

**MARTIN COUNTY SOLID WASTE
MANAGEMENT AND CODE
ENFORCEMENT ORDINANCE**

**ADOPTED BY: ACTION OF MARTIN
COUNTY FISCAL COURT**

ORDINANCE NO: 2023- 5

- Section 1: Definitions
- Section 2: Storage of Solid Waste
 - Section 2.1: Storage Containers Required
 - Section 2.2: Commercial Storage
 - Section 2.3: Standards for Residential, Commercial, Institutional and Industrial Use Storage Containers
 - Section 2.4: Airtight Containers
 - Section 2.5: Storage Containers not in Compliance
- Section 3: Collection of Solid Waste
 - Section 3.1 County Responsibility Defined
 - Section 3.2: Mandatory Collection
 - Section 3.3: Collection Points
 - Section 3.4: Bulky Items and Heavy Items
 - Section 3.5: Authority for Collectors to Enter Private Property
 - Section 3.6: Collection Frequency
 - Section 3.7: Ownership of Solid Waste
 - Section 3.8: Collectors Responsibility Defined
 - Section 3.9: Prohibitions
- Section 4: Transportation of Solid Waste
 - Section 4.1: Collection Vehicle Standards
- Section 5: Disposal of Solid Waste
 - Section 5.1: Open Burning
 - Section 5.2: Open Dumping
 - Section 5.3: Disposal Sites
 - Section 5.4: Hazardous Waste
- Section 6: Siting Requirements
 - Section 6.1: License Requirements
 - Section 6.2: License Applications
 - Section 6.3: Incinerators and Landfills
 - Section 6.4: License Issuance
 - Section 6.5: License Suspension
- Section 7: Franchising
 - Section 7.1: Franchise Requirement
 - Section 7.2: Establishment of a Franchise
 - Section 7.3: Granting a Franchise
 - Section 7.4: Fee Approval
 - Section 7.5: Termination of Franchise
- Section 8: Rules and Regulations
- Section 9: Prohibited Practices
- Section 10: Bonds
- Section 11: Public Nuisances
 - Section 11.1: Notices
 - Section 11.2: Abatement/Penalties
- Section 12: Code Enforcement Board
 - Section 12.1: Creation and Membership
 - Section 12.2: Powers

- Section 12.3: Board Members
- Section 12.4: Organization of the Board: Quorum
- Section 12.5: Conflict of Interest
- Section 12.6: Jurisdiction
- Section 12.7: Powers of the Code Enforcement Board
- Section 12.8: Enforcement Proceedings
- Section 12.9: Hearing, Notice, and Final Order
- Section 12.10 Legal Counsel
- Section 12.11: Appeals; Final Judgement
- Section 12.12: Ordinance Fine Schedule
- Section 12.13: Liens; Fines; Charges; and Fees
- Section 12.14: Code Enforcement Officer(s)
- Section 13: Saving Clause
- Section 14: Severability Clause

**MARTIN COUNTY SOLID WASTE MANAGEMENT AND
CODE ENFORCEMENT ORDINANCE**

Martin County Fiscal Court Ordinance No. 2023-_____

AN ORDINANCE pertaining to public health, safety and welfare; districts franchised, collection, processing, transportation and disposal of solid waste; providing a penalty for the violation of the provisions of this Ordinance and repealing any and all ordinances in conflict herewith.

Pursuant to Kentucky Revised Statutes 224 and 109 and related administrative regulations, Martin County, including its cities, has been designated as a solid waste management area, based upon a Solid Waste Management Plan approved by the Cabinet for Natural Resources and Environmental Protection, hereinafter referred to as "the Cabinet," of the State of Kentucky. In addition, Martin County is acting under powers outlined in KRS 67.083(3)(o), which provides the authority for the exclusive management of solid waste by ordinance or contract, KRS 67.083(3), subsections (c) and (r), which provide authority to regulate and manage public sanitation and garbage disposal service, KRS 67.083(3)(h), which gives authority to fiscal courts for conservation, preservation and enhancement of natural resources, KRS 67.083 which provides for the regulation of unsafe structures, and KRS 68.178, which grants counties authority to license off-site waste management facilities.

The Martin County Fiscal Court in January of 2016, and passed an ordinance relating to the disposal of solid waste in Martin County and prohibiting unlawful disposal of solid waste. The Martin County Fiscal Court in May of 2005, passed an ordinance relating of the abatement of nuisances.

