corporate name and be contracted with, sue and be sued, and have and use a corporate seal which may be altered or renewed at its pleasure. (KRS 97.550) (Ord. 150.3, passed 6-20-61)

(B) The City Council shall appoint five auxiliary members of the Park Board. They shall take the oath required by the members of the Park Board, and shall do all things necessary in carrying out their duties except they shall have no right to vote at the meetings of the Board. The terms of office shall be for two years or until their successors are appointed and qualified.
(Ord. 150.3A, passed 8-16-66)

§ 95.56 OATH; QUALIFICATIONS; COMPENSATION.

(A) Each person appointed to the Board shall appear before the City Clerk/Treasurer and make and subscribe to an oath that he will faithfully, diligently, and to the best of his ability perform all duties as a member of the Board; and that he will not in any manner,

directly or indirectly, be concerned in any contract, purchase, sale, or emolument of any kind in connection with or growing out of any business of the Board, or the providing, purchasing, managing, or improving of any park or playground property. The oath shall be in writing, filed in the office of the City Clerk/Treasurer, and be a public record. (KRS 97.560)

(B) Each member of the Park Board shall be at least 21 years of age, have been a resident of the city for not less than one year, and shall receive no compensation for performing the duties on the Park Board.

(Ord. 150.3, passed 6-20-61)

§ 95.57 DUTIES; RECORDS.

(A) The Park Board shall have the care, management, and control of all parks and playgrounds within the limits of the city, shall lay out and improve them with walks, drives, roads, and trees, provide appliances and equipment for playgrounds, and provide for the proper lighting of the parks and playgrounds. (KRS 97.580)

(B) The Park Board shall keep a set of books showing the receipts and expenditures of the Board. The books shall be open at all times to examination by the Mayor or any committee of the City Council authorized to make an examination, either by themselves or by a certified public accountant. The Board shall each January, transfer to the Mayor and City Council a full and detailed report and statement of the acts of the Board for the preceding year with a complete and itemized account of all receipts and disbursements of money and an itemized estimate of the money needed for park and playground purposes. (KRS 97.600)

(Ord. 150.3, passed 6-20-61)

§ 95.58 OFFICERS.

As soon as it is convenient, the members of the Park Board shall meet and choose a President and a Secretary from among its members, each to serve for a term of one year, and annually thereafter a President and Secretary shall be chosen. The duties of such officers shall be the usual duties incumbent upon such an officer and such other duties as the Board prescribes. (KRS 97.570)

(Ord. 150.3, passed 6-20-61)

§ 95.98 CIVIL OFFENSE.

(A) Violation of any provision of Chapter 95, §§ 95.30, 95.31, 95.32, 95.33, 95.34, 95.35, 95.36, 95.37, 95.38 or 95.39, is declared to be a civil offense. Any person violating any provision shall be fined not more than one hundred dollars (\$100.00). Any person electing not to contest citation for said offense shall be fined one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.

(B) Violation of any provision of Chapter 95 § 95.40 is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(C) In addition to or in lieu of the penalty provided in division (B) above, any person violating any provision of § 95.40 may be banned temporarily or permanently from use of the parks or any portion thereof. Debarment from use of the facilities may be made by any city officer authorized to issue citations or by the chair of the Park Board. Any order of disqualification from use of park facilities hereunder may be appealed to the Code Enforcement Board, which shall hold a hearing on the appeal and may issue any orders authorized to that Board.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02; Am. Ord. 2012-1, passed 2-7-12)

§ 95.99 PENALTY.

(A) Any person found violating any section in Chapter 95 for which no other penalty has been specifically provided shall be guilty of a misdemeanor and shall be subject to the penalties provided in § 10.99.

(B) Any person who violates any order banning him or her from use of park facilities, as described in § 95.98(C), shall be guilty of criminal trespass 3rd and shall be so charged.
(Am. Ord. 2012-1, passed 2-7-12)

CHAPTER 96: STREETS, SIDEWALKS, AND PUBLIC WAYS

Section

Use of Streets and Public Ways

- 96.01 Automotive repairs prohibited
- 96.02 Operation of vehicles on public levee

Sidewalk and Curb Maintenance

- 96.15 Duty of property owner to maintain sidewalks
- 96.16 Curbing replacement
- 96.17 Notice to owner to repair or replace
- 96.18 Compliance with notice
- 96.19 Failure to comply; lien

Closing of Public Ways

- 96.30 City Attorney responsible for closing

- 96.98 Civil offense
- 96.99 Penalty

USE OF STREETS AND PUBLIC WAYS

§ 96.01 AUTOMOTIVE REPAIRS PROHIBITED.

(A) Any repairs upon automotive vehicles of all kinds and varieties, including motor scooters, motorcycles, and go-carts, are prohibited upon the public streets, alleys, or easements of the city.

(B) The making of repairs on automotive vehicles on the streets or highways of the city is declared to be a public nuisance, in that said repairs have a tendency to block and impede traffic upon the city streets, and tend to cause the streets of the city to become littered, cluttered, and oil and grease stained, all to the detriment of the city's citizens.

(Ord. 1020.7, passed 1-15-74) Civil offense, see § 96.98

§ 96.02 OPERATION OF VEHICLES ON PUBLIC LEVEE.

(A) The public levee of the city shall be under the supervision of the Chief of Police.

(B) It shall be unlawful to operate any motor vehicle, including road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, and any other such construction equipment, except for municipal purposes with express permission of the city, on any public levee of the city.

(Ord. 620.14, passed 4-20-82) Civil offense, see § 96.98

SIDEWALK AND CURB MAINTENANCE

§ 96.15 DUTY OF PROPERTY OWNER TO MAINTAIN SIDEWALKS.

(A) It shall be the duty of each person owning lots of real estate fronting and abutting on any sidewalk in the city to maintain at his own expense in a suitable state of repair the sidewalk so far as the same fronts or abuts his lots of real estate.

(B) Every property owner shall repair all holes, uneven surfaces, and other defects in the sidewalk as set forth in §§ 96.17 and 96.18. (Ord. 620.1, passed 4-23-74; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 96.98

§ 96.16 CURBING REPLACEMENT.

(A) The city will pay to individual property owners, land contract purchasers, or other authorized occupants of real property within the city, up to the sum set by order of the City Council per lineal foot toward the replacement of curbing when done in conjunction with needed sidewalk replacement.

(B) A determination of the necessity of replacement of curbing shall be made by the City Inspector/Zoning Administrator's office and upon replacement of the curbing, a subsequent approval by the office of the City Inspector/Zoning Administrator must be obtained before payment.

(C) All replaced curbing shall meet and conform to the specifications and designs adopted by the city, which are obtainable through the office of the City Inspector/Zoning Administrator. (Ord. 620.2, passed 5-15-79; Am. Ord. 1993-6, passed 4-20-93) Penalty, see § 96.99

§ 96.17 NOTICE TO OWNER TO REPAIR OR REPLACE.

(A) Whenever the Superintendent of Public Services or the City Inspector/Zoning Administrator ascertains the existence of holes or other defects in sidewalks of the city, it shall be his duty to notify, in writing, the owner of the property abutting such defective sidewalk, to repair, reconstruct, or replace the same at his own expense within a period of 90 days after the delivery of such notice.

(B) The notice required hereunder shall be sufficient if given according to any of the following methods:

(1) To the owner personally.

(2) To the owner by mail addressed to him at his last known place of residence.

(3) If the residence of the owner is unknown, the notice may be mailed or delivered personally to any resident agent of the owner or to any tenant or occupant of the premises of the owner.

(4) If there is no known agent, tenant, or occupant of the premises, the notice may be posted on the premises.
(Ord. 620.1, passed 4-23-74)

§ 96.18 COMPLIANCE WITH NOTICE.

It shall be the duty of each owner of property in the city, within 90 days after the receipt of the notice provided for in § 96.17, to repair, reconstruct, or replace, at his own expense, the sidewalk on which his property abuts, as specified in the notice, using materials as nearly similar as possible to that of which the sidewalk is constructed. If the owner is a nonresident of the city, or cannot be found, it shall be the duty of his agent in charge of the property, upon receipt of such notice, to make the repairs, reconstruction, or replacement as herein required, and if there be no such agent, it shall be the duty of the tenant or occupant of the property, upon receipt of such notice, to make the repairs, reconstruction, or replacement as required.

