

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE

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CHAPTER 50: SOLID WASTE

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50.050 Disposal in approved sites	§ 50.001 DEFINITIONS.
50.051 Hazardous waste disposal	For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
<i>Permits</i>	<i>APPROVED INCINERATOR.</i> An incinerator which complies with all current regulations of the responsible local, state and federal air pollution control agencies.
50.060 Permit requirements	<i>BULKY RUBBISH.</i> Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors, with the equipment available therefor.
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COLLECTION. Removal of solid waste from the designated pickup location to the transportation vehicle.

CONTAINED LANDFILL or SANITARY LANDFILL. A facility for the disposal of solid waste consistent with the pursuant to criteria published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended.

COUNTY. Campbell County, Kentucky.

COURT. Campbell County Fiscal Court.

DEMOLITION and CONSTRUCTION WASTE. Waste materials from the construction or destruction of residential, industrial or commercial structures.

DISPOSABLE SOLID WASTE CONTAINER. Disposable plastic or paper sacks with a capacity of 20 to 35 gallons specifically designed for storage of solid waste.

DWELLING UNIT. Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

HAZARDOUS WASTE. Any waste or combination of wastes which is determined by the Kentucky Department for Environmental Protection, United States Environmental Protection Agency, and any other local, state or federal law pertaining to hazardous waste, because of its quantity, concentration, or physical, chemical or infectious characteristics may cause an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose a substantial present or potential threat to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

MULTIPLE HOUSING FACILITY. A housing facility containing more than one dwelling under one roof.

OCCUPANT. Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as an owner or as a tenant.

PERMITTED RESIDENTIAL SOLID WASTE COLLECTOR. A collector of residential solid waste, permitted for such purpose by the County or its designee.

PERSON. Any individual, partnership, corporation, association, joint stock company, trust, estate, political subdivision or organization of any kind, or their legal representative, agent or assigns.

PROCESSING. Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

SOLID WASTE. Any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges.

(1) **COMMERCIAL SOLID WASTE.** Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

(2) **RESIDENTIAL SOLID WASTE.** Solid waste resulting from the maintenance and operation of dwelling units.

SOLID WASTE CONTAINER. Receptacle used by any person to store solid waste during the interval between solid waste collections.

SOLID WASTE DISPOSAL. The process of discarding or getting rid of unwanted material, in particular the final deposition of solid waste by man.

SOLID WASTE MANAGEMENT. The administration of solid waste activities: storage, collection, source separation, transportation, processing, treatment and disposal.

STORAGE. Keeping, maintaining or storing solid waste from the time of its production or until the time of its collection.

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TRANSPORTATION. The transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

approved by a permitted residential solid waste collector. Containers shall be leakproof, waterproof, and fitted

YARD WASTES. Grass clippings, leaves, tree trimmings, and the like.
(Ord. O-15-91, passed 9-18-91)

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SOLID WASTE STORAGE

§ 50.010 STORAGE CONTAINERS REQUIRED.

The occupant or owner of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the limits of the County, shall provide sufficient and adequate containers for the storage of all solid waste except bulky rubbish and demolition and construction waste, to serve each such dwelling unit and/or establishment, and to maintain such solid waste containers at all times in good repair.
(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.011 SOLID WASTER TO BE STORED IN A MANNER PRESCRIBED BY ORDINANCE.

The occupant or owner of every dwelling unit of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard.
(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.99

§ 50.012 STANDARDS FOR RESIDENTIAL STORAGE CONTAINERS.

Residential solid waste shall be stored in containers of not more than 35 gallon capacity unless said storage containers are supplied and

with a fly-tight lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. The weight of any individual container and contents shall not exceed 75 pounds. Galvanized metal containers, or rubber, fiberglass, or plastic containers which do not become brittle in cold weather, may be used. Disposable solid waste containers with suitable frames or containers as recommended by the Campbell County Solid Waste Management Director and having been approved by the Campbell County Fiscal Court or respective city legislative bodies provided such containers are consistent with this chapter and in adopted solid waste management plan may also be used for storage of residential solid waste. Containers must be of a type and construction that will not allow access to the waste by dogs, cats, rodents or any other animals.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.013 STANDARDS FOR COMMERCIAL STORAGE CONTAINERS.

Commercial solid waste shall be stored in solid waste containers as recommended by the Campbell County Solid Waste Management Director and having been approved by the Campbell County Fiscal Court or respective city

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icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

COLLECTION OF SOLID WASTE

§ 50.025 COUNTY RESPONSIBILITY DEFINED.

The County shall provide for the collection of solid waste as follows:

(A) The County may at its discretion provide for the collection of all residential solid waste in the County, provided, however, that the County may provide the collection service by contracting with a person, county, or city or a combination thereof, for the entire County or portions thereof, as deem to be in the best interests of the County.

legislative bodies provided such containers are consistent with this chapter and the adopted solid waste management plan. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof; and shall meet all requirements as set forth by § 50.080.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.014 PROHIBITED ITEMS.

All types of yard wastes are discouraged from being discarded as solid waste within Campbell County. Vehicle tires and lead acid batteries are also discouraged from being discarded as solid waste within Campbell County.

(Ord. O-15-91, passed 9-18-91)

§ 50.015 AIRTIGHT CONTAINERS.

No owner or person of any building or dwelling shall leave outside any dwelling or building, in a place accessible to children, any abandoned or unattended

(B) The County may, at its discretion, provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved, it shall be the duty of such establishments to provide for collection of all solid waste produced upon any such premises.

(Ord. O-15-91, passed 9-18-91)

§ 50.026 NON-COMPULSORY COLLECTION.

Subscription to solid waste collection services as provided by the County or its contractors is not compulsory. However, the County shall assure that all residents who want services shall be provided such. (Ord. O-15-91, passed 9-18-91)

§ 50.027 COLLECTION POINTS.