Further, the Martin County Fiscal Court desires to replace and update this previously passed ordinance.

The Martin County Fiscal Court is aware of an ever-increasing volume of solid waste being generated within the County, making it more difficult to facilitate the proper collection and disposal of solid waste; and

The collection and disposal of solid waste, at present, does not facilitate the efficient collection or disposal of same; and

It appears that the present collection system does not adequately serve the citizens of Martin County and cannot serve the future needs of this county as it pertains to the protection of our environment, as well as the protection of the public health and welfare of the citizens residing therein; and

It has been determined by Martin County Fiscal Court that it is necessary to implement a comprehensive and efficient method of providing for adequate solid waste collection, management and disposal.

Through the intent specified in KRS 65.8801 to 65.8839, Martin County Fiscal Court continues to desire to protect, promote and improve the health, safety and welfare of the citizens of Martin County by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective and inexpensive method of ensuring compliance with the ordinances in force within the county.

NOW, THEREFORE BE IT HEREBY ORDAINED as follows:

This Ordinance shall be known as the Martin County Solid Waste Management and Code Enforcement Ordinance.

The Fiscal Court or its designee shall be responsible for the administrative management of this

SOLID WASTE v.5

Ordinance and the promulgation of rules and regulations.

SECTION 1: DEFINITIONS

For the purpose of this Ordinance, the following terms shall be deemed to have the meanings indicated below.

Agriculture Waste: Any non-hazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, pruning and crop residues.

Approved Incinerator: An incinerator that complies with all current regulations of the responsible local, state and federal air pollution control agencies.

Bulky Waste: Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institution or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles.

Cabinet: The Energy and Environment Cabinet.

Closure: The time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses.

Code Enforcement Board: An administrative body created and acting under the authority of the Martin County Fiscal Court.

Code Enforcement Officer: A safety officer, citation officer or other public law enforcement officer with the authority to issue a citation.

Collection: Removal of solid waste from the designated pick-up location to the transfer vehicle. Acceptable collection practices shall consist of door-to-door household collection.

Collection Box: An unstaffed receptacle utilized to collect municipal solid waste.

Commercial Solid Waste: All types of solid waste generated by operation of any commercial, industrial, institutional or agricultural apartment buildings, hotels/motels, stores, offices, restaurants, warehouses and other service and non-manufacturing activities.

Transfer Center: A facility that is staffed during operating hours for the collection and subsequent transportation of municipal solid wastes.

Coordinator: The coordinator of the Solid Waste Management Program of the County will be the County Judge/Executive unless another is so designated by the Martin County Fiscal Court and appointed by the County Judge/Executive and approved by the Martin County Fiscal Court.

County: The county of Martin, Kentucky.

Demolition and Construction Waste: Materials resulting from the construction or destruction of residential, industrial or commercial structures.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including ground waters.

Dwelling Units: 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.

Generator: Any person, by site, whose act or process produces waste.

Governing Body: A county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 through 65.192, a special district created pursuant to the provisions of KRS 65.160 through 65.176, or counties acting under contract pursuant to KRS 109.082.

Hazardous Waste: Any waste or combination of wastes which are because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

Household Solid Waste: Solid waste, including garbage and trash generated by single family residences, ranger stations, crew quarters and recreational areas such as picnic areas, parks and campgrounds.

Industrial Solid Waste: Solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.868, including, but not limited to, waste resulting from the following manufacturing processes: electric power generators; fertilizer or agricultural chemicals; food and related products or by-products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing, transportation equipment; and water treatment.

Materials Recovery Facility: A solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment or any combination of those materials.

Multi-family Residential Unit: A housing facility containing more than one dwelling unit under one roof.

Municipal Solid Waste Disposal Facility: Any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Feral Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste and contained and residential landfills but does include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary or a medical waste incinerator which is owned, operated and located on the property of a hospital or university which is regulated by the Cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth. Further, each individual company or organization producing medical waste shall upon request, provide to the Solid Waste Coordinator proof on how such waste is disposed.

