

BOYD COUNTY SOLID WASTE MANAGEMENT ORDINANCE

NUMBER # 2014-02

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A LICENSE FEE FOR
SOLID WASTE LANDFILLS PURSUANT TO KRS 68.178 PROHIBITING NUISANCE(S) AND PROVIDING
PENALTIES FOR VIOLATION

BE IT ORDAINED by the fiscal court of County of Boyd, Commonwealth of Kentucky:

WHEREAS, the Boyd County Fiscal Court is the Governing Body for the Boyd County Solid Waste Management Area;

WHEREAS, the Boyd County Solid Waste Management Area has been designated by the Environmental and Public Protection Cabinet in accordance with the Provisions of KRS Chapter 224;

WHEREAS, the transportation of solid waste from outside of the Boyd County Solid Waste Management Area to off-site waste management facilities or solid waste landfills located in Boyd County will produce wear and tear on the roads of Boyd County; and

WHEREAS, the transportation of solid waste from outside of the Boyd County Solid Waste Management Area to off-site waste management facilities or solid waste landfills located in Boyd County increases the need for litter control and the provision of emergency services;

WHEREAS, The Courts of Kentucky have determined that the management of solid waste, including its disposal, is vested exclusively in County Fiscal Courts;

WHEREAS, Kentucky Revised Statute 67.083(0) grants Fiscal Courts the exclusive obligation to manage solid wastes by ordinance or contract;

WHEREAS, Kentucky Revised Statute 67.083(3)(a) gives Fiscal Courts the power to abate a nuisance and Kentucky Revised Statute 67.083(m) gives Fiscal Courts the power to regulate commerce for the protection and convenience of the public;

NOW, THEREFORE, the Boyd County Fiscal Court enacts this Ordinance pursuant to KRS 68.178 to impose a license fee on off-site waste management facilities and solid waste landfills.

SECTION 1. APPLICABILITY

(a) This Ordinance shall apply to any landfill located in Boyd County as hereinafter defined.

(b) The owner/operator of a landfill shall obtain a license to operate as required by this Ordinance.

SECTION 2. DEFINITIONS

The following terms, as used in this ordinance, shall have the following definitions:

(a) "Cabinet" means the Environmental and Public Protection Cabinet or any successor.

(b) "Gross Receipts" means the total receipts received for Solid Waste accepted and disposed at a landfill.

(c) "Owner/operator" means the owner of any landfill or any person responsible for overall operation of a Landfill.

(d) "Solid Waste" means solid waste as defined in the Kentucky Revised Statutes 224.1-010

(e) "Landfill" means a (i) contained landfill, (ii) construction demolition/debris landfill, (iii) less than one acre construction demolition/debris landfill as regulated pursuant to KRS 224.40-120, (iv) residential landfill (v) sanitary landfill or (vi) other disposal facility as defined in the regulations of the Cabinet; to include but not limited to any municipal solid waste disposal facility as defined at KRS 229.1-010(15)

SECTION 3. LICENSE TO OPERATE A SOLID WASTE LANDFILL

- (a) The owner/operator of a landfill shall obtain a license to operate from the Boyd County Solid Waste Coordinator. The owner/operator shall submit an application for a license to operate to the Boyd County Solid Waste Coordinator. The application shall include (i) the name of the owner/operator of the landfill, (ii) the address of the landfill and (iii) a description of the location of the landfill. The application shall also identify a person available for contact twenty four (24) hours a day in case of emergency as well as contact information.
- (b) The owner/operator of an existing landfill currently in operation in Boyd County shall submit an application for a license to operate to the Boyd County Solid Waste Coordinator within ten (10) days of the effective date of this Ordinance. The owner/operator of a new landfill in Boyd County shall submit an application for a license to operate to the Boyd County Solid Waste Coordinator prior to commencing operation and shall not commence operation until a license is issued.

SECTION 4. LICENSE FEE FOR A LANDFILL

- (a) The owner/operator of a landfill shall pay Boyd County a license fee of five percent (5%) of the Gross Receipts received by the owner/operator for disposal of Solid Waste which originates from inside the Boyd County Solid Waste Management Area, and shall pay a license fee of six and one-quarter (6.25%) of the Gross Receipts received by the owner/operator for disposal of Solid Waste which originates from outside of Boyd County Solid Waste Management Area.
- (b) The license fee shall be remitted to the Boyd County Treasurer on or before the 15th day of each month for Gross Receipts received during the previous calendar month.

(c) A report shall be submitted with payment of the license fee which sets forth (i) the amount of Solid Waste which originated from inside the Boyd County Solid Waste Management Area and was disposed of at the landfill during the preceding calendar month (ii) the amount of solid waste which originated outside the Boyd County Solid Waste Management Area and disposed of at the landfill during the preceding calendar month and (iii) the Gross Receipts received from the disposal of solid waste during the preceding calendar month.

SECTION 5. NUISANCE ABATEMENT

The owner/operator of a landfill shall use best efforts to prevent any nuisance arising out of operation of the landfill.

- (a) "Best Efforts" as used above shall, at a minimum, include but not be limited to, preventing unreasonable noise, preventing and/or suppressing offensive, noxious, nauseating, toxic, non-toxic and other smells, odors or fumes escaping the real property line boundaries of the landfill or railcars or other containers intended for receipt and disposal at the landfill and situated anywhere in the Boyd County Solid Waste Area.
- (b) The owner/operator of a landfill shall employ, install and utilize methods which are known and generally accepted as the most effective, lawful means of preventing suppressing and/or eliminating the odors, smells and fumes anticipated above.
- (c) In the event that a nuisance is not abated to the satisfaction of the Boyd County Fiscal Court, the License granted pursuant to this Ordinance may be revoked at the discretion of the Fiscal Court. Any action to revoke the license granted by this Ordinance shall be taken after notice to the Licensee; which notice shall give the Licensee an opportunity to object to the revocation and present such evidence as the Fiscal Court in its discretion may allow. Any

legal proceeding contesting the revocation of the License given pursuant to this Ordinance may only be brought in the Circuit Court of Boyd County, Kentucky.

SECTION 6. VIOLATIONS AND PENALTIES

- (a) This Ordinance may be enforced either civilly, criminally or both
- (b) Violation of this Ordinance shall upon conviction of an individual result in a fine of not less than \$50.00 nor more than \$500.00 per conviction or imprisonment in the county jail for not less than 90 days nor more than 12 months and in the case of conviction of a corporation a fine not to exceed \$10,000.00 per offense. (KRS 534.050(2)(b).
- (c) In the case of nuisance, a civil penalty of not less than \$5,000.00 per day, but not more than \$10,000.00 per day may be imposed each and every day a nuisance is deemed to continue after notice of violation is issued by the Boyd County Code Enforcement or County Judge Executive.
- (d) This Ordinance may also be enforced by injunctive or similar action in the Boyd Circuit Court.

This Ordinance shall become effective upon its adoption, re-adoption and publication according to law.

Any Ordinance in conflict with the terms hereof be and hereby is/are repealed but only to the extent of such conflict.

In the event that any section, subsection, part or portion of this Ordinance be found or declared to be void, defective, unconstitutional or in any other way unenforceable such shall not effect the remainder of the Ordinance not so declared.

First Reading

July 1, 2014

William "Bud" Stevens
WILLIAM "BUD" STEVENS

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BOYD COUNTY JUDGE EXECUTIVE

Second Reading 7-15-14
Attest [Signature]
Boyd County Fiscal Court Clerk

Published _____