Solid waste containers as required by this chapter for the storage of other residential solid waste shall be placed at the curb, alley, the rear of the building for collection or other locations approved or authorized by the waste hauler. Any solid waste container placed at the curb or alley for collection shall be so placed not more than 12 hours before collection and all such reusable containers shall be removed from the curb or alley 12 hours after collection.

(Ord. O-15-91, passed 9-18-91)

§ 50.028 AUTHORITY FOR COLLECTORS TO ENTER PRIVATE PROPERTY.

Solid waste collectors, employed by the Court or solid waste collection agency operating under contract with the County, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the Court by persons under contract with the Court. All solid waste collections, other than bulky rubbish, shall be collected at least one time per week.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.029 COLLECTOR'S RESPONSIBILITY DEFINED.

Solid waste collectors, employed by the County or a solid waste collection agency, operating under contract with or permitted by the County, shall be responsible for the collection of solid waste from the designated pickup location to the transportation vehicle provided the solid waste was stored in compliance with the provisions set forth in this chapter. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector. Solid waste collectors or land fill operators shall not dispose of "limited quantity generator" waste, as defined by State Statute, nor the disposal of infectious and medical waste, including but not limited to, contaminated needles and instruments, animal carcasses and pathological, laboratory and blood wastes, unless first receiving a permit modification authorizing acceptance of such waste. Limited quantity generators may not place hazardous waste with non-hazardous solid waste in garbage cans or dumpsters, without first having arranged for a permit modification.

(Ord. O-15-91, passed 9-18-91)

TRANSPORTATION OF SOLID WASTE

§ 50.040 COLLECTION VEHICLE STANDARDS.

All transportation vehicles shall be maintained in a safe, clean and sanitary condition, and shall be

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constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternative, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. (Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

DISPOSAL OF SOLID WASTE

§ 50.050 DISPOSAL IN APPROVED SITES.

(A) Solid wastes shall be deposited at a processing facility or disposal area approved by the County and complying with all requirements of KRS 224.40-100, 224.40-310 and 224.43-010 and the rules and regulations adopted thereunder. The County may designate the processing or disposal facility to be utilized by persons operating under §§ 50.060 through 50.070 of this chapter.

(B) Any new, renewal of other contracts or agreements which would allow out of state waste to enter Campbell County for processing or disposal at an authorized processing facility, disposal area, contained landfill or sanitary landfill in Campbell County, must first be approved and authorized by the commonwealth, and the County before its terms may be valid and enforceable. (Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.051 HAZARDOUS WASTE DISPOSAL.

Hazardous wastes under these provisions will require special handling and shall be disposed of only in a manner authorized by state statutes, regulations and County ordinances. (Ord. o-15-91, passed 9-18-91) Penalty, see § 50.999

PERMITS

§ 50.060 PERMIT REQUIREMENTS.

No person shall engage in the business of collecting, transporting, processing or disposing of solid wastes within the boundary limits of Campbell County, without first obtaining an annual permit from the County.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.061 INSURANCE REQUIREMENTS.

(A) No such permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the Court evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$100,000 for each person injured or killed, and in the amount of not less than \$500,000 in the event of injury or death of two or more persons in any single accident, and in the amount of not less than \$50,000 for damage to property.

(B) Such policy may be written to allow the first \$250 of liability for damage to property to be deductible. Should any such policy be canceled, the Court shall be notified of such cancellation by the insurance carrier in writing not less than ten days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

(Ord. O-15-91, passed 9-18-91)

§ 50.062 PERMIT APPLICATION.

Each applicant for any such permit shall state in his application therefor:

(A) The nature of the permit desired, as to collection, transportation, or processing of solid waste or any combination thereof;

(B) Name and address of the applicant and whether a sole proprietorship, corporation, or

partnership, with disclosure of the ownership interests;

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(C) The number of employees and solid waste collection vehicles to be operated thereunder;

(D) Schedule of fees the applicant plans to charge;

(E) The precise location or locations of solid waste processing or disposal facilities to be used;

(F) Boundaries of the collection area;

(G) Such other information as required by the Court; and

(H) State of incorporation and/or County of partnership registration.
(Ord. O-15-91, passed 9-18-91)

§ 50.063 PERMIT ISSUANCE.

If the application shows that the applicant will collect, transport and process solid wastes without hazard to the public health or damage to the environment, in conformity with the laws of the state and this chapter, and will be in the best interest to the citizens of Campbell County, then the Court may issue the permit authorized by this chapter. The Court shall have the authority to limit the number of annual permits issued under this section in order to preserve the health, comfort, safety and welfare of the residents, to promote energy conservation, and to provide for collection and disposal consistent with good solid waste management practices. The permit shall be issued for a period of one year, and each applicant shall pay therefor a fee of \$25.

(Ord. O-15-91, passed 9-18-91)

§ 50.064 APPLICANT DENIAL.

If the application does not clearly show that the collection, transportation, or processing of solid wastes will create no public health hazard or be without harmful effects on the environment, or will not be in the best interest of the citizens of Campbell County, then the application shall be denied and the applicant notified by the Court. Nothing in this section shall prevent the denial of a permit should the total number of annual permits have already been issued.

(Ord. O-15-91, passed 9-18-91)

§ 50.065 ANNUAL FEE.

The annual permit may be reviewed upon payment of the fee or fees as designated herein if the business has not been modified, the collection vehicles meet the requirements of § 50.040, and the renewal is approved by the Court. If modifications have been made the applicant shall reapply for a permit as set forth in §§ 50.061 and 50.062. No permits authorized by this chapter shall be transferable from person to person, without prior approval of
(Ord. O-15-91, passed 9-18-91)

§ 50.066 INSPECTIONS.