Nuisance: Any condition or the use of a premises, building, or structure which is or tends to render such properties as dangerous or detrimental or adverse to the health and welfare of others, or, which is detrimental to the property of others or which causes or tends to cause substantial diminishing of the value of other properties in the area in which such premises are located. This includes the keeping or the depositing on or the scattering over the premises of any of the following:

1. Lumber, junk, trash or debris;
2. Abandoned, discarded or unused objects or equipment such as mobile or manufactured homes, campers, automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
3. Partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicles without current registration.

4. Keeping unsanitary matter on premises. It shall be unlawful for any person to keep, or permit another to keep upon any residential or commercial property septic material, unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents, or animals. This section shall not apply to overflowing septic tanks and lateral lines as those items are subject to existing health department regulations.
5. Unauthorized disposal of household or commercial solid waste and/or failure to comply with the disposal regulations of this ordinance.

Occupant: Any person living or sleeping in a building, who, alone or jointly or severally with others, who shall be in actual possession of a space in a building or any other improved real property, either as an owner or as a tenant.

Open Burning: Burning of any matter in such manner that the combustion resulting from burning is emitted directly into the outdoor atmosphere without passing through a stack or chimney.

Operator: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Open Dump: Any facility on site for the disposal of solid waste which does not have a valid permit issued by the Cabinet or does not meet the environmental performance standards established under regulations promulgated by the Cabinet.

Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person: An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision, or organization of any kind, or their legal representative, agent, or assigns.

Premises: A lot, plot or parcel of land including any structures thereon.

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

Public Nuisance: Illegal waste disposal practices that include but are not limited to open burning, open dumps or littering which are deemed to be a nuisance under applicable law.

Recovered Material: Those materials including, but not limited to, compost, which have known current use, reuse or recycling potential which can be feasibly used, reused or recycle and which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the received on a daily basis at the processing facility and processed into RDF; but not to exceed percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

Recovered Material Processing Facility: A facility engaged solely in the storage, processing and resale or reuse of recovered material but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the Cabinet.

Recycling: Any process by which materials which would otherwise become solid waste are collected, separated or processed and reused or returned to use in the form of raw materials or products, including refuse-derived

fuel when processed in accordance with administrative regulations established by the Cabinet but does not include the incineration or combustion of materials for the recovery of energy.

Refuse-Derived Fuel: A sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of non-processable such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product.

Residential Dwelling Unit: A building or portion thereof, providing complete housekeeping facilities for one (1) person or one (1) family.

Residential Solid Waste: Solid waste resulting from the maintenance and operation of dwelling units.

Sanitary Landfill: A permitted facility for the disposal of solid waste that complies with the "environmental performance standards" specified in 401 KAR 47:030.

Sludge: Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plan or any other such waste having similar characteristics and effects.

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 wastes, coal mining by-products; refuse and overburden), agricultural operations and from community activities but does not include those materials, including but not limited to, sand, soil, rock, gravel or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes designated by KRS 224.868, solid or dissolved material in domestic sewage, manure, crops, crop residue or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923), but does not include.

Solid Waste Management: The administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a Cabinet-approved County or multi-county solid waste management plan.

Solid Waste Management Area or "Area": Any geographical area established or designated by the Cabinet in accordance with the provisions of Senate Bill 2.

Solid Waste Management Facility: Any facility for collection, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or others 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 or a recovered material processing facility which is subject to regulation pursuant to Senate Bill 2 for control of environmental impacts and to prevent any public nuisance.

Solid Waste Management Plan: The document submitted by waste management, districts, counties or any combination thereof as required under KRS 224.887 and approved by the Cabinet.

Solid Waste Site or Facility: Any place at which solid waste is managed, stored, treated, processed or disposed.

Solid Waste Storage/Container: Receptacle used by any person to store solid waste during the interval between solid waste generation and collection, made out of plastic, vinyl or metal, ranging in size from about ten (10) gallons to forty-two (42) cubic yards in size.

Storage: The containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

Structure: That which is built or constructed or a portion thereof.

Transfer: The placement of solid waste from smaller collection vehicles into larger vehicles for transportation to intermediate or final disposal facilities.

Transportation: Any off-site movement of waste by any mode and by any loading, unloading or storage incidental thereof.

Treatment: Any method, technique or process including neutralization, designed to change the physical, chemical or biological character or composition of any waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; also includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

Waste Management District: Any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580).