(Ord. 620.1, passed 4-23-74) Penalty, see § 96.99

§ 96.19 FAILURE TO COMPLY; LIEN.

(A) Any owner or agent of the owner, or any tenant or occupant of property who shall fail to make the repairs, reconstruction, or replacement of such defective sidewalks as provided for herein within 90 days after receiving the notice provided for in § 96.17 shall be fined as provided in § 96.99. Every day the work remains undone after this period shall be deemed a separate offense.

(B) In the event the sidewalks or portions thereof are not properly repaired within the time specified herein, due report of such failure shall be made, in writing, to the Superintendent of public Services, who may thereupon order the public works foreman to make the repair or repairs. A record of the entire cost thereof, including labor, shall be transmitted to the Superintendent of Public Services, who shall levy and assess the cost of the repair or repairs against the owner or owners of the benefitted property and place a lien against the property for the repair or repairs. The City Clerk/Treasurer shall bill the affected property owner for the costs and, if not paid within 30 days thereof, the affected property may be sold to satisfy the lien.
(Ord. 620.1, passed 4-23-74)

CLOSING OF PUBLIC WAYS

§ 96.30 CITY ATTORNEY RESPONSIBLE FOR CLOSING.

The City Attorney shall be the sole person responsible for closing and vacating public streets and alleyways throughout the city. Those persons requesting the closing and vacating of any public way shall be responsible to the city for the costs of both court fees and fees for use of the time of the City Attorney.
(Ord. 620.32-R, passed 10-21-86)

§ 96.98 CIVIL OFFENSE.

Violation of any provision of Chapter 96, §§ 96.01, 96.02 or 96.15, is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02)

§ 96.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty has been specifically provided shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) for each offense.

Section

Alcohol Possession

- 97.01 Owner may not allow possession by minor
- 97.02 Parent may not allow minor on premises

Curfew

- 97.10 Definitions
- 97.11 Nighttime curfew established
- 97.12 Daytime curfew established
- 97.13 Exceptions
- 97.14 Parent's duty to enforce curfew
- 97.15 Police officer's duty to enforce curfew

- 97.99 Penalty

ALCOHOL POSSESSION

§ 97.01 OWNER MAY NOT ALLOW POSSESSION BY MINOR.

No person, being the owner or occupant of, or otherwise in possession or control of any property located within the city who knows or should know through due diligence that alcohol possession by minors is occurring or will occur shall allow any person under the age of twenty-one (21) years to remain on such property while in possession of alcoholic or malt beverages or while consuming alcoholic or malt beverages, unless such possession or consumption of alcoholic or malt beverages is ordered by a physician in the regular court of medical practice, or given by a parent or legal guardian.
(Ord. 1992-2, passed 2-4-92)

§ 97.02 PARENT MAY NOT ALLOW MINOR ON PREMISES.

No person being the parent or guardian or otherwise having the care, custody or control of any minor shall knowingly permit such minor to allow any person under the age of twenty-one (21) years to remain on any property while in possession of alcoholic or malt beverages, or while consuming alcoholic or malt beverages, unless the possession or consumption of alcoholic or malt beverages is ordered by a physician in the regular court of medical practice, or given by a parent or legal guardian. Nor shall any person permit a minor, knowing that the minor has a proclivity for possession or consumption of alcoholic or malt beverages or for allowing other minors to possess or consume alcoholic or malt beverages, to be in possession of property located within the city under circumstances such that a reasonably responsible adult should have known that a violation of this section was likely to occur thereon.
(Ord. 1992-2, passed 2-4-92)

CURFEW

§ 97.10 DEFINITIONS.

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

"ALLOW." Either permit or neglect to refrain or prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is the parent or guardian must actually know about the child violating this subchapter, or the circumstances must be such that a reasonably prudent parent or guardian should have known the child was violating this subchapter.

"MINOR." Any person under the age of eighteen (18) years.

"NIGHT." The dark hours of the day stated until the early morning hours of the next day.

"PARENT." Any person having legal custody of a minor: (a) as a natural or adoptive parent; (b) as a legal guardian; (c) as a person who stands in loco parentis; (d) as a person to whom legal custody has been given by order of court.

"RELIGIOUS ACTIVITIES." Any activity, function, service or event sponsored by a religious institution.

"REMAIN." To stay behind, to tarry, or to stay unnecessarily upon or in any public assembly, building, place, street, or highway.
(Ord. 1992-3, passed 2-4-92; Am. Ord. 2015-10, passed 9-15-15)

§ 97.11 NIGHTTIME CURFEW ESTABLISHED.

It shall be unlawful for any person under the age of eighteen (18) to be or remain in or upon any public assembly, building, place, street or highway within the city at the following times:

(A) From 11:00 p.m. until 6:00 a.m. on any Sunday through Thursday night between the federal Memorial Day holiday and Labor Day holiday;

(B) From 10:00 p.m. until 6:00 a.m. on any Sunday through Thursday night during the remainder of the year; and

(C) From 12:00 a.m. until 6:00 a.m. following any Friday or Saturday night.

(Ord. 1992-3, passed 2-4-92; Am. Ord. 1995-18, passed 10-17-95; Am. Ord. 1996-6, passed 5-21-96; Am. Ord. 2015-10, passed 9-15-15)

§ 97.12 DAYTIME CURFEW ESTABLISHED.

(A) It shall be unlawful for any child between six (6) and eighteen (18) years of age to be or remain in or upon any public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway within the city during the hours when the child is required to be in attendance at either public or private school, unless the child is accompanied by a parent, guardian or other adult person having written documentation of having care and custody of the child or is upon an emergency errand or other legitimate business directed by a parent, guardian or other adult person having the care and custody of the child.

(B) Any police officer may take any child found violating this section into custody and may charge the child with a violation hereof, or, in the alternative, may immediately take the child to his or her school and request that the school notify its attendance officer of the violation, or the officer may release the child to his or her parent, guardian, custodian or school attendance officer.
(Ord. 2015-10, passed 9-15-15)

§ 97.13 EXCEPTIONS.

In the following exceptional cases, a minor in or upon any public assembly, building, place, street, or highway within the city during the hours stated in §§ 97.11 and 97.12 shall not be considered in violation of this section:

(A) When the minor is accompanied by a parent or guardian;

(B) When accompanied by an adult authorized by a parent or guardian of such minor;

(C) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, provided that written notice signed by the minor and countersigned by a parent is in the possession of such minor specifying when, where, and in what manner said minor will be exercising such First Amendment rights;

(D) In a case of reasonable necessity but only after such minor's parent has communicated to the Police Department the facts establishing such reasonable necessity;

(E) When a minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor who has not communicated an objection to a police officer or the Police Department;

(F) When returning home by a direct route from and within one hour of the termination of a school activity or any activity of a religious or other voluntary association, provided that justification indicating the place and time of termination of said event can be given to any investigating officer of the Police Department;

(G) When authorized by regulation issued by the Mayor in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. Such regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, street, or highway permitted, and the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that such regulation is reasonably necessary. The Mayor shall notify the Police Department of said information;

(H) When engaged in a business or occupation which the laws of Kentucky authorize a person under eighteen (18) years of age to perform;

(I) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver;

(J) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the city for the purpose of passing through, by direct route, from one location to another either within or out of the city, including all minors that may also be within the vehicle.

(Ord. 1992-3, passed 2-4-92; Am. Ord. 2015-10, passed 9-15-15)

§ 97.14 PARENT'S DUTY TO ENFORCE CURFEW.

It shall be unlawful for a parent or guardian having legal custody of a minor to allow such minor to be or remain in or upon a public assembly, building, place, street, or highway in the city under circumstances not constituting an exception as enumerated in § 97.13. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

(Ord. 1992-3, passed 2-4-92; Am. Ord. 2015-10, passed 9-15-15)

§ 97.15 POLICE OFFICER'S DUTY TO ENFORCE CURFEW.

