

BOYD COUNTY FISCAL COURT

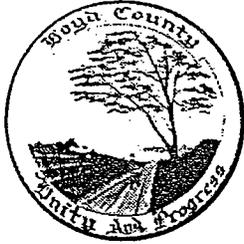
P. O. Box 423
CATLETTSBURG, KENTUCKY 41129

BILLY JOE ROSS, County Judge - Executive

EDRICK
Attorney

ITY
Treasurer

IES
Court Clerk



TOM JACKSON
County Commissioner

ROBERT C. REYNOLDS
County Commissioner

CARL TOLLIVER
County Commissioner

September 26, 1994

BOYD COUNTY FISCAL COURT

ORDINANCE # 80

AN ORDINANCE PERTAINING TO PUBLIC, HEALTH, SAFETY, AND WELFARE:
REGULATING OPEN DUMPING AND CRIMINAL LITTERING IN BOYD COUNTY,
KENTUCKY: PROVIDING FOR A REDUCTION IN THE NUMBER OF OPEN AND
ILLEGAL DUMPS PRESENTLY WITHIN BOYD COUNTY, KENTUCKY, AND
PREVENTING THEIR REOCCURENCE; PROVIDING A PENALTY FOR VIOLATION
OF THE PROVISIONS OF THIS ORDINANCE.

BE IT ORDAINED BY THE BOYD COUNTY FISCAL COURT, THAT THIS
ORDINANCE SHALL BE KNOWN AS THE "OPEN DUMPING AND LITTERING
ORDINANCE.

FIRST READING: SEPT. 21, 1994
SECOND READING TO BE OCTOBER 5, 1994

/s/ Billy Joe Ross
Boyd County Judge Exec.

ATTEST:

/s/ Debbie Jones
Fiscal Court Clerk

Published: September 28, 1994

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BE IT ORDAINED by the Fiscal Court of the County of Boyd, Kentucky, that this ordinance shall be known as the Open Dumping and Littering Ordinance. The Solid Waste Coordinator shall be responsible for the administrative management of this ordinance.

SECTION 1
DEFINITIONS

For the purpose of this ordinance the following terms shall be deemed to have the meaning indicated below:

COUNTY - the county of Boyd, Kentucky.

DWELLING UNIT - any room or group of homes 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/or eating.

HAZARDOUS WASTE - any waste or combination of wastes which is determined by the Kentucky Cabinet for Human Resources and Environmental Protection because of its quantity, concentration, physical, chemical or infectious characteristics may cause or significantly contribute to an increase in serious irreversible, or incapacitating irreversible illness, or pose a substantial present or potential threat to human health or the environment when improperly treated, stored, transported or disposed of, or

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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 owner or as a tenant.

OPEN DUMP - Any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill and is not a facility for disposal of hazardous waste.

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.

SOLID WASTE - Any garbage, trash, junk, rubbish, refuse, sludge or 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.

(a) Commercial solid waste - solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

(b) Residential solid waste- solid waste resulting from the maintenance and operation of dwelling units.

SOLID WASTE COORDINATOR - the Director of the Solid Waste Management Program of Boyd County and implementer of the County Solid Waste Plan including educational programs to explain the need for solid waste collection and proper disposal, composting and recycling as well as enforcement of ordinances enacted by the Fiscal Court.

STORAGE - keeping, maintaining, storing, or permitting or allowing the accumulation of solid waste from the time of its production until the time of its collection.

YARD WASTES - grass clippings, leaves, tree trimmings and other lawn debris.

SECTION II

GOAL

Reduce the number of illegal dumps in the county by _____% through cleanup operations and stepped-up enforcement and to reduce the amount of criminal littering occurring in Boyd County, Kentucky through strict enforcement of the Kentucky Revised Statutes Criminal Littering Prohibitions.

SECTION III

SOLID WASTE COORDINATOR TASKS

The Solid Waste Coordinator shall, with the help of the Solid Waste Commission, and under the supervision of the Boyd County Fiscal Court:

(a) Conduct public information program through

newspaper articles, county-wide mailings and personal contact.

(b) Maintain a current inventory of as many open dumps as possible and advise the Boyd County Fiscal Court on cleanup procedures including priorities for cleanup of such open dumps therefore working to reduce the number of open dumps in the county and prevent their reoccurrence.

(c) Notify responsible persons to prevent any further use of existing open dumps. Establish and publicize a local telephone number which residents may call to report illegal dumping.

(d) Contact civic groups and local businesses to solicit their support or contribution in cleaning up specified open dumps.

(e) Establish an educational program on Solid Waste Management for use in the Boyd County School System.

(f) Work toward county participation in the "Clean Community Program."

SECTION IV BOYD COUNTY FISCAL COURT TASKS

The Boyd County Fiscal Court shall work towards the accomplishment of the following tasks:

(a) Establishing budget funds sufficient to meet manpower, fuel, and equipment requirements to clean up open dumps in Boyd County under priority system established by the Solid Waste Coordinator.