Unsafe Structure: A Structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure because the structure is in a state of dilapidation, deterioration or decay, faulty construction; or damaged by fire to the extent so as not to provide shelter, or, is in danger of partial or complete collapse.

Unsafe Premises: In addition to including unsafe structures, unsafe premises means any physical condition or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, abandoned shafts, abandoned swimming pools, abandoned ponds, abandoned basements, abandoned excavations and any abandoned mobile homes, abandoned manufactured homes, abandoned refrigerators, abandoned iceboxes, abandoned ice chests, or other similar abandoned devices or abandoned appliances accessible by children.

Waste Site or Facility: Any place where waste is managed, processed or disposed of by incineration, land filling 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 or a recovered material processing facility or the combustion of processed waste in a utility boiler.

Yard Wastes: Grass clippings, leaves and tree trimmings.

SECTION 2: STORAGE OF SOLID WASTE

Section 2.1: Storage Containers Required

Storage containers for residential solid waste are required if bags of garbage are subject to be torn or damaged by animals or otherwise would create spillage and litter. Storage of waste shall be maintained in a clean, neat and sanitary condition at all times. The Containers and their contents must not weigh more than fifty (50) pounds and be configured with handles for ease of handling by one person. The solid waste hauler will have authority to approve or disapprove of a questionable container or storage frames. Oil drums will be acceptable for storage of bags only and must have drain holes.

Section 2.2: Commercial Storage

Containers for commercial waste generators will be provided by the solid waste hauler so as to be compatible with machinery for collection purposes. They shall be maintained in a suitable manner by the commercial waste generator to insure clean and sanitary conditions. The cost of the containers to the solid waste hauler can be recouped through rental charges to the generator.

Section 2.3: Standards for Residential, Commercial, Institutional and Industrial Use Storage Containers

All uses which generate more than a volume of two (2) cubic yards (i.e., approximately equivalent to 500 pounds or ¼ ton or 400 gallons) of solid waste per week shall be required to provide bulk containers for storage so as to be compatible with collection equipment and approved by the Coordinator. The containers shall be waterproof, leak proof and shall be covered at all times except when depositing waste therein or removing the contents thereof and shall meet all requirements as referenced in other sections of this ordinance. The cost can be recouped through rental charges to the generator.

Section 2.4: Airtight Containers

No owner, occupant, tenant or lessee of any building or dwelling may leave outside the dwelling or building, in a place accessible particularly to children, any abandoned or unattended white goods (i.e., icebox, refrigerator or other receptacle that has an airtight door) without first removing the doors.

Section 2.5: Storage Containers not in Compliance

Solid waste containers, which do not meet the specifications as outlined in this action, shall be considered waste and may be collected together with their contents and disposed of.

SECTION 3: COLLECTION OF SOLID WASTE

Section 3.1: County Responsibility Defined

The County shall provide for the collection of all solid waste generated in the County, provided, however, the County may provide the collection service by contracting with a person, county or other city or a combination thereof, for the entire County or portions thereof as deemed to be in the best interest of the County.

Section 3.2: Mandatory Collection

All generators of solid waste in Martin County shall utilize the collection program provided by the County.

Section 3.3: Collection Points

Points of collection of solid waste shall be from the roadside or curbside within public rights-of-way or other locations near buildings, parking lots, etc., on private property. In general, solid waste generated and stored in disposable containers shall be placed along the roadside or curbside fronting the subject property not more than twelve (12) hours before collection.

Residential, commercial, institutional and industrial uses required to provide bulk storage containers shall be located on private property in areas accessible to collection vehicles. In the event that there are residences inaccessible to collection vehicles, as determined by the Coordinator, alternative collection points may be arranged.

Section 3.4: Bulky Items and Heavy Items

Items too bulky or heavy to put in storage containers will be collected upon request and as feasible if arrangements are made with the solid waste hauler provided that the items are of a physical description compatible with conventional collection equipment. Bulky items will be subject to a separate charge because of the special handling and equipment required.

Section 3.5: Authority for Collectors to Enter Private Property

Solid waste collectors, employed by the County or a 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 as required by this ordinance. 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 approved by the Coordinator.

Section 3.6: Collection Frequency

All solid waste, other than bulky waste, shall be collected at least once weekly. Residential, commercial, institutional and industrial uses, generating large quantities of solid waste, may be required to provide collection at more frequent intervals (i.e., twice weekly or more) upon determination by the Coordinator, as necessary for the protection of public health, safety and welfare. All collection shall be made between 6 a.m. and 6 p.m.