In order to insure compliance with the laws of the Commonwealth, this chapter and the rules and regulations authorized herein, the Campbell County Waste Management Director or the Campbell County Fiscal Court or its designee or any law enforcement agency is authorized to inspect all phases of solid waste management within the County. No inspection shall be made on any private property unless authorized by the occupant or by due process of law. In all instances where such inspection reveals violation of this chapter, the Campbell County Waste Management Director or the Campbell County Fiscal Court or its designee or any law enforcement agency shall issue notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken, together with the time in which such corrections shall be made. (Ord. O-15-91, passed 9-18-91)

§ 50.067 PERMIT SUSPENSION.

In all cases, when the corrective measures have not been taken within the time specified, the Court shall suspend or revoke the permit or permits involved in the violations, however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be given.
(Ord. O-15-91, passed 9-18-91)

§ 50.068 INJUNCTIVE RELIEF.

In the event a permit is revoked and the

person continues to operate, the Court may request
the action

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containers.

of a court of law to enjoin the acts and to enforce compliance with this chapter or any rule or regulation promulgated thereunder. In any such action, the court may grant to the County such prohibitory or mandatory injunctive relief as the facts may warrant.

(Ord. O-15-91, passed 9-18-91)

§ 50.069 PERMIT DISPLAY.

All motor vehicles operating under any permit required by this chapter shall display the number or numbers on each side in colors which contrast with that of the vehicle, such numbers to be clearly legible and not less than three inches high. Each permit for processing or disposal facilities shall be prominently displayed at the facility.

(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

§ 50.070 LIMITS ON NUMBER OF PERMITS.

There shall be specific limits for the number of permits issued to applicants for permits authorizing collection or transportation of solid waste under the terms of this chapter. There shall be a limit of one permit outstanding at any one time authorizing the applicant or the holder of the permit to operate a land fill or any other means of disposal of solid waste. The number of permits issued in any one year shall be determined by the Court, and such determination shall be made on an annual basis.

(Ord. O-15-91, passed 9-18-91)

RULES AND REGULATIONS

§ 50.080 RULES AND REGULATIONS.

(A) The Campbell County Solid Waste Coordinator will recommend to the Campbell County Fiscal Court who shall make, amend, revoke, and enforce reasonable rules and regulations, as approved by the Court for the storage, collection, transportation, processing, recycling, composting and disposal of solid waste, including, but not limited to:

(1) Preparation, drainage and wrapping of waste deposited in solid waste

(2) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.

(3) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any.

(4) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.

(5) Storage of solid waste in solid waste containers.

(6) Sanitation, maintenance and replacement of solid waste containers.

(7) Schedules of and routes for collection and transportation of solid waste.

(8) Collection points of solid waste containers.

(9) Collection, transportation,

processing and disposal of solid waste.

(10) Processing facilities and fees for the use thereof

(11) Disposal facilities and fees for the use thereof.

(12) Records of quantity and type of wastes recovered at processing and/or disposal facilities.

(13) Handling of special wastes such as sludge, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, and the like.

(14) Acceptable solid waste containers to indigent persons within Campbell County.

(B) A copy of any and all rules and regulations promulgated under the provisions hereof shall be filed in the office of the County Judge/Executive.
(Ord. O-15-91, passed 9-18-91) Penalty, see § 50.999

SERVICE CHARGE**§ 50.085 FEES.**

The Campbell County Fiscal Court may establish service charges or fees for each dwelling unit and each commercial establishment for solid waste collection and disposal as may be necessary to meet all costs of operation and maintaining the solid waste management system. All such fees which may be imposed, including revisions thereof, shall be paid by the resident or owner of record of the property served and shall be paid to the Court or its designee at times set by the Court. (Ord. O-15-91, passed 9-18-91)

§ 50.086 DELINQUENCY.

All unpaid fees shall become delinquent if payment is not received when due. Delinquent bills shall bear interest at the rate of 12% per annum until paid. The County may enforce collection of delinquent bills by bringing proper legal action against. (Ord. O-15-91, passed 9-18-91)

PUBLIC NUISANCES**§ 50.090 NOTIFICATION.**

It shall be the duty of the court to serve or cause to be served upon the owner or occupant of any premises on which there is or maintained any nuisance in violation of this chapter, and to demand the abatement of the nuisance within five days. (Ord. O-15-91, passed 9-18-91)

§ 50.091 NON-COMPLIANCE.

If the person so served does not abate the nuisance within five days, the County may proceed to abate such nuisance, keeping in account of the expense of abatement, and such abatement shall be charged and paid by such owner or occupant. Whenever a bill for such charges remains unpaid for ten days after the nuisance has been abated, the County may file a statement of lien claim against the property. (Ord. O-15-91, passed 9-18-91)

**SOLID WASTE MANAGEMENT FACILITIES;
SOLID WASTE SITING****§ 50.100 DEFINITIONS.**

(A) The terms **PERSON**, **SOLID WASTE MANAGEMENT FACILITY**, and **MUNICIPAL SOLID WASTE DISPOSAL FACILITY** shall be defined for the purpose of this subchapter the same as defined in KRS §§ 224.01-010.

(B) The terms **OWNER** and **OPERATOR** shall have the same meaning specified in 401 KAR 30:010 section (144) and (145).

(C) **SOLID WASTE SITE** or **FACILITY** means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal. (Ord. O-16-95, passed 10-18-95)

§ 50.101 REGISTRATION.

No person shall own, establish, construct, operate, maintain, or permit the use of waste site or facility within the boundaries of Campbell County without first having registered with the County, Solid Waste Division. Registration must be submitted at least ten days prior to activity. Registration shall include, but not be limited to:

(A) A description of the management, processing and/or disposal activities of each waste.

(B) The mailing address of the site or facility.

(C) The location of the site or facility.

(D) A description of the type of waste managed at the site or facility.

(E) The source of generation of the waste.

(F) An estimate of the quantity of such waste to be managed annually.

(G) Signature of owner or operator of site or facility.

(Ord. O-16-95, passed 10-18-95) Penalty, see §
50.999
1999 S-4 Repl.

§ 50.102 EMERGENCY PERMITS.