(A) A police officer, upon finding or being notified of any minor in or upon any public assembly, building, place, street, or highway believed to be in violation of this subchapter shall confront such minor and request such information as name, age, address, and the name of a parent or legal guardian. In addition, the police officer may request proof of age of such minor. If it is determined that such minor is of the age subject to this subchapter [under eighteen (18) years of age] the police officer may forthwith take the minor to the police station and the parent or guardian shall immediately be notified to come for such minor, whereupon they shall be interrogated to discover the relevant facts and circumstances. Such information shall be duly recorded for future reference in the event of subsequent violations of this section.

(B) Police procedures may provide, inter alia, that a police officer may deliver a minor to a parent or guardian under appropriate circumstances; for example, a minor of tender age near home whose identity and address may be readily ascertained or are known. In the event of the delivery, the police officer shall file a written report within twenty-four (24) hours which shall be duly recorded. The Chief of Police, or his or her duly authorized representation, can issue regulations to effectuate expeditious procedure under this section.

(C) When a parent has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of the parent.

(D) If a parent or guardian cannot be located or fails to take charge of the minor, the minor may temporarily be entrusted to a relative, neighbor, or other person who will assume the responsibility for the minor on behalf of the parent or guardian pending the availability of the parent or guardian. In the absence of any such person to assume the responsibility for the minor, the minor shall be released to the juvenile authorities.

(Ord. 1992-3, passed 2-4-92; Am. Ord. 1996-6, passed 5-21-96; Am. Ord. 2015-10, passed 9-15-15)

§ 97.99 PENALTY.

Any person, firm, organization, or corporation who violates any of the provisions of this chapter shall, upon conviction, be guilty of a Class B misdemeanor in accordance with the Kentucky Revised Statutes. (Ord. 1992-2, passed 2-4-92; Am. Ord. 1992-3, passed 2-4-92; Am. Ord. 1993-2, passed 3-2-93; Am. Ord. 2015-10, passed 9-15-15)

CHAPTER 98: TREE PROTECTION

Section

- 98.01 Definitions
- 98.02 Creation of City Tree Board
- 98.03 Term of office, compensation of Board
- 98.04 Duties; operation of Board
- 98.05 Tree planting regulations
- 98.06 City authorized to plant, maintain, remove
- 98.07 Tree maintenance; rights of city
- 98.08 Interference with Board prohibited
- 98.09 Arborist's license established; bond; fee
- 98.10 Review by City Council; appeal

- 98.98 Civil Offense
- 98.99 Penalty

§ 98.01 DEFINITIONS.

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

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

"STREET TREES." Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
(Ord. 1992-5, passed 3-3-92)

§ 98.02 CREATION OF CITY TREE BOARD.

There is hereby created and established a City Tree Board for the city which shall consist of five (5) members, citizens, and residents of this city who shall be appointed by the Mayor with the approval of the City Council.
(Ord. 1992-5, passed 3-3-92)

§ 98.03 TERM OF OFFICE, COMPENSATION OF BOARD.

(A) The term of the five (5) persons to be appointed by the Mayor shall be three (3) years except that the term of two (2) of the members appointed to the first Board shall be for only one year, and the term of two (2) members of the first Board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(B) Members of the Board shall serve without compensation.
(Ord. 1992-5, passed 3-3-92)

§ 98.04 OPERATION OF BOARD.

(A) It shall be the responsibility of the Board to study, investigate, counsel, develop, administer, and update annually a written

plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. The plan will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive tree plan for the city.

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

(C) The Board shall choose its own officers, makes its own rules and regulations, and keep a journal of its findings. A majority of the members shall be a quorum for the transaction of business.
(Ord. 1992-5, passed 3-3-92)

§ 98.05 TREE PLANTING REGULATIONS.

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

(B) Spacing. The spacing of Street Trees will be in accordance with the three (3) species classes referred to in subsection (A) and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet, except in special plantings designed or approved by a landscape architect.

(C) Distances from curb, sidewalk, and powerlines. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in subsection (A) and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet. Only small trees can be planted within fifteen (15) feet of powerlines.

(D) Distance from street corners and fireplugs. No Street Tree shall be planted closer than twenty (20) feet of any street corner, measured from the point nearest intersecting curbs or curblines. No street shall be planted closer than ten (10) feet of any fireplug.
(Ord. 1992-5, passed 3-3-92)

§ 98.06 CITY AUTHORIZED TO PLANT, MAINTAIN, REMOVE.

The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public

improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this chapter.
(Ord. 1992-5, passed 3-3-92)

§ 98.07 TREE MAINTENANCE; RIGHTS OF CITY.

(A) Tree topping. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this section at the determination of the City Tree Board.

(B) Pruning corner clearance. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any trees or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(C) Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any dead or diseased trees on private property with the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.
(Ord. 1992-5, passed 3-3-92; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 98.98

§ 98.08 INTERFERENCE WITH BOARD PROHIBITED.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents or servants while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street tree, park trees or trees on private grounds as authorized in this chapter.
(Ord. 1992-5, passed 3-3-92; Am. Ord. 1997-7, passed 3-4-97) Civil offense, see § 98.98

§ 98.09 ARBORISTS LICENSE ESTABLISHED; BOND; FEE.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for a procuring license. The license fee shall be twenty-five dollars (\$25.00) annually in advance provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amount of twenty-five thousand dollars (\$25,000.00) for bodily injury and ten thousand dollars (\$10,000.00) property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 1992-5, passed 3-3-92)

§ 98.10 REVIEW BY CITY COUNCIL; APPEAL.

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

(Ord. 1992-5, passed 3-3-92)

§ 98.98 CIVIL OFFENSE.

Violation of any provision of Chapter 98, §§ 98.07 or 98.08, is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(Ord. 1996-15, passed 10-1-96; Am. Ord. 1997-7, passed 3-4-97; Am. Ord. 2002-3, passed 5-7-02)

§ 98.99 PENALTY.

Any person violating any provision of this chapter for which no other penalty has been specifically provided shall be, upon conviction, or a plea of guilt, be guilty of a misdemeanor and be subject to a fine not to exceed five hundred dollars (\$500.00).

(Ord. 1992-5, passed 3-3-92)

CHAPTER 99: NUISANCE PROPERTY

Section

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GENERAL PROVISIONS

§ 99.01 DEFINITIONS.

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

"APPLIANCES." Includes but is not limited to items such as stoves, refrigerators, freezers, washing machines, dryers, dishwashers, and water heaters.

"ENVIRONMENTAL NUISANCE" or "NUISANCE."

(1) Any use of property which causes an annoyance, hazard, or injury which may be detrimental to the property or well-being of others: any person doing an unlawful act, or other act which may be lawful to the extent that it is done without becoming a nuisance: the omission to perform a duty: or suffering or permitting any condition or thing to exist, which act (lawful or unlawful), omission, condition, or thing either:

(a) Injures or endangers the welfare, health, or safety of others;

(b) Offends decency;

(c) Creates offensive odors;

(d) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;

(e) In any way renders other persons insecure in life or the use of property;

(f) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others; or

(g) Permits the presence, existence, or accumulation of waste, rubbish, trash, or other non-operable appliance or vehicles or vehicles in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

(2) Any yard grass exceeding six (6) inches in height or other plant or weed growth exceeding twelve (12) inches in height other than crops, trees, bushes, flowers, or other ornamental plants. It is not the intent of this provision to cause a change in the character of any geographical areas but only to remedy nuisances created by yard grass greater than six (6) inches or hillside weeds greater than twelve (12) inches.

(3) The disposal or accumulation of any foul, decaying, or putrescent substance, stagnant water, animal waste or other offensive material in or on any lot, tract of land, street, highway, or any sidewalk or alley abutting any of these which shall be the reasons for such offensive odors.

"HEARING OFFICER." The Code Enforcement Board of the City of Dayton. The Code Enforcement Board shall conduct all hearings provided for herein. A simple majority of the total membership of the Board shall constitute a quorum to conduct a hearing or other business required hereunder for the "HEARING OFFICER". A majority vote of the quorum present shall be required for a decision.

"OWNER." Any person or corporation who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner, or as executor, executrix, administrator, administratrix, employee, agent, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with provisions of these rules and regulations imposed upon the owner.