Section 3.7: Ownership of Solid Waste

All waste and refuse placed for collection shall remain the property of the waste generator, whether it be residential or commercial, until such time as the waste is placed in the collection vehicles. No person shall be allowed to separate, carry off or dispose of waste and refuse placed for collection, and it will be a violation of this ordinance to do so.

Section 3.8: Collector's Responsibility Defined

Solid waste collectors operating within the County shall be responsible for the collection of solid waste from collection points to a transportation vehicle, provided solid waste is stored in compliance with provisions set forth in this ordinance. 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 collector. Spillage not caused by the collector is the responsibility of the waste generator. The waste generator shall collect and locate spillage at a collection point for the next- scheduled pickup.

Section 3.9: Prohibitions

The following wastes may not be deposited in solid waste containers or receptacles.

1. Hazardous waste
2. Liquid waste
3. Bulky wastes, major appliances, furniture
4. Tires
5. Construction and demolition wastes
6. Dead animals
7. Any burning or smoldering materials or any other materials that would create a fire hazard
8. Batteries
9. Any other items designated by the Cabinet not proper for solid waste landfills

No unauthorized person may remove any item from a solid waste receptacle, climb on or into a container or receptacle or damage any container.

SECTION 4: TRANSPORTATION OF SOLID WASTESection 4.1: Collection Vehicle Standards.

All commercial transportation vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste. 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 alternate, 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.

SECTION 5: DISPOSAL OF SOLID WASTESection 5.1: Open Burning

Open burning of solid waste, hazardous waste, tires or bulky waste is prohibited as defined by KRS 224.005 (3) and KAR 63.005.

Section 5.2: Open Dumping

Open dumping of solid waste, including bulky waste and tires on all lands (i.e., roadsides, hollows, rivers, streams, lakes, etc.) by any person is prohibited by KRS 224.835 and this ordinance.

Section 5.3: Disposal Sites

All solid waste, including bulky waste, shall be disposed of within a sanitary landfill having a valid permit issued by the Cabinet in compliance with KRS 224.830, 224.835 and 224.855 and this ordinance.

Section 5.4: Hazardous Waste

As defined within this ordinance, hazardous waste will require special handling and shall be disposed of only in a manner authorized by state and/or federal regulations. No hazardous waste defined as from a "small quantity generator" or radioactive waste defined as "below regulatory concern" shall enter the solid waste stream intended for disposal in the County unless such waste is identified to the Coordinator as to its specific source, composition and quantity.

SECTION 6: SITING REQUIREMENTSSection 6.1: License Requirements

No one shall engage in business of collecting, disposing, transporting or processing of solid or special waste within the County without a license secured from the Governing Body. In the event that any one person engages in the collecting, disposing, transporting or processing of solid waste, or any combination thereof as one operation, only one license shall be required.

Section 6.2: License Application

Each applicant for any such license shall provide the Governing Body with all information as required to provide to the Cabinet for Natural Resources and Environmental Protection, the U.S. Environmental Protection Agency and/or any other state or federal agency to obtain necessary permits for said operation. The following also shall be provided to the Governing Body if not contained in the information provided above.

1. A plan for presenting the proposal to the public, answering public questions or concerns, working with the public or the Governing Body to address any concerns and make modifications in the proposal if necessary to address those concerns and for the providing public access to all pertinent and relevant information and records both prior to and during the operation of the facility.
2. Compliance with any local zoning or land-use ordinances or planning.
3. Details on the exact location of the facility or service, ingress and egress to the site, any site modification required and a transportation plan. The transportation plan shall include information on the volume of traffic to be generated by the facility or service and a statement of the impact of this traffic on the immediate neighborhood, the County's general traffic situation and the condition of the roads.
4. A willingness to abide by any and all orders issued by the Martin County Department of Health.
5. A re-utilization plan for the site after closure of the operation.
6. A plan for keeping the site clean and free of debris and aesthetically acceptable to the citizens of Martin County, to minimize mud, dust and noise and to provide a buffer with neighboring residences or business,

if necessary.