Registration for emergency permits shall include the same criteria as § 50.101 divisions (A) through (F) of this subchapter. Registration for this permit may be obtained verbally through the County Department of Emergency Management. (Ord. O-16-95, passed 10-18-95)

§ 50.103 ENVIRONMENTAL PERFORMANCE STANDARDS.

The owner or operator and site must be in compliance with the environmental performance standards as defined in 401 KAR 47:030. (Ord. O-16-95, passed 10-18-95) Penalty, see § 50.999

§ 50.104 SITE OR FACILITY INSPECTIONS.

Within ten days of receipt of registration, the County may perform a site inspection to insure compliance with Kentucky statutes, Kentucky Administrative Regulations, and/or local ordinances, not in conflict with this subchapter. (Ord. O-16-95, passed 10-18-95)

§ 50.105 LOCAL DETERMINATION.

Municipal solid waste disposal facilities must obtain local determination pursuant to KRS 224.40-315.

(Ord. O-16-95, passed 10-18-95) Penalty, see § 50.999

§ 50.999 PENALTY.

(A) Any person violating any of the provisions of this chapter, or any lawful rules or regulations promulgated pursuant thereto, shall be punished by a fine as per the following: §§ 50.010 through 50.015, \$25; §§ 50.025 through 50.29, \$25; § 50.040, \$100; §§ 50.050 and 50.051, \$1,000; §§ 50.060 through 50.070, \$500, provided that each days violation thereof shall be a separate offense for the purpose of calculating said fine. Violators of this chapter shall be issued violation letters by the Campbell County Fiscal Court designed whenever violation is found to exist.

(B) Any person who violates any provision of §§ 50.100 through 50.105 shall be fined not less than \$100 nor more than \$500 per occurrence and incarcerated in the county jail for a period not to exceed one year or both. Each day that such a violation occurs or continues to occur shall be considered a separate violation for which the violator shall be penalized under the provision of this section.

(Ord. O-15-91, passed 9-18-91; Am. Ord. O-16-95, passed 10-18-95)

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CHAPTER 51: RESERVED

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CHAPTER 52: HAZARDOUS MATERIALS USE AND CONTROL MEASURES

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***Extremely Hazardous Substance Facility
Emergency Response Plan***

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Administration and Enforcement

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GENERAL PROVISIONS

§ 52.01 PURPOSE.

This chapter is adopted by the Campbell County Fiscal Court for the purpose of protecting public health and safety in the county, through prevention and control of hazardous materials incidents and releases, requiring timely reporting

hazardous materials in accordance with federal, state, and county reporting requirements to appropriate local, state and federal authorities, and requiring payment by persons or parties responsible for unauthorized releases of hazardous materials of all expenses incurred by public safety and emergency agencies or private companies requested to assist public safety or emergency agencies in responding to such hazardous materials releases.

(Ord. O-17-95, passed 11-1-95)

§ 52.02 APPLICATION.

Pursuant to authority of KRS 67.083(7), the provisions of this chapter shall apply to all persons who manufacture, use, store, transport, handle, cause or allow the release, or otherwise manage hazardous materials in quantities prescribed by this chapter and as defined in § 52.15 within the entire area of Campbell County, including all incorporated and unincorporated areas thereof.

(Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16)

§ 52.03 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply and be controlling unless the context clearly indicates otherwise.

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

CONSUMER PRODUCT. The same meaning as stated in 15 United States Code 2052.

COSTS. All expenses incurred by local government and/or local emergency response organizations regardless of whether or not such agencies are publicly or privately owned in responding to any hazardous materials spill, leak, or other release into the environment and for any remedial or removal actions taken to protect and safeguard the public health and safety, property or the environment. The term includes, but is not

limited to, the costs for personnel, equipment and the use thereof, materials, supplies, services, lost wages of volunteer responders, damage to or loss of organization or personal property, and related expenses directly attributable to the response to an unauthorized hazardous material release.

EMPLOYEE. Any person who works, with or without compensation, in a work place.

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

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

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

HAZARDOUS MATERIAL. Any naturally occurring or manufactured element, compound, product, admixture, or substance, or any combination thereof, including but not limited to, petroleum and petroleum products, which are toxic, explosive, flammable, corrosive, radioactive, oxidizers, etiologic agents, carcinogens, or are highly reactive when mixed with other substances, and in any form or quantity whatsoever which causes, is likely to cause, or which can cause harm to people, property or the environment. The term includes, but is not limited to, any substance which is defined thereas under section 101 (14) of the Comprehensive Environmental Response and Recovery Act (CERCLA), listed by the U.S. Department of Transportation as hazardous materials under the Hazardous Materials Uniform

Transportation Safety Act and (HMUTSA) and under Title 49 of the Code of

Federal Regulations (CFR), a waste or combination of wastes as defined as a "hazardous waste" in 40 CFR 261.3, and those substances defined as hazardous wastes in 49 CFR 171.8.

HAZARDOUS MATERIALS RESPONSE (HAZMAT) TEAM. An organized group of individuals trained in accordance with the provisions of 29 CFR 1910.120 to perform work necessary to control or stabilize a release of hazardous materials where the work requires a close approach to the substance, and which is recognized by the jurisdiction as having responsibility for response to hazardous materials releases for the purpose of containment or control or stabilization of the release.

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

OIL. Oil of any kind or in any form including

but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with other than dredged spoil.

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

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

REMEDIAL ACTION. Any action consistent with permanent remedy taken instead of or in addition to any removal actions in the event of a release or threatened release of a hazardous material into the environment to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property, or the environment. The term includes, but is not limited to, such actions at the location of a release as storage, confinement, perimeter protection using dikes ditches, or trenches, clay (or other earth) cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoffs on-site treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect public health and welfare and the environment.

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

REPORTABLE QUANTITY. That quantity set forth in § 52.15 hereof.

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

STORE. To deposit or place a substance in the county for a period of 24 hours or more, provided that such material is not otherwise in transit.