"RUBBISH." Any combustible or noncombustible waste materials, including but not restricted to paper, bags, boxes, cartons, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, concrete crockery, dust, and the residue from the burning of combustible materials. This provision does not apply to garbage set out for pickup pursuant to the guidelines and regulations contained elsewhere in the Code of Ordinances.

"STRUCTURE." Any building or part thereof used or occupied, or intended to be used for occupancy, for human habitation, or commercial or industrial purposes, and includes any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.

"VEHICLE." Any agency for the transportation of persons or property over or upon the public ways which is propelled otherwise than by human or animal muscular power, except electric or steam railways, road rollers, road graders, farm tractors, or vehicles of customary use on construction sites which are not practical for the transportation of personal property.

"WASTE." Ashes, discarded wood, and abandoned, discarded, or unused objects or equipment such as furniture, appliances, junk cars, cans, containers, and garbage or refuse of any kind, whether liquid or solid; or any accumulation of any foul, decaying, or putrescent substances. (This definition shall not apply to materials deposited under authorization of any state statute, administrative regulation, ordinance, commission, conditional use permit, or other appropriate governmental approval or to goods, wares, or merchandise deposited on any public way or any other public place temporarily in the necessary course of trade or business and removed therefrom within two (2) hours of being so deposited).

"WEEDS." Any unhealthful plant or growth such as, but not limited to the following: jimson, burdock, ragweed, thistle, cocklebur. or any other similar growth exceeding twelve (12) inches in height; vegetation which obstructs the safe view of traffic at any intersection or driveway; or vegetation which creates a nuisance by its very existence (i.e., poison ivy, kudzu, or dead or dying trees which may cause a hazard situation if they fall).
(Ord. 2013-2, passed 2-5-13)

§ 99.02 ENVIRONMENTAL NUISANCES.

It shall be unlawful for any owner, his or her agent, or any occupant of real property, public or private, or any other person or corporation, or each of them, in the city to cause, allow, or permit an environmental nuisance to exist on any property owned, occupied, or under control of the person, or to in any other way cause or permit a nuisance.
(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.03 LITTER, GARBAGE, TRASH, AND WEEDS.

(A) It shall be unlawful for any owner, his or her agent, or any occupant of real property, or any other person or corporation, or each of them, to drop, deposit, permit or acquiesce in the dropping, depositing or scattering in any manner in or on any public or private property or place within the city, any trash, litter, garbage, rubbish, debris, refuse, or waste of any kind, or other obnoxious materials, whether solid or liquid.

(B) It shall be unlawful for any owner, his or her agent, or any occupant of real property to perform any act with any of the aforementioned materials anywhere within the city on private or public property in such a manner that the materials maybe carried or deposited in whole or in part by the action of the sun, wind, rain, snow, or any of the nature's elements so as to be scattered, deposited or conveyed to any of the aforementioned places.

(C) It shall be unlawful for any owner, his or her agent, or any occupant of real property to allow any weeds or vegetation to accumulate.
(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.04 ABATEMENT OF ENVIRONMENTAL NUISANCES.

(A) It shall be unlawful for any owner, his or her agent, or any occupant or corporation, or each of them, whether or not the nuisance was created by the owner, agent, or occupant, to fail to remedy the existence of an environmental nuisance in violation of this chapter within seven (7) days unless a shorter period is specified pursuant to division (B) or (C) of this section after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to this chapter. An additional violation

shall occur for each additional day period that an environmental nuisance remains unabated regardless of whether the violator has requested a hearing pursuant to this chapter.

(B) It shall be unlawful for any owner, his or her agent, or any occupant or corporation, or each of them, whether or not the nuisance was created by the owner, agent, or occupant, to fail to remedy the existence of an environmental nuisance in violation of the provisions of this chapter within three (3) days after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to this chapter. In respect to violations of this section if these specific violations are not remedied, within seven (7) days after the three (3) day abatement period elapse then regardless whether an appeal has started as outlined under this chapter the city may, with a proper search warrant, enter the property where the violation was cited in order to remedy the violation immediately. If after the appeal the ruling is found to be in the violators favor then no further action is necessary and the city will not be able to collect any fines, penalties or cost the city incurred to remedy the charged violation. If however after the appeal the ruling is in the city's favor the violator as described above shall be responsible to pay to the city within ten (10) days all fees resulting from fines, penalties and additional cost incurred by the city to remedy the violation. If payment is not received by within the ten (10) day period then a lien shall be placed by the city against the property in which the violation occurred. Additional cost to remedy a violation shall be fair and approved by the Mayor prior to the work being completed.

(C) Notice in writing may be served upon an owner or person, or his or her agent or occupant by hand delivery, or by certified first class mail and by posting of the same on the property. The required notice if mailed shall be mailed to the last-known address of the owner of record of the property. Such notice shall describe the environmental nuisance so maintained, assessment of fines, and shall demand abatement of the nuisance within seven (7) calendar days from the date of notice, unless the nuisance constitutes an immediate danger to the health, safety, and well-being of the community, in which case notice shall demand immediate abatement. It shall be the duty of all owners to see that their current address is maintained on record in the County P.V.A. Office.

(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.05 DEADLINE FOR APPEAL OF NOTICE.

Those persons who receive notice to abate a nuisance pursuant to this chapter, may, within seven (7) days after the date of the notice, request a hearing to contest the notice and fine as provided for hereunder. A request for a hearing will not prevent additional notices and fines pursuant to this chapter. If the hearing officer finds the violators guilty of the violation, he shall order the fine paid along with any additional violation notice fine issued prior to the hearing date.

(Ord. 2013-2, passed 2-5-13)

§ 99.06 DILAPIDATED HOUSING.

It shall be unlawful for any owner, his or her agent, or any occupant of real property in the city to cause, allow, or permit any structure to be unfit for human habitation, occupancy, or use as provided in this chapter.

(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.07 PETITION ALLEGING THE STRUCTURE TO BE UNFIT: INSPECTION GUIDELINES USED BY CODE ENFORCEMENT OFFICER; COMPLAINT, NOTICE OF HEARING.

(A) Whenever a petition is filed with the Code Enforcement Officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human habitation, occupancy, or use, or where it appears to the Code Enforcement Officer on his or her own petition that any structure is unfit for human habitation, occupancy, or use, the Code Enforcement Officer shall conduct a preliminary investigation, using the inspection guidelines set forth in division (C) of this section below. If this preliminary investigation discloses the basis for such charges, the Code Enforcement Officer shall issue and cause to be served upon the owner of such structure a notice of violation stating the charges in that respect. The notice of violation shall state the remedial measures to be taken to abate the violation in addition to the fine provided for herein. The notice shall state a time limit in which to fully accomplish the remedial measures. The notice shall be sent to the owners of public record. It shall be the duty of all property owners to inform the County P.V.A. Office of their current address at all times.

(B) The complaint shall state that:

(1) The violator shall be entitled to request within ten (10) days after the date of the notice of violation a hearing to contest the notice of violation, remedial measures or fines and hearing will be held before the Code Enforcement Board at a place therein fixed not less than ten (10) days nor more than sixty (60) days after the date of a request for a hearing;

(2) The owner and parties in interest may file a response to the notice of violation and appear in person or otherwise and give testimony of the place and time fixed for the hearing; and

(3) The rules of evidence prevailing in the course of law of equity shall not be applied to the hearings before the hearing officer. The hearing officer shall be bound to apply the laws of the Commonwealth and the city.

(C) All building and structure inspections performed by the Code Enforcement Officer under division (A) of this section shall be reduced to a written report which shall among other things identify the type of

building and structure being inspected. The report shall identify the component elements of the structure, such as but not limited to the foundation, exterior walls, exterior skins, windows, doors, porch, chimneys, plumbing vents, gutters, downspouts, electrical vents, roof, secondary buildings, site conditions, interior walls, floors, hoists, sills, posts, subfloors, plumbing, heating equipment, pest controls, kitchens, bathrooms, other habitable rooms, attic, stairways, installation, electrical systems and plumbing fixtures.

(1) Each component element of the structure shall be considered and evaluated in terms of three (3) qualifiers, defined below:

(a) "ADEQUATE." Refers to a component in good repair without any defect.