(b) Support the establishment of community and

school educational programs that work toward educating the public as to the need for solid waste management in Boyd County, Kentucky.

(c) Support the strict prosecution of individuals found in violation of the provisions of this ordinance and of the Kentucky Revised Statutes criminal littering prohibitions.

(d) Work toward the expansion of garbage collection to areas of the county not presently covered by door to door garbage collection and to encourage persons who have such services now available to subscribe to such service as soon as possible.

(e) Post needed areas with signs reading, "NO DUMPING, OPEN DUMPING SUBJECT TO \$500.00 FINE." If possible, the Fiscal Court will work to physically block access to the site.

(f) Publicize cleanup efforts of the county, city, civic groups and/or businesses in the local paper.

SECTION V
CLEANUP PROCEDURES FOR OPEN DUMPS/PRIVATE PROPERTY

If an open dump is reported and/or discovered on private property the solid waste coordinator shall:

- Identify the owner when complaint received
- Encourage owner to cleanup the dump if he or she is responsible for the dump.
- With the approval of Boyd County Fiscal Court, provide help with equipment and personnel if the dump is caused by other people dumping without permission.
- If no action is taken within 60 days, file a complaint with the District Court.

SECTION VI
CLEANUP PROCEDURES FOR OPEN DUMPS/PRIVATE PROPERTY

If an open dump is reported and/or discovered on public property, the solid waste coordinator shall:

- Determine if the open dump extends onto private property and if so, who owns the property.
- Determine if there is a rat or other vermin population and exterminate if necessary.
- Determine if there is an environmental threat such as to pose a threat to a stream or other water source and if so, authorize the use of county equipment to eliminate the public health threat. A complete inventory of costs shall be kept and reported to the Boyd County Fiscal Court.
- If the cleanup can be accomplished with existing funds and equipment, with the approval of the Boyd County Fiscal Court, the open dump may be cleaned up and the solid waste hauled by county or privately owned trucks to a sanitary landfill.

SECTION VII
COST RECOVERY

When the local government must cleanup and remove an open dump in order to insure the public health and the responsible party can be identified, the local government shall require that the responsible party reimburse the local government of the costs of the cleanup and proper disposal of the solid waste. The Solid Waste Coordinator, with the approval of the Boyd County Fiscal Court, may seek such reimbursement of local funds by legal means

should other means of collection prove ineffective after a 90 day period of time from the date such cleanup project is completed.

Such cost recovery shall not apply to property-owners who are the victim of illegal dumping of solid waste without their permission and beyond their reasonable control.

SECTION VIII
OPEN DUMPING PROHIBITED

No person shall operate or knowingly allow open dumping on their property by any person within the confines of Boyd County, Kentucky.

No person shall knowingly dispose of solid waste or yard waste at any location in Boyd County, Kentucky other than a licensed sanitary landfill or through the use of a commercial garbage pickup service disposing of such wastes at a licensed sanitary landfill.

Any person found to be knowingly operating or allowing an open dump on their property shall be served with written notice from the Solid Waste Coordinator and delivered by a law enforcement agency a "NOTICE OF REQUIRED CLEANUP" and given a reasonable amount of time to dispose of the open dump properly at a licensed sanitary landfill.

Should the person refuse to comply with the written notice then the county may cleanup the opened dump and recover costs under Section 7 of this Ordinance. In addition, the county shall file a complaint for criminal action with the District Court, County Attorney or other appropriate person. Any person disposing of solid waste or yard waste at any site other than a licensed

a narrative statement setting forth the Appellant's argument, excuse, justification or explanation as to why the penalty assessed is unjust or improper. The Fiscal Court shall make a decision based upon the written appeal and any relevant documents submitted by the Solid Waste Coordinator but may, in its discretion, cause a hearing to be held. The decision of the Fiscal Court shall be final. The County Attorney is hereby authorized to initiate civil proceedings for the collection of civil penalties assessed hereunder.

SECTION X
SEVERABILITY CLAUSE

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such inapplicability shall not affect or impair the remaining provisions of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE UPON PASSAGE AND PUBLICATION.

GIVEN FIRST READING ON Sept. 21, 1994.

GIVEN SECOND READING, PASSED, ADOPTED, AND APPROVED the Fiscal Court of Boyd County, Kentucky, upon Motion of Bob

Reynolds seconded by CARL Tolliver
at a duly convened meeting thereof held on the 5th day of October, 1994 with yea and nay votes as follows:

Billy Joe Ross yes

Robert Reynolds yes

Tom Jackson

yes

Carl Tolliver

yes

GIVEN FINAL PUBLICATION in The Daily Independent on the 5th
day of October, 1994.

Billy Joe Ross
BILLY JOE ROSS
BOYD COUNTY JUDGE/EXECUTIVE

ATTEST: [Signature]
FISCAL COURT CLERK