UNIFIED INCIDENT COMMAND SYSTEM. A unified incident command system involving the

senior official of each separate agency or organization involved in response to a hazardous materials release or threatened release.

USE. To store, maintain, treat, process, handle, generate, dispose of, or otherwise manage. **USE** shall

not include any mode of transportation other than on-site transportation.

VESSEL. Every description of watercraft or other artificial contrivance used, or capable of being used, as a means or transportation on water. (Ord. O-17-95, passed 11-1-95)

§ 52.04 FEES.

Fees may be imposed for hazardous material plans extremely hazardous substance facility emergency response plans (hereinafter referred to as EHSFER Plans), the revenues from which shall cover only the cost of EHSFER Plan review and approval. The fees shall be in accordance with a schedule of fees set by the Campbell County Fiscal Court, and shall be collected by the administering agency. The fee schedule shall be uniform for all persons required to submit EHSFER Plans under the provisions of this chapter. (Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16)

EXTREMELY HAZARDOUS SUBSTANCE FACILITY

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EMERGENCY RESPONSE PLAN

§ 52.15 DETERMINATION OF REPORTABLE QUANTITIES AND FILING REQUIREMENTS.

(A) *Hazardous substances.* Substances designated under the federal Superfund Act (CERCLA) and those extremely hazardous substances designated under SARA Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 shall have the reportable quantities listed in the respective laws and regulations. Also reportable as a hazardous substance is any quantity of nerve and blister agents designated under KRS 224.50 - 130 (1)d.

(B) *Pollutants or contaminants.* A release or threatened release of any element, substance, compound, mixture or other material into the environment in a quantity that may present an imminent or substantial danger to the public health or welfare or the environment shall be deemed to have been released in a reportable quantity. The Kentucky Natural Resources and Environmental Protection Cabinet does have the authority to define reportable quantities of pollutants or contaminants.

(C) *Petroleum or petroleum products.* Any release including a fuel, oil, or lubricant in excess of 25 gallons shall be deemed to be a release in a reportable quantity as designated by KRS 224.01 - 400. The reportable quantity for fuel oil number 2 (diesel fuel) is 75 gallons as designated by KRS 224.01 - 400. However, any release of a fuel, oil, or lubricant into the navigable waters of the United States and any other surface water, ground water, or drinking water supply which causes a visible sheen or otherwise violates any other provisions of Section 311 of the Federal Clean Water Act or KRS 224.01 - 400, shall be deemed to be a release in a reportable quantity.

(D) *Release to sanitary or storm sewer system.* Notwithstanding any other provision of this section, any release of a hazardous material to a sanitary sewer system which is prohibited under the pretreatment or other regulations of the Sanitation District No. 1 of Campbell and Kenton Counties, or its successor agency, governing discharges to the sanitary sewer system shall be deemed to be discharged in reportable quantity.

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

(F) All persons subject to this chapter shall no later than March 1 each year file with the administering agency a MSDS or a listing of chemicals as required under EPCRA Sections 311 and 312 and a Tier 2 Report.
(Ord. O-17-95, passed 11-1-95; Am. Ord. O-04-2003, passed 4-9-03; Am. Ord. O-08-16, passed 8-18-16)

present or potential hazard to human health, property, or the environment.

(Ord. O-17-95, passed 11-1-95) Penalty, see § 52.99

§ 52.16 PROHIBITED ACTS.

It shall be unlawful for any person to cause, threaten or allow the release of a hazardous material into the environment within the territorial limits of Campbell County, Kentucky unless such release is an authorized release in accordance with an appropriate permit issued by that agency of the federal or state government having primary jurisdiction over such release, and such release is in such manner as will not create a substantial

§ 52.17 NOTIFICATION OF RELEASE OF HAZARDOUS MATERIALS.

(A) *Notice upon discovery.* Whenever a release or threatened release, other than an authorized release, of a hazardous material, in a quantity at or greater than the reportable quantity established for such material under § 52.15 of this chapter, or when the quantity of the released materials is not known, occurs or is imminent at or from any facility of any kind within this county, the person in charge of the facility shall immediately, and under no circumstances delay for more than one hour, upon discovery of the release or threatened release, or evidence that a release has occurred even though it has apparently been controlled, shall cause notice of the existence of such release or threatened release, the circumstances of the same, and the location thereof to the administering agency. Failure to report a release or threatened release, within the specified period of one hour, will be considered a violation of this section.

(B) *Method of notification.* The notice required to be given, by this section, in the county may be given by telephoning (859) 292-3622 or 911 (or such other subsequent number that may be established). This call will meet the requirements

for notification to local authorities only,

(C) *Duty to control release.* The notice required to be given by this section shall not be construed as forbidding or otherwise exempting any person on or about the facility from which a release has occurred or is threatening to occur from the duty of exercising all diligence necessary to control such release prior or subsequent to making the notice hereinbefore required to the administering agency, especially if such efforts may result in the containment of the release and/or the abatement of extreme hazard to employees or to the public, property of the environment. Delays in reporting due to any in house requirement for notification of on- or off-site owners/supervisors, etc., shall not be acceptable as reason for delay in notification of local authorities required by this section, and any such delay may result in penalties.

(D) *Duty to report to other agencies.* No statement contained in this section shall be construed to exempt or release any person from any other notification or reporting requirement or procedures in accordance with other applicable laws, ordinances, or regulations. (Ord. O-17-95, passed 11-1-95; Am. Ord. O-04-2003, passed 4-9-03)

§ 52.18 AUTHORIZED RELEASE.

There shall be no liability under this chapter for any release permitted by state or federal law, but only to the extent that such release is made in accordance with an appropriate permit granted by the state or federal agency having primary jurisdiction over such release and that such release is in full compliance with the terms and conditions of such permit with respect to time, location and manner of release so that such release will not create a hazard or potential hazard to human health, property, or the environment; or if such release is in substantially lesser quantities than those reportable quantities established by state or federal law, regulations, permit requirements, or ordinance of the jurisdiction in which such release shall occur.