(b) "REPAIR/MAINTAIN." Refers to components that are defective due to deferred maintenance or are substandard under the code. (In general, by repairing a component the end result should be equal to replacement of the component. A patch, minor defects, and painting are typically the kind of things repairs refer to. When in doubt as to whether an item can be repaired, it should be replaced).

(c) "REPLACE" or "INSTALL." Refers to components that are defective due to deferred maintenance beyond repair, components that are needed to bring the item up to code (replace electrical services, or the installation of plumbing vents when none exist).

(2) Each defect observed by the Inspector shall be rated in terms of the three (3) qualifiers defined in division (C)(1) of this section. A particular defect can be qualified in combinations such as repair/maintain and replace/install, if needed.

(3) A cost factor shall be identified by the inspector for each component element of the structure. A cost factor for each component element of the structure to be inspected shall be determined by the Code Enforcement Officer using the best available cost/price information for construction within the area. Cost factors per component shall be made available to the public as they are adopted from time to time by the Code Enforcement Officer. The cost factor will be stated in terms of points per component. Points are then totaled for both the exterior and interior survey. The interior survey results are totaled and average point totals are generated. The sampling of interior surveys should be representative of the area. The average interior point should then be added to each of the exterior surveys to achieve a sum total of points.

(4) The sum points per unit are multiplied by the adjustable point multiplier for a given year. The point multiplier shall from year to year be determined by the producer's price index for construction material obtained from the Bureau of Labor Statistics. The formula for total costs is computed as follows.

(a) Number of exterior sidings per component X cost factor per component = exterior component points.

(b) Sum exterior component points per structure.

(c) Add the interior point average from the sample to total exterior points per structure - sum total points per structure.

(d) Now multiply the sum total points per structure by the point estimated costs to rehabilitation structure.

(5) (a) A cost adjustment shall be made for the size of the dwelling unit. The cost shall be increased as the size of the structure exceeds one thousand two hundred (1,200) square feet. The cost adjustment shall be computed as follows:

Gross Square Feet	Percentage Increase
1201 - 1700	Add 10%
1701 - 2100	Add 25%
2101 - 2600	Add 50%
2600+	Add 75%

(b) After adjusted cost is completed, a total target area rehabilitation cost shall be calculated. A reasonable contingency amount shall be calculated. A reasonable contingency amount from between seven percent (7%) to ten percent (10%) shall be added to the final figure to cover unpredictable costs.

(6) "VALUE OF THE STRUCTURE" as referred to in this subchapter is defined as the fair market value of the structure in its existing condition at the time of the inspection. "FAIR MARKET VALUE" is defined as the price that a person who is willing but not compelled to buy would pay, and a seller who is willing but not forced to sell would accept for the property in question, less the fair market value of the real estate without the inspected structure. Consideration may be given to comparable sale of similar properties, the use and character of the neighborhood, adequacy of lot size, utilities and street layout. The city may elect to have the "FAIR MARKET VALUE OF THE STRUCTURE" determined by a professional real estate appraiser.

(Ord. 2013-2, passed 2-5-13)

§ 99.08 HEARINGS; FINDINGS OF FACT; ORDER.

If, after the notice and hearing, the hearing officer determines that the structure under consideration is unfit for human habitation, occupancy, or use, he or she shall state in writing his or her findings of facts in support of such determination as provided for in this

chapter (if different than the fine set in the notice of violation), and shall issue and cause to be served upon the owner thereof an order requiring the owner:

(A) To the extent and within the time specified in the order, to repair or alter the structure to render it fit for human habitation, occupancy, or use, or, at the option of the owner, remove or demolish said structure; or

(B) Within the time specified in the order, to remove or demolish the structure if the structure has been found to be unfit for human habitation, occupancy, or use for the third time within a three (3) year period regardless of ownership or cost to repair, alter, or improve.

(Ord. 2013-2, passed 2-5-13)

§ 99.09 REPAIRS, CLOSING AND DEMOLITION BY CITY WHEN ORDER NOT COMPLIED WITH; LIEN FOR EXPENSE.

(A) It shall be unlawful for any owner, his or her agent, or any occupant, in person or by his or her authorized agent, to fail to remedy the existence of any violation of this subchapter within the required time.

(B) If the owner, his or her agent, or any occupant, in person or by his or her authorized agent does not comply with the remedial measures provided for in this chapter or an order to abate as provided for in this chapter or other order to repair, alter, or improve, the city is authorized (in addition to any fine imposed) under this chapter to enter upon the property, to remedy the condition, or to repair, alter, improve, vacate, or close. The Code Enforcement Officer may cause to be posted on the main entrance of any closed structure a placard with the following words: "This building is unsafe for human habitation, occupancy or use; and the use or occupancy of this building for human habitation, occupancy or use, is prohibited and unlawful."

(C) If the owner does not comply with an order to remove or demolish a structure issued pursuant to this chapter, the city is authorized to enter upon the property and remove or demolish the structure.

(D) (1) If the owner does not comply with an order to abate issued pursuant to this chapter within the time provided for therein; or the remedial measures set forth in a notice of violation issued pursuant to this chapter within the time provided for therein; a "notice of intent to remove to demolish" may be issued to the owner of public record by first class mail which shall state: "That a hearing will be held before such officer as may be designated by the City Commission at a place therein fixed not less than thirty (30) days nor more than sixty (60) days after the date of the notice." Notice shall also be posted on the violating structure. This notice shall be in addition to any fine imposed for failure to abate under this chapter.

(2) If, after the notice and hearing, the hearing officer determines that the repairs, alterations or improvement previously ordered pursuant to this chapter cannot be made at a cost that is not more than fifty percent (50%) of the value of the structure, shall issue an order permitting the city to remove or demolish the structure.

(3) If the hearing officer finds that the repairs, alterations or improvements can be made at a cost that is not more than fifty percent (50%) of the value of the structure, he or she shall so state in an order and the city shall be permitted to pursue other remedies provided for in this chapter.

(4) The city has previously adopted regulations to be used in determining if repairs, alterations or improvement can be made at a cost that is not more than fifty percent (50%) of the value of the structure.

(E) The amount of the cost to remedy the condition; to make repairs, alterations, or improvements: to vacate, close, or remove; or to demolish shall be a lien upon the real property upon which said cost was incurred. This will include the cost of cutting, clearing, and removing such environmental nuisances in addition to other reasonable action necessary to abate the same. The affidavit of the Code Enforcement Officer or other responsible officer designated by the city shall constitute the time or place or evidence of the amount of the lien and the proceedings pursuant to this chapter upon the same being recorded in the office of the County Clerk. The document shall establish and constitute a lien upon and against the property wherein such labor and materials were utilized to remedy said condition. The recording of the lien shall be notice to the public at large of the existence of the lien and the same shall bear interest at the rate of twelve percent (12%) per annum from date of lien and thereafter until paid. If the structure is caused to be removed or demolished by the Code Enforcement Officer, the city may cause the structure to be removed or demolished, shall sell the materials of the structure, and shall credit the proceeds of the sale against the cost of removal or demolition. Any balance remaining therefrom shall be deposited in the Circuit Court by the Code Enforcement Officer to be disbursed by final order or decree of the Court.

(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.10 CONDITIONS THAT WARRANT FINDING OF UNFITNESS.

A structure is unfit for human habitation, occupancy, or use if conditions exist in such structure which are dangerous or injurious to the health, safety, or morals of the occupants of such structure, the occupants of the neighboring structure, or other residents of the city. Such conditions shall include, but not be limited to, the following: defects increasing the hazard of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities or other essential equipment required by this chapter; dilapidation; disrepair; structural defects; uncleanliness; violation of any law of the

Commonwealth of Kentucky, Kentucky building code or other Ordinance of the City of Dayton. The code requirements relating to maintenance of existing buildings for human occupancy and habitation promulgated by the Building Officials and Code Administrators (BOCA) International, Inc. National Property Maintenance Code/2006 and has subsequently amended is hereby adopted by reference as an additional guideline in determining if a structure is unfit.
(Ord. 2013-2, passed 2-5-13)

§ 99.11 EVICTION OF OCCUPANTS OF CONDEMNED STRUCTURE.