- 7 The proposed days and hours of operation.
- 8 Proof of adequate insurance for general liability purposes.
- 9 Any and all other information that the Governing Body may deem necessary to determine the consistency of the proposed operation with the goals and objectives of the County Solid Waste Management Plan and to protect the general health and welfare of Martin County and its citizens.

Section 6.3: Incinerators and Landfills

In addition to the above information, all applicants to construct or operate an incinerator or landfill for solid or special wastes shall provide the following:

1. Extensive and detailed information on all owners, investors, partners, operators, managers and other key personnel, including those of companies that will provide services to the license holder such as transportation, engineering or other services key to the operation of the facility, that includes the following; their interest or level of investment or role in the operation; past or current investment or involvement in similar or related businesses or operations; history of environmental violations, fines and citizen complaints related to each individual as well as their past investments or involvements; statement of qualification for key personnel; and financial statements showing the financial stability of the owners and operators and a detailed capital project budget.
2. A statement as to how the operation may affect property values within a one-mile radius of the proposed facility or operation, as well as along all transportation routes.
3. Statement of assurance that the physical and biological environment of Kentucky's blue line streams are not adversely affected.
4. A plan for monitoring surface and ground water quality within the area potentially affected by the facility or operation and for immediate corrective action or cessation of operation upon detection of adverse patterns or impacts upon these water resources.
5. Plans to provide resources for and to involve the general public in ongoing and independent inspection and monitoring of the facility or operation.
6. Plans for making waste reduction and recycling an integral part of the operation.
7. Plans for providing resources for the long-term independent monitoring of the facility and site for a period of not less than thirty (30) years after its closure and for setting aside sufficient resources adequate to pay the costs of remedial or cleanup activities from a worst-case scenario.
8. A Community Impact Statement that shall consider all reasonable community and environmental impacts including but not limited to air and water, condition of soils, historical and archaeological, long-term land use of the site and adjacent properties, transportation, economic development and tourism and social impacts.
9. Any and all other information that the Governing Body may deem necessary to determine the consistency of the proposed operation with the goals and objectives of the County Solid Waste Management Plan and to protect the general health and welfare of Martin County and its citizens.

All information provided to the Governing Body under this section shall also be made available for public inspection at a place and during hours that are convenient to the public. All technical information shall be written in such a way that it can be easily understood by the general public.

Section 6.4: License Issuance

The applicant must provide at least three (3) copies of the above information to the Governing Body, along with a \$500 application fee. This fee may be waived for nonprofit organizations or those engaged in recycling

activities. At the same time, the applicant must provide adequate public notice that it has submitted an application to the Governing Body, said notice to contain a reasonable summary of the proposed operation or facility and locations and times where the above information can be inspected.

Upon receipt of the application, the Governing Body shall begin a review process that emphasizes public participation. The Governing Body shall provide adequate public notice of the time, place and purpose of meeting(s) at which the application shall be reviewed and shall solicit and encourage public comment on the application. Once the application is received and deemed complete, the Governing Body shall adhere to the following timetable for issuing or denying a license: recycling facilities - 30 days; Convenience Centers for solid waste - 60 days; incinerators, landfills or Convenience Centers for special wastes - 150 days.

If the Governing Body is able to determine that the applicant can and will construct and/or operate the proposed facility or service without creating a nuisance or hazard to the public health or damage to the environment, in conformity with this and all related ordinances and regulations, state and federal laws, then the Governing Body may issue the license authorized by this ordinance. The license shall be issued for a period of five (5) years providing the license holder submits at least annually an oral or written, if requested, report to the Governing Body on the condition of the operation and any changes or updates in the information required above as part of the license application process.

Section 6.5: License Suspension

If the Martin County Department of Health, state or federal agencies or independent inspections determine that the operation poses or is causing significant threat to public health or the environment, the operation shall cease until such situation is correct. If the operation fails to take corrective action, the Governing Body may revoke its license.

SECTION 7: FRANCHISING

Section 7.1: Franchise Requirement

No person may engage in the business of solid waste collection unless they hold a franchise issued by the County Fiscal Court, or its designee, authorizing him or her to collect, transport and dispose of solid wastes and describing the area for which the franchise is issued.

Section 7.2: Establishment of a Franchise

The County shall determine the area for which a franchise is granted.