(Ord. O-17-95, passed 11-1-95)

chemicals in the ordinary course of agricultural operations, providing said operations are taking place on property owned by such persons, other than warehousing or bulk storage of such chemicals for resale or commercial application;

§ 52.19 EXTREMELY HAZARDOUS SUBSTANCE FACILITY EMERGENCY RESPONSE PLANS.

The following persons must prepare, submit to the administering agency and to the fire department having jurisdiction, and maintain a hazardous materials extremely hazardous substance facility emergency response plans (EHSFER) plan):

(A) All federal, state and local government agencies which use hazardous materials in reportable quantities;

(B) All persons required by Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499) and/or state law, to report to the Kentucky Emergency Response Commission (KERC) and to the Northern Kentucky Emergency Planning Committee (NKEPC) for the jurisdiction pursuant to the said Pub. L. 99-499; and

(C) Those persons not covered under division (A) or (B) above who use hazardous materials may be required to file a EHSFER plan if the administering agency finds it necessary to protect the health and safety of the public or of emergency services providers responding to a facility in the event of a release of such hazardous materials.

(D) *Exemptions.*

(1) Persons who handle agricultural

(2) Persons who handle hazardous materials only in conjunction with residential use or property for noncommercial purposes; and

(3) Consumer products and foodstuffs packaged for distribution to and intended for use by the general public. (This exemption is intended to apply only to ingredients used in production of foodstuffs which are regulated by the Federal Food, Drug and Cosmetic Act, as amended). (Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16) Penalty, see § 52.99

§ 52.20 REQUIRED EHSFER PLAN ELEMENTS.

(A) The administering agency shall provide forms with the necessary instructions and requirements for completing EHSFER plans in compliance with this chapter. The EHSFER plans will include, but not be limited to, information regarding:

(1) Facility identification, street address, names and day and night telephone numbers of a primary and one or more alternate contact persons;

(2) Spill history of the facility;

(3) A listing of the hazardous materials kept on premises, the United Nations (or North American) (UN/NA) Number and the Chemical Abstract Service (CAS) identification number, and the total quantity (indicated in pounds) of the material kept on the premises at any given time;

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

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

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

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

(8) Contingency Plans, including spill notification procedures for both internal personnel as well as outside authorities, including, but not limited to, the administering agency, the fire department, and appropriate federal and state authorities;

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

(10) Security provisions;

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

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

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

(14) Certification of the plan by a registered professional engineer or an officer of the company.

(B) For the purposes of this section, only one plan need be submitted by the owner of electrical equipment at multiple locations when such equipment contains hazardous materials as a coolant, lubricant, or insulation for the operation of such equipment. Subdivisions (4) and (6) of division (A) shall not apply to single plans authorized under this division.

(C) *Plan submittal deadlines.* Those persons and facilities required to submit a EHSFER Plan under this chapter shall submit such plans in duplicate to the administering agency within 180 days following the effective date of this chapter provided, however, that person requiring to submit such EHSFER Plans may request in writing for extensions of time where the complexity of the operations involved require additional time in which to complete such plans. When granted by the administering agency, such extensions of time shall be for periods of 30 days each, provided, however, that not more than three such extensions of time may be granted in any given year.

(D) *Review and approval of EHSFER plans.* The administering agency, the fire department having jurisdiction, and, when necessary under SARA Title

III, the Northern Kentucky Emergency Planning Committee (NKEPC) and the Kentucky Emergency Response Commission (KERC), shall review and approve each EHSFER plan submitted under this chapter. Upon submission of EHSFER plan or granting

of time extension in accordance with division (C) above, the person submitting the plan shall be presumed to be in compliance with this section pending final approval of the plan. EHSFER plans which do not provide the necessary information or are otherwise deficient shall be returned to the person submitting the plan for revision and resubmittal.

(E) *Updates, revisions and changes.* A new or modified EHSFER plan may be required to be submitted to the administering agency when any person institutes the use of a new process or change in its manufacturing or processing facilities, or when there is a significant change in its existing operations or wastewater constituents or characteristics, or an increase in the chemical quantities thereof used.

(F) *Training and educational programs.*

(1) Each employer who used hazardous materials as herein defined and who is required to prepare and submit a EHSFER plan shall be required to have an initial and ongoing safety and accident prevention program for all employees. This training and education program shall include, but not be limited to, appropriate work practices, protective measures, and emergency procedures in the event of the release or threatened release of

hazardous materials. The details and frequency of the training program shall be included as part of the EHSFER plan for the facility.

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

(Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16) Penalty, see § 52.99

ADMINISTRATION AND ENFORCEMENT

§ 52.30 ADMINISTERING AGENCY.

The purpose of this chapter is to establish a uniform countywide program for protection of people, property, and the environment from the consequences of uncontrolled releases of hazardous materials to be administered by existing agencies of county government and emergency response organizations; therefore, the Office of Emergency Management Services established in the county government pursuant to state law shall be the lead agency in the administration of this chapter.

(Ord. O-17-95, passed 11-1-95)

§ 52.31 RESPONSE TO HAZARDOUS MATERIALS INCIDENTS.

(A) The Fire Chief of the jurisdiction in which such release or threatened release is located shall have primary authority for taking remedial or removal actions necessary to control or contain such release or threatened release and to assure the protection of human health, property and the environment. The role of the administering agency and the Hazardous Materials Response Team (HMRT) is to give technical advice and assistance to the Fire Chief. The administering agency or the HMRT shall not direct the emergency response unless requested to do so by the Fire Chief or his authorized representative.

(B) The Fire Chief, administering agency, or HMRT shall immediately report any release or threatened release to the executive authority of the jurisdiction (e.g. Mayor, County judge executive, city manager, city administrative officer, county coordinator). If in the opinion of the executive authority, the seriousness of the situation warrants, the chief executive officer of the jurisdiction (mayor or county judge executive) shall declare the existence of a state of emergency in the jurisdiction, and thereafter the response authority provided in this section shall be vested in such chief executive officer. In such event, the chief executive may authorize the Fire Chief or other appropriate person to exercise all or part of the response authority provided by this section until further notice.