When the hearing officer has condemned as unfit for human habitation, occupancy or use, any structure, pursuant to this chapter and has ordered the same to be vacated, the Code Enforcement Officer may, after ten (10) days notice to the occupant or occupants thereof, apply to the District Court and obtain from such Court an order of eviction against the occupant or occupants thereof, and the sheriff shall forthwith evict such occupant or occupants and his or her belongings from the building. When there is actual and immediate danger of failure or collapse of a structure which would endanger life or when there is actual or potential danger to the buildings, occupants or those in the proximity of any structure because of violation of this chapter, the Code Enforcement Officer, fire chief or fire inspector is hereby authorized and empowered to order and require the occupants to vacate the premise forthwith.
(Ord. 2013-2, passed 2-5-13)

§ 99.12 SERVICE OF COMPLAINTS AND ORDERS.

Notices or orders issued by the Code Enforcement Officer pursuant to this chapter shall be served upon persons required herein either personally or by certified first class mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the Code Enforcement Officer in the exercise or reasonable diligence, then the service of such notice or order upon such persons maybe made by publication pursuant to KRS Chapter 424. A copy of such notice or order shall be posted in a conspicuous place on the premises affected by the complaint or order. Service upon a corporation shall be had upon its agent for service process or if none is maintained within the state, then to the last known address of the corporation or agent.
(Ord. 2013-2, passed 2-5-13)

§ 99.13 REMEDIES.

Any person affected by an order issued by the hearing officer may, within thirty (30) days after the posting and service of the order, petition the Circuit Court for an injunction restraining the Code Enforcement Officer from carrying out the provisions of the order, and the Court may issue a temporary injunction restraining the hearing officer pending the final disposition of the case. Hearing shall be held by the Court on such petition as soon thereafter as possible. In all such proceedings the findings of the hearing officer as to facts,

if supported by any evidence, shall be conclusive. The remedies herein provided shall be exclusive remedies and no person affected by an order of the hearing officer shall be entitled to recover any damages, for actions taken pursuant to any order of the hearing officer or because of noncompliance by such person with any order of the hearing officer. (Ord. 2013-2, passed 2-5-13)

§ 99.14 POWERS OF CODE ENFORCEMENT OFFICER AND HEARING OFFICER.

To investigate structures, issue notices of violation and obtain evidence the Code Enforcement Officer, fire inspector, fire chief, police officer, city administrator or such other person designated by the Mayor shall be vested with such powers as necessary and convenient to carry out the provisions of this chapter including the following powers in addition to others herein granted:

(A) To investigate the structural conditions of the city in order to determine which structures therein are unfit for human habitation, occupancy or use;

(B) The hearing officer shall be vested with the power, in addition to others herein granted, to administer oaths, affirmations, examine witness and receive evidence and to summons witness by making application to the Campbell District Court. To enter upon the premises for the purpose of making examinations, but such entry shall be made in such manner as to cause the least possible inconvenience to the person in possession.

(Ord. 2013-2, passed 2-5-13)

§ 99.15 INTERFERENCE WITH CODE ENFORCEMENT OFFICER DURING PERFORMANCE OF DUTIES.

It shall be unlawful for any person to interfere with the duties of the Code Enforcement Officer as required hereunder or to refuse entry upon any premises or into any structure in which the Code Enforcement Officer is authorized to enter pursuant to this chapter. (Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.16 LANDLORD LICENSING.

(A) Every person, individual, firm, owner, corporation, landlord, or combination thereof engaged in the business of leasing or renting of any apartment building, multiple unit, multiple dwelling units, or single-dwelling unit which has a separate power meter and is rented or leased for more than sixty (60) days to the same person or family regardless of whether the initial term is less than sixty (60) days if the term is routinely renewed for more than sixty (60) days, is hereby required to make application to and receive an annual license from the City Clerk/Treasurer's Office before engaging in the business. The annual license fee shall be the fee set forth in the business. The annual license fee shall be the fee set forth elsewhere in this Code or

Ordinances. The applicant shall state their name and address and identify the number of tenants occupying his or her property and the location thereof. The Clerk/Treasurer's Office shall present an updated list of all license holders the first working day of each month. The City Clerk/Treasurer's Office shall issue the license if:

(1) The applicant's property is not in violation of any ordinance of the city;

(2) All city taxes and fees shall be fully paid; and

(3) The applicant provides a full legal description of all parcels of property he or she rents.

(B) The Code Enforcement Officer is hereby empowered to revoke the license if it is discovered that the applicant has:

(1) Misrepresented himself or herself or the estate of his or her property;

(2) Refused access to premises for inspection as required by law; or

(3) Unabated violations or more than three (3) repeated violations on a same property in a twelve (12) month period.
(Ord. 2013-2, passed 2-5-13)

§ 99.17 INSPECTION; ENFORCEMENT.

(A) The Code Enforcement Officer shall inspect each unit before it is reoccupied by tenants or may inspect every rental facility within every two (2) to five (5) years, whichever event is shorter, in addition to any other inspection required by law or herein to which an applicant for license or licenses shall consent, to determine the health and safety conditions of the apartment buildings, multiple dwellings, rooming houses, dwelling or dwelling units, within the city.

(B) For the purpose of making this inspection, the Code Enforcement Officer is hereby authorized to enter, examine, and survey at all reasonable times before the unit is reoccupied all apartment buildings, commercial buildings, multiple dwellings, rooming houses, dwellings, or dwelling units. The tenant or person in charge of an apartment building, commercial building, multiple dwelling, rooming house, dwelling, or dwelling unit shall give the Code Enforcement Officer free access only to the leased portion of same or central facility serving same for the purpose of such inspection, examination, and survey.

(Ord. 2013-2, passed 2-5-13)

§ 99.18 NOTICE OF REVOCATION HEARING.

The Code Enforcement Officer shall cause notice of the revocation of the permit or license to be served upon the licensee as provided for herein for violation of any of the provisions of this chapter. The permittee or licensee may appeal to the Code Enforcement Board as stated elsewhere in this Code of Ordinances within seven (7) days of service of the notice of revocation. The owner may not allow another tenant to occupy their structure until such time as all issues are remedied or until the hearing is concluded and the decision is rendered to allow tenants back into their structure.

(Ord. 2013-2, passed 2-5-13)

NOISE POLLUTION

§ 99.30 DEFINITIONS.

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

"CONSTRUCTION." Any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

"EMERGENCY MACHINERY, VEHICLE OR ALARM." Any machinery, vehicle or alarm used, employed, performed or operated in an effort to protect, provide or restore safe conditions in the community or for the citizenry or work by private or public utilities when restoring utility service.

"EMERGENCY WORK." Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work by private or public utilities when restoring utility services.

"PERSON." Any individual, firm, association, partnership, joint venture or corporation.

"WEEKDAY." Any day, Monday through Saturday, which is not a legal holiday.

(Ord. 2013-2, passed 2-5-13)

§ 99.31 PROHIBITED NOISES.

No person shall make, or cause or suffer, or permit to be made upon any premises owned, occupied or controlled by such person, any unnecessary noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time, or place as to occasion unnecessary discomfort to any persons within the neighborhood

from which the noises emanate or which interfere with the peace and comfort of the residents of their guests, or the operators or customers in places of business in the vicinity, or which may detrimentally or adversely affect such residences or places of business.

(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.32 PROHIBITED ACTS.

Notwithstanding any other provisions of this chapter, the following acts and the causing or permitting thereof, are declared to be in violation of this chapter and are subject to penalty as mentioned in this chapter:

(A) Unnecessary noises. The unnecessary making of, or knowingly and unnecessarily permitting to be made, any loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building, except that the ordinary and usual sounds, noises, commotion or vibration incidental to the operation of those places when conducted in accordance with the usual and normal standard of practice applicable thereto and in a manner which will not disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators or customers of adjacent places of business.

(B) (1) Radios, phonographs, and the like. The using, operating or permitting to be played, used or operated of any radio, musical instrument, phonograph, television set, or instrument or device similar to those heretofore specifically mentioned for the production or reproduction of sound in volume sufficiently loud as to disturb the peace, quiet or repose of persons of ordinary and normal sensitivity who are in the immediate vicinity of such machine or device.