Section 7.3: Granting a Franchise

The County shall advertise and seek proposals to serve each franchise area. Applications for franchises shall be filed with the Court on forms prescribed by the Coordinator. The Court may grant a franchise only upon findings that the applicant will render prompt, efficient and continuing service to the area for which the franchise is granted, that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area, and that the applicant will keep, maintain, make available for inspection, adequate records regarding service and make the franchise fee payment in a timely fashion. A franchise shall be granted for a term of four (4) years and may be renewable. No franchise shall be assignable.

Section 7.4: Fee Approval

The Fiscal Court, and/or its designee, shall approve all fees charged by solid waste collectors. Fee schedules may be requested annually.

Section 7.5: Termination of Franchise

A solid waste collector granted a franchise under this ordinance shall give ninety (90) days written notice to the County before abandoning the franchise. The County may terminate or suspend all or any portion of a franchise

for failure to comply with any provision of this ordinance, failure to render prompt and effective service, inability to pay franchise fees, failure to keep adequate records, failure to comply with authorized fee schedules, or upon recommendation of the Code Enforcement Board.

SECTION 8: RULES AND REGULATIONS

The Fiscal Court, and/or its designee, shall make, amend, revoke and enforce reasonable rules and regulations governing but not limited to the following:

1. Preparation, wrapping and drainage of garbage deposited in solid waste containers;
2. Specifications for solid waste containers, including type, composition, equipment, size and shape thereof;
3. Identification of solid waste containers and of the covers and equipment thereto appertaining, if any;
4. Weight limitations of 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 routes for collection and transportation of solid waste;
8. Collection points for solid waste;
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 the quantity and type of wastes received at processing and/or disposal facilities;
13. Handling of special wastes such as sludges, ashes, agricultural waste, construction debris, bulky items, tires, automobiles, greases, oil, etc.
14. Records of the number of customers, amount of solid waste collected and transported.

Said rules and regulations, or an accurate summary thereof, shall be published thirty (30) days prior to a hearing date for public comment. After the hearing date and public comment time has elapsed, the regulations so promulgated with any amendments thereto shall be published at least once prior to their enforcement. Copies shall be made available for public inspection in the offices of the County Judge/Executive and the County Court Clerk.

SECTION 9: PROHIBITED PRACTICES

Except as provided in this ordinance, no person shall store, collect, dispose, maintain or display on any property any solid waste materials. This storage, collection, disposal, maintenance or display in violation of this subsection shall be punishable by the provisions set out herein and also shall be considered as a public nuisance, which may be abated as provided in this ordinance. Further, it shall be prohibited for any person to:

1. Dispose of garbage, refuse, rubbish or debris by dumping same on any premises in the County with or without the consent of the owner of the premises;
2. Own or operate an open dump; dump or permit the open dumping of garbage, refuse, rubbish or debris on any property within the County, except under permit from the Cabinet for Natural Resources and

Environmental Protection;

3. Deposit solid waste in any solid waste container other than his/her own, or to add to another person's waste with the intent of avoiding payment of service charges or collection by an authorized collector of solid waste;
4. Fail to have solid waste collected as provided for in this ordinance;
5. Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of this duties as such, whether such equipment or collectors shall be those of the County or those of a solid waste collector operating under contract or franchise with the County;
6. Burn solid waste as defined by KRS 224.005 and KAR 63.005, including the burning of solid waste in any dumpster or container used for solid waste collection;
7. Dispose of dead animals in any container to be collected by the County or its authorized agent;
8. Engage in the feeding of food waste to animals for commercial purposes;
9. Dispose of solid waste at any facility or location which is not approved by the County and permitted by the Cabinet for Natural Resources and Environmental Protection;
10. Engage in the business of collecting, transporting, processing or disposing of solid waste within the geographic boundaries of the County without a permit, contract or franchise agreement from the County, operate under an expired permit or operate after a permit has been suspended or revoked or contract or franchise agreement cancelled;
11. Allow any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle to remain on such property longer than thirty (30) days;
12. Allow any abandoned, junked, discarded or otherwise non-inhabitable mobile/manufactured home or camper to remain on such property longer than thirty (30) days; except that this section shall not apply with regard to any camper that is being stored on residential or commercial property when not being used for recreational use.
13. Permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the unincorporated areas of Martin County, Kentucky.
14. Violate any section of this ordinance or any other rule or regulation promulgated under the authority of this ordinance.

SECTION 10: BONDS

Bonds are suggested to ensure the performance