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

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

(E) Direction and control of the response to hazardous materials incidents occurring anywhere

in the county shall be managed through an incident specific Unified Command System (UCS) involving the senior representative of each public and private agency or organization or facility involved in such response. Furthermore, all response will be in

compliance with OSHA 1910.120 and NFPA 472 regulations and guidelines regarding hazardous materials response.
(Ord. O-17-95, passed 11-1-95)

§ 52.32 LIABILITY FOR COSTS.

Notwithstanding any other provision or rule of law, the following persons shall be jointly and severally liable for all costs of removal and remedial actions incurred by local government and/or public or private safety and emergency agencies and organizations as a direct or indirect consequence of a response to an actual or threatened release of a hazardous material into the environment:

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

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

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

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

(E) Any person and the employer of any person, whether as an employee or as an independent contractor, who causes or allows the release of hazardous materials.
(Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16)

§ 52.33 CONTRACTUAL INDEMNIFICATION; SUBROGATION.

(A) No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for

a release of hazardous materials of threat thereof under this chapter. Nothing in this section shall bar any arrangement to insure, hold harmless or indemnify a party to such agreement for any liability under this chapter.

(B) Nothing in this section, including the provisions of division (A) above, shall bar a cause of action that an owner or operator or any other person subject to liability under this chapter, or a guarantor, has or would have, by reason of subrogation or otherwise against any person. (Ord. O-17-95, passed 11-1-95) Penalty, see § 52.99

secrets by certified mail, return receipt requested. The notification shall advise the person requesting confidentiality of the decision of the administering agency regarding the release of confidential

§ 52.34 INSPECTIONS.

The administering agency and the response authority shall have the authority to, jointly, conduct periodic inspections of any facilities, for the purpose of ascertaining and causing to be corrected, any condition which may be a violation of this chapter. Joint inspections shall be conducted where necessary for purposes of EHSFER Plan review and approval by the administering agency and the fire department having jurisdiction. Inspections shall be made during regular business hours except by special arrangement with the person in charge of the facility. (Ord. O-17-95, passed 11-1-95; Am. Ord. O-08-16, passed 8-18-16)

§ 52.35 CONFIDENTIAL INFORMATION AND TRADE SECRETS.

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

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

(B) Any request made under the law for information containing confidential or trade secret information shall be brought to the attention of the person requesting confidentiality of its trade

information. In no event will such confidential information be released until five days have elapsed from the date notice is sent by certified mail as provided in this section.

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

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

(E) The provisions of this section shall in no way prohibit or limit the exchange of information, confidential or otherwise, between public agencies when the exchange is serving a legitimate government need or is necessary in the

performance of a government function including, but not limited to, the carrying out of the provisions and intent of this chapter.

(F) The Office of Campbell County Emergency Management shall be the repository for all trade secret information for the purposes of this chapter.

(Ord. O-17-95, passed 11-1-95)

§ 52.36 ENFORCEMENT; NOTICE OF VIOLATION.

(A) The provisions of this chapter shall be enforced in the county by the Office of Campbell County Emergency Management established in the county government pursuant to state law, and the director and deputy director thereof, shall be empowered as Inspection and Enforcement Officers, by executive order of the Campbell County Judge Executive, to enforce all Kentucky Revised Statutes, rules, regulations, and ordinances of the jurisdiction related to the use and control of hazardous materials, including but not limited to, issuing a Notice of Violation to violators of §§ 52.16 or 52.17 of this chapter.

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

(1) A statement that if the situation is not remedied within the prescribed period of time, the administering agency may proceed to correct the violation.

(2) A statement that the person shall be liable for any costs incurred by public agencies associated with their releases.

(3) A statement that after the administering agency has corrected the violation, a bill shall be sent charging the person the amount of costs and expenses incurred by the governmental agency in correcting the violation.

(4) A statement that penalties may be levied for violations that have occurred.

(C) *Governmental response.* In cases where the identity of the person who is responsible for facilities upon which a violation has occurred is not known at the time that the violation is reported or discovered, or in cases of an emergency nature where it is deemed necessary by a representative of the Campbell County Office of Emergency Management, or the Fire Chief of the jurisdiction in which the release is located, to take immediate remedial action, the county or any governmental agency within the county may take reasonable steps to abate any problem and may take reasonable steps to clean-up the area affected to assure continuing safety of the public and the environment. When the identity of the person responsible for the facility is determined, a bill shall be sent to that person for the costs for correcting the violation according to the provisions of divisions (A) and (B) of this section.

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

(Ord. O-17-95, passed 11-1-95; Am. Ord. O-1-2002, passed 2-6-02)

§ 52.37 DISCLAIMER OF LIABILITY.

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

(Ord. O-17-95, passed 11-1-95)

§ 52.99 PENALTIES.

(A) Any person who is responsible for the release or substantial threat of a release of hazardous materials into the environment in violation of § 52.16 or who fails to report such release or threatened release in violation of § 52.17 of this chapter shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class A misdemeanor and subject to a fine of up to \$500 or imprisonment of up to one year or by both such fine and imprisonment as is otherwise provided by law for such offense. Each day the violation occurs, exists or continues shall be deemed to be a separate offense.

(B) Any person who otherwise violates any provision of this chapter other than §§ 52.16 or 52.17 shall, upon conviction thereof by a court of competent jurisdiction, be guilty of a Class B misdemeanor and subject to such fine of up to \$250 or imprisonment up to 90 days in jail or by both fine and imprisonment as is otherwise provided by law for such offense. Each day the violation occurs, exists or continues shall be deemed to be a separate offense.