(2) Portable radios in public conveyances. The audible using, operating or playing, or permitting to be used, operated or played, of any radio, musical instrument or electronic recording device of any kind or character whatever in any public conveyance. It shall not be unlawful to listen to any such device by means of earplugs inserted in the hearer's ears and inaudible to any other person.

(C) Engines, motors and mechanical devices near residential district. Except as provided in division (F) of this section regarding construction-related noise, the sustained operation or use between the hours of 10:00 p.m. and 7:00 a.m. of any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, machine or mechanical device or other contrivance or facility unless such motor, engine, automobile, motorcycle, machine or mechanical device is enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible at a distance of fifty (50) feet from such structure, or within ten (10) feet of any residence.

(D) Motor vehicles. Racing the engine of any motor vehicle or needlessly bringing to a sudden start or stop of any motor vehicle.

(E) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause noise disturbance.

(F) Commercial construction, demolitions and excavation. The erection, including excavating, demolition, alteration or repair of any building, land clearing, land grading, drilling or road and utility construction other than between 7:00 a.m. and 7:00 p.m. Monday through Saturday and in case of an urgent necessity in the interest of public safety on Sunday.

(G) Non-emergency signaling devices.

(1) Sounding or permitting the sounding of any electronically-amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than ten (10) consecutive seconds in any hourly period.

(2) Sound sources included within this provision which are not exempted under this Chapter may be exempted by a variance issued by the Mayor.

(H) Emergency signaling devices.

(1) The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren whistle or similar emergency signaling device, for testing, except as provided in division (H)(2) of this section.

(2) Testing of an emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(3) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is terminated within fifteen (15) minutes of activation.

(I) Animals and birds. Owning, possessing or harboring any pet animal or pet bird that frequently or for continued duration makes sounds that create a noise disturbance across a residential real property line. (For the purpose of this division, a noise disturbance from a barking dog shall be defined as that created by a dog barking continually for ten (10) minutes or intermittently for thirty (30) minutes unless provoked.) This division (I) shall be enforced by the Animal Control Officer during regular business hours.

(J) Commercial establishments adjacent to residential property. Sustained noise from the premises of any commercial establishment, including any outdoor area part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. shall not be plainly unreasonably audible creating a disturbance at any residential dwelling.

(K) It shall be unlawful for any person, in or upon any public street, alley, or public place within the city to make any loud or unusual noise, or to speak in a loud or unusual tone, or to cry out or proclaim, for the purpose of influencing or attempting to induce or influence, any person to refrain from purchasing or using any goods, wares, merchandise or other articles, or for the purpose of inducing or influencing or attempting to induce or influence, any person to refrain from doing or performing any service or labor in any works, factory, place of business or employment or for the purpose of intimidating, threatening or coercing any person who is performing, seeking or obtaining service or labor or employment in any works, factory, place of business or employment.

(L) Noises near schools, hospitals, churches, and the like. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof; provided, that signs must be displayed in such streets indicting that the same is a school, institution of learning, church, court or hospital.

(M) The following acts and the causing thereof are declared to be loud-disturbing and unnecessary noises in violation of this subchapter, but the enumeration herein shall not be deemed to be exclusive:

(1) Horns and signaling devices. The sounding of any horn or other signaling device on any automobile, motorcycle, bus or other vehicle while stationary, except as a danger signal when an approaching vehicle is apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary period of time.

(2) Noisy vehicles. No person shall:

(a) Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud, unnecessary, grating, grinding, rattling or other noise;

(b) Operate any vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires or revving the motor of such vehicle; or

(c) Modify or cause to be modified the muffler, exhaust system or other noise-control device of any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noise control devices of any vehicle operated in the city shall be maintained and in good working order. No person shall operate or permit to be operated a vehicle where the muffler, exhaust system or other noise-control device has been so modified or has not been maintained. A law enforcement officer shall use his or her judgment to determine if someone is out of tolerance.

(N) The operation of restaurants, taverns, bars and nightclubs.

(1) No restaurant tavern, bar, nightclub, dance club or other similar use, whether public or private, shall be conducted so that unreasonable or unnecessary music or other noise is caused by and/or emanates from that use.

(2) Any owner, operator or proprietor of such a business use or the owner, licensee or person in control of any private premises shall so limit the level of noise emanating from the premises.

(3) Further, it shall be the duty of any such person to disperse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in lewd or disorderly conduct adjacent to or near the premises or to immediately notify the police of such conduct.

(O) Private residences. No noise from parties, entertainment music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from that use can be heard between the hours of 11:00 p.m. and 7:00 a.m. the following day inside any residence, regardless of whether the windows of such residence are open, or at any other time if the noise is unnecessary or unreasonable under the circumstances.

(P) Hawkers and peddlers. The loud shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(Q) Vendor's vehicle. Using, operating or playing, or permitting to be used, operated or played, any bell, radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in or upon any of the streets or highways within the city, which sound-producing instruments are set to produce any noise, music or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker: the use and operation of any vehicle so equipped with such soundproducing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m. of the succeeding day;

or the use or operation of any such sound-producing equipment in or upon any such vehicle while the vehicle is moving along or upon any street or highway; it being the intent and purpose of this division (Q) to permit the use of such sound-producing equipment in or upon any such vehicle only when the vehicle is parked or standing still in or upon any street or highway and during the hours provided in this division (Q).

(Ord. 2013-2, passed 2-5-13) Penalty, see § 99.99

§ 99.33 EXEMPTIONS.

The following activities shall be exempt from the provisions of this subchapter:

(A) Emergency exception. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

(B) Warning devices. Warning devices necessary for the protection of public safety as for example, police, fire and ambulance sirens and train horns.

(C) Outdoor activities. Activities conducted on public playgrounds and public or private school grounds including but not limited to school athletic and school entertainment events.

(D) Construction-special circumstances.

(1) The provisions of this subchapter do not apply to any person who performs construction, repair, excavation or earthmoving work pursuant to the expressed written permission of the Mayor to perform such work at times prohibited in this subchapter. The applicant must submit to the Mayor an application in writing, stating the reasons for the request and the facts upon which such reasons are based. The Mayor may grant written permission for the construction if he or she finds:

(a) The work proposed to be done is in the public interest;

(b) Hardship, injustice or unreasonable delay would result from the interruption thereof during the hours and days specified in this chapter; or

(c) The building or structure involved is devoted or intended to be devoted to a use immediately incident to public defense.

(2) Any applicant dissatisfied with the decision of the Mayor may appeal to the City Council by filing a notice of appeal with the City Clerk within ten (10) days after notice of the Mayor's decision. The City Council shall, within thirty (30) days of filing the appeal, affirm, reverse or modify the decision of the Mayor.

(3) The provisions of this subchapter do not apply to the construction, repair, or excavation during prohibited hours as maybe necessary for the preservation of life or property, when such necessity arises during such hours as the offices of the city are closed, or where such necessity requires immediate action prior to the time at which it would be possible to obtain a permit pursuant to this division (D). The person doing such construction, repair or excavation shall obtain a permit therefor within one (1) business day of such construction, repair or excavation.

(E) Outdoor gatherings, festivals, public dances, shows and sporting events. Provided the events are conducted pursuant to a permit issued by the Mayor.

(F) Church bells. Sounds created by church bells or chimes.

(G) Lawn mowers and yard equipment. Sounds created by lawn mowers, manual and power tools and household appliances in use between the hours of 8:00 a.m. and 8:00 p.m.

(H) Public utilities. Sounds created by public utilities in carrying out the operations of the city.
(Ord. 2013-2, passed 2-5-13)

CRIMINAL ACTIVITY NUISANCE PROPERTIES

§ 99.45 DEFINITIONS.

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

"CRIMINAL ACTIVITY NUISANCE." The occurrence on more than two (2) occasions in the preceding twelve (12) month period of a Criminal Nuisance Violation at any building, premises or parcel of real property located in the city.

"CRIMINAL NUISANCE VIOLATION." A criminal citation, arrest, or court-issued search warrant, leading to a felony or misdemeanor conviction.
(Ord. 2013-3, passed 2-5-13; Am. Ord. 2013-6, passed 6-4-13)

§ 99.46 PROHIBITIONS.

