

**COMMONWEALTH OF KENTUCKY  
BOYD COUNTY FISCAL COURT  
ORDINANCE NO. 04-15**

**AN ORDINANCE RELATING TO NEW CONSTRUCTION AND REQUIRING  
SETBACKS FROM COUNTY RIGHTS OF WAY AND EASEMENTS AND  
FURTHER REQUIRING PERSONS ENCROACHING UPON THE COUNTY  
RIGHTS OF WAY TO OBTAIN A PERMIT FROM THE OFFICE OF THE  
JUDGE EXECUTIVE AND DECLARING AN EMERGENCY**

WHEREAS, the Boyd Fiscal Court has become aware of an increasing and growing problem with persons erecting structures or undertaking other construction immediately adjacent to county rights of way and/or easements; and

WHEREAS, the Boyd County Fiscal Court finds that it is in the public interest and in the best interest of Boyd County that persons undertaking construction be required to undertake such projects in consideration of a setback from any existing county road right of way or county easement; and

WHEREAS, the Boyd Fiscal Court further determines the need to require persons who intend to encroach upon an actual right of way or easement obtain a permit;

BE IT ORDAINED by the Fiscal Court of Boyd County, Kentucky as follows:

Any person who erects, builds or otherwise places upon his or her property any temporary or permanent building, dwelling, structure, or any other type structure shall observe the following setback rules and guidelines:

1. Any construction along any 60 foot county road right of way shall be setback from the edge of the right of way not less than 10 feet.
2. Any construction along any county road right of way of less than 30 feet shall be not less than 40 feet from the edge of the pavement or traveled portion of the roadway which exists upon the right of way or easement.

3. In addition to the foregoing, any persons desiring to construct or place any culvert, bridge, driveway or other encroachment upon a county road right of way or easement shall, before undertaking any work, obtain a permit from the Office of the Boyd County Judge executive.

4. The Boyd County Judge Executive's Office may deny a permit to any person planning to undertake any encroachments which the Office of the County Judge Executive does not believe is contrary to the interest of the county or otherwise may cause unreasonable and intolerable effects upon adjoining land owners or persons or property owners. Should a person seeking a permit be denied, then that person shall have the right to appear at a regularly scheduled meeting of the Boyd Fiscal Court so as to present an appeal to the full fiscal court at which time the fiscal court, may, by majority vote, override the decision of the judge executive's Office and order that the permit be issued.

5. Permits issued hereunder shall be signed and dated by the Boyd County Judge Executive or his/her lawful designee.

Any and all ordinances previously adopted which are in conflict with this ordinance are hereby repealed but only to the extent of said conflict.

The county does hereby declare an emergency to exist, thereby allowing this ordinance to be given two readings on the same day.

The Fiscal Court Clerk is directed to publish a true and correct copy of this full ordinance as required by law.

Any person who shall violate any provision of this ordinance shall be subject to civil suit by the Boyd Fiscal Court in addition to any other penalties imposed hereunder.

Any person violating the provisions hereof shall be guilty of a Class A Misdemeanor as defined by the Kentucky Penal Code and subjected to the penalties provided for and consistent therewith.

Any person, firm or corporation who undertakes any construction following the passage of this ordinance does so at his/her own peril and may be ordered by a court

of justice of the Commonwealth of Kentucky to cease any construction violating this ordinance and further ordered to remove any construction which has already been undertaken prior to said court's ruling.

This ordinance shall be in effect upon its adoption, re-adoption and publication according to law.

Should any portion of this ordinance be declared invalid, unconstitutional or otherwise unenforceable, then only that portion so declared shall be affected and all other portions shall in full force and effect until otherwise determined.



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BILL F. SCOTT  
BOYD COUNTY JUDGE EXECUTIVE

ATTEST:



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BOYD COUNTY FISCAL COURT CLERK

FIRST READING: 9-7-04

SECOND READING: 9-7-04