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

(D) The failure or refusal of anyone to pay all the costs incurred for remedial actions under this chapter shall also constitute a criminal offense, and any person who violates any of the provisions of this chapter by failing to pay said costs shall, upon conviction thereof by a court of competent

jurisdiction, be guilty of a Class B misdemeanor and subject to a fine of up to \$250 or imprisonment up to 90 days in jail or by both fine and imprisonment.

(E) The failure to file the forms required by § 52.15(F) by March 1 of each year shall be subject to a fine of \$5.00 for each day the forms are not filed after March 1 of each year.

(Ord. O-17-95, passed 11-1-95; Am. Ord. O-1-2002, passed 2-6-02; Am. Ord. O-08-16, passed 8-18-16)

Editor's note: Former Chapter 53, Industrial Waste Water Treatment Plant, Pretreatment Program and Spill Control based on Ord. O-14-93, passed 9-15-93 and Ord. O-21-97, passed 9-17-97, was repealed by Res. R-41-98, passed 10-7-98.

CHAPTER 53: RESERVED

Section

- 54.01 Use of fire hydrant without permission prohibited
- 54.02 Fire hydrant spanner wrench required
- 54.03 Water supply shortage levels
- 54.99 Penalty

CHAPTER 54: WATER

§ 54.02 FIRE HYDRANT SPANNER WRENCH REQUIRED.

No person shall draw water from or use in any way, a fire hydrant connected to the Campbell County Water District's water system without the use of a regulation fire hydrant spanner wrench. (Ord. O-18-93, passed 1-5-94) Penalty, see § 54.99

§ 54.01 USE OF FIRE HYDRANT WITHOUT PERMISSION PROHIBITED.

(A) No person, other than an employee of the Campbell County Water District, or a firefighter, in case of an emergency, shall draw water from or in any way tamper with, or use, any fire hydrant connected to the Campbell County Water District's water system without first obtaining the written permission of the Director or General Manager of the Campbell County Water District.

(B) The Fire Service shall contact Campbell County Water District to obtain permit number prior to usage for non-emergency operations. (Ord. O-18-93, passed 1-5-94) Penalty, see § 54.99

address numbers are Tuesdays, Thursday and Saturdays. The designated days for customers living in residences with even address numbers are Wednesdays, Fridays and Sundays. All residential customers will voluntarily refrain from non-essential watering on Mondays. Those customers of the NKWSD that are not readily defined by physical addresses are requested to voluntarily limit non-essential watering by 50%.

(2) For purposes of this section, non-essential watering will include, but not be limited to:

- (a) Watering of lawns, trees, flowers and gardens;
- (b) Use of fire hydrants (except for fire fighting and other essential purposes) including flushing of sewers and hydrants, except as needed for public health and safety;
- (c) Increasing water levels in scenic and recreational ponds and lakes, except for minimum amounts required to support wildlife;

§ 54.03 WATER SUPPLY SHORTAGE LEVELS.

(A) *Level 1.*

(1) Whenever the Chief Executive Officer or Administrator of the NKWSD, the public purveyor of potable water in Campbell and Kenton Counties, finds that a potential shortage of the supply of treated water exists or will exist, and upon written certification thereof to the Judge/Executive, the Judge/Executive may publicly declare Level 1 conservation. The Judge/Executive will call upon all customers of the NKWSD in the county to voluntarily limit any non-essential watering to designated days. The designated days for customers living in residences with odd

(d) Filling or introducing additional water into swimming pools, fountains, reflecting pools and artificial waterfalls;

(e) Use of water for dirt control or compaction;

(f) Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard surfaces, and flushing of gutters;

(g) Washing buildings or structures other than for purposes of fire protection;

(h) Washing of motor vehicles or other vehicles.

(B) *Level 2.* Whenever the Chief Executive Officer or Administrator of the NKWSD finds that a condition exists where it may not be able to meet the expected needs of its customers, and upon written certification thereof, the Judge/Executive may publicly declare Level 2 conservation. This declaration will make mandatory all of the stated conservation provisions in Level 1 conservation.

(C) *Level 3.* Whenever the Chief Executive Officer or Administrator of the NKWSD finds that a condition exists where it will not be able to meet

the expected needs of its customers and that such a condition will

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exist for some period of time in the future, and upon written certification thereof to the Judge/Executive, the Judge/Executive may publicly declare Level 3 conservation. This declaration will require compliance with the mandatory requirements of Level 2 conservation, and will also call upon all customers of NKWSD in the county to refrain from all non-essential watering on all days.

finds that the conditions calling for the declaration no longer exist, and the Judge/Executive downgrades or lifts the conservation level. (Ord. O-13-2000, passed 7-19-00)

(D) *Level 4.*

(1) Whenever the Chief Executive Officer or Administrator of the NKWSD finds that NKWSD is unable to meet the expected needs of its customers and that such a condition will exist for some period of time in the future, and upon written certification thereof to the Judge/Executive, the Judge/Executive may publicly declare Level 4 conservation. This declaration will make mandatory all of the stated conservation provisions in Level 3 conservation.

§ 54.99 PENALTY.

(A) Violation of §§ 54.01 and 54.02 of this chapter shall constitute a violation, the penalty for which is a fine not to exceed the sum of \$250.

(B) Non-compliance with any mandatory requirement of § 54.03 will constitute a violation, the penalty for which is a fine not to exceed the sum of \$250. Any person who violates the requirements of Level 4 conservation will be subject to a fine not to exceed \$250 and up to 90 days imprisonment. Each day in violation of the terms of this section will constitute a separate offense. (Ord. O-18-93, passed 1-5-94; Am. Ord. O-13-2000, passed 7-19-00)

(2) Whenever the Judge/Executive has declared Level 4 conservation, he may promulgate such administrative regulations governing all water usage by all customers of the NKWSD as may appear necessary to protect the health and public safety of the residents of the county in a manner consistent with the terms of this section.

(E) *Duration.* Declaration of any conservation level of this section will remain in effect until the Chief Executive Officer or Administrator of NKWSD

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