(A) Unlawful use of property. No owner of real property ("owner") located in the city shall allow his or her real property ("property") to become or be a criminal activity nuisance after having received notice that the property has been used for the commission of a criminal nuisance violation(s). An owner of property is deemed to have knowledge of such activity upon receipt of a notice from the city.

(B) Destroying orders or notices. No person or owner shall destroy, remove, or deface any order or notice posted by the Code Enforcement Officer.

(C) Disobeying orders. No person or owner shall disobey an order issued hereunder, or use or occupy or permit any other person to use or occupy any property ordered closed hereunder.
(Ord. 2013-3, passed 2-5-13) Penalty, see § 99.99

§ 99.47 DEFENSES AND EXCEPTIONS.

(A) Owner reported violation. If an Owner (or legal tenant) reports an illegal activity that leads to a criminal citation, arrest or court-ordered search warrant leading to a felony or misdemeanor conviction, such citation or warrant shall not be considered a Criminal Nuisance Violation for purposes of this Ordinance.

(B) Owner victim of violation. If an owner (or the legal tenant) is the victim of a crime that would otherwise be considered a criminal nuisance violation, that particular crime shall be excluded for purposes of determining criminal activity nuisance and any violation under division (A) of this section.

(C) Eviction of offenders. If an owner institutes an eviction proceeding against the offending tenant or occupant(s) within 30 days of a qualifying criminal activity nuisance or criminal nuisance violation(s) and that owner completes the eviction within 60 days of commencement or as soon thereafter as court procedures allow, that particular crime shall be excluded for purposes of determining criminal activity nuisance and any violation under division (A) of this section. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, abatement of the criminal activity nuisance or criminal nuisance violation(s) will be stayed until the judicial or quasi-judicial proceeding is resolved. In the case of a criminal activity nuisance or criminal nuisance violation(s) at a property that contains a multi-unit dwelling of multi-tenant building, the only parties necessary to name in an eviction proceeding hereunder are the occupants of the actual unit involved with the criminal activity nuisance or criminal nuisance violation.
(Ord. 2013-3, passed 2-5-13)

§ 99.48 ABATEMENT PROCEDURE FOR CHRONIC NUISANCE PROPERTIES.

(A) Duty of Police Department. The Dayton Police shall, as soon as possible but not less than every 30 days after a conviction pursuant to a criminal citation or arrest of persons or execution of court issued search warrants for crimes included in the definition of a criminal nuisance violation, notify the Code Enforcement Officer in writing of the specific violation investigated, the address of the Property on or in which the violations occurred, and the circumstances of the violation. After the police notify the Code Enforcement Officer

of the criminal nuisance violation at a property for the first time, the Code Enforcement Officer shall notify the owner of the criminal nuisance violation by regular U.S. mail.

(B) Notice. Whenever the Code Enforcement Officer receives information that a criminal activity nuisance exists in or upon a property, i.e., a third criminal nuisance violation has occurred at the property, the Code Enforcement Officer shall notify the owner that the property is a criminal activity nuisance and that the nuisance must be abated ("notice"). The notice shall be served personally or mailed by certified mail, and by regular mail. If the whereabouts of the owner are unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, or if the whereabouts of the owner are known and he or she refuses to accept the notice, then the Code Enforcement Officer shall make an affidavit to that effect, and thereafter may serve the notice by posting a copy of it in a conspicuous place on the property, and by sending a copy of the notice by regular U.S. mail to the owner's last known mailing address, and by newspaper publication, pursuant to KRS Chapter 424.

(C) Abatement.

(1) Should the criminal activity nuisance not be abated at the time stated in the notice, or by any extension granted by the City or its agencies, the Code Enforcement Officer shall be authorized at any time thereafter to issue an order closing and vacating the property, or portions thereof, to the extent necessary to abate the criminal activity nuisance ("order"). Such closing and vacating shall be for such period as the Code Enforcement Officer reasonably may direct, but in no event shall the closing and vacating be for a period of more than one year from the date of the order. An Order issued hereunder is not an act of possession, ownership, or control by the city.

(2) If the property contains multi-unit dwellings, multiple tenants, or mixed uses and the criminal activity nuisance has occurred solely within a unit or units, the order shall be restricted to the unit(s) in which the criminal activity nuisance has occurred, and shall not extend to any other unit on the property.

(3) Upon the issuance of an order, a copy of the order shall be served on the owner in the same manner as the notice and a copy shall be conspicuously posted on the property.

(4) If an owner fails to comply with an order issued hereunder, the Code Enforcement Officer may:

(a) Prohibit the furnishing of utility service, including but not limited to gas, electric, water, and heating oil, to the property by any public utility holding a franchise to use the streets and public ways of the city;

(b) Revoke the certificate of occupancy of the property or the occupational license of a business occupying or operating the property; or

(c) Use any other legal remedy available under the laws of the Commonwealth and the city's ordinances.

(5) The Code Enforcement Officer may vacate or suspend the provisions of an order upon a showing by clear and convincing evidence that the criminal activity nuisance has been abated and the owner has taken steps to insure that additional violations will not be permitted at the property.

(6) Actions taken by an owner to abate a criminal activity nuisance shall not be deemed to be violations of any fair housing laws or other landlord/tenant statutes or ordinances.

(7) Enforcement of this subchapter does not impair or restrict the ability of the city to bring a separate action to revoke the occupational license of a landlord or business that allows a criminal activity nuisance to exist on the property or to bring an action before the Code Enforcement Board for the imposition of civil fines. No civil fines will be assessed by the Code Enforcement Board until after notice is sent pursuant to division (B) of this section or if an eviction proceeding has been instituted pursuant to § 99.47(C).

(8) All orders and civil fines may be appealed to the Code Enforcement Board in the manner provided for and within the deadlines provided elsewhere in this code for appeals to such Board.
(Ord. 2013-3, passed 2-5-13)

§ 99.98 CITATION PROCEDURE.

(A) Any person who violates this chapter may be cited for the appropriate violation and assessed the fine as set out in this chapter. If any structure, parcel of land or tract of real estate is found to be in violation of this chapter, the owner or owners of the tract or parcel of land as reflected in the Property Valuation Office may be cited for the appropriate violation and fined as set out in this chapter.

(B) The form of the notice of violation of this chapter shall contain in substance the following information:

(1) A statement that the notice represents a determination that a violation of this chapter has been committed by the individual or owner of the structure or property and that the determination shall be final unless contested as provided for herein;

(2) A statement of the specific violation for which the citation is issued;

(3) A statement of the monetary fine established for the violation; and

(4) A statement of options for responding to the notice and the procedures necessary to exercise these options.

(C) A citation issued pursuant to this chapter represents a determination that a violation thereof has been committed, and such determination shall be final unless contested as provided for herein.

(D) The notice of violation shall be hand-delivered or mailed to the violator, or mailed to the last known address of the owner or violator as listed in the P.V.A. Office.

(E) (1) Any person who receives notice of a violation shall respond to such notice as provided in this section within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant hereto.

(2) If the individual cited for violation of this chapter or the property owner of the structure or real property cited for violation of this chapter has not responded to the notice within seven (7) days as provided for in division (E)(1) of this section, the city shall send a second notice by certified mail to the last known address of the individual or registered owner of the property as listed in the P.V.A. Office. Such notice shall state that if the individual or owner does not respond to the notice by either paying the fine or by requesting in writing with the City Clerk a hearing pursuant to this chapter, within seven (7) days of the receipt of the notice, the individual or owner shall be deemed to have waived his or her right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing and fails to pay the fine within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(Ord. 2013-2, passed 2-5-13)

§ 99.99 PENALTY.

(A) Violation of any provision of §§ 99.01 through 99.18 and §§ 99.30 through 99.33 is declared to be a civil offense. Any person violating any provision thereof shall be fined not more than two hundred (\$200). Any person electing not to contest citation for the offense shall be fined two hundred (\$200). Each day of violation shall constitute a separate offense.

(Ord. 2013-2, passed 2-5-13; Am. Ord. 2013-3, passed 2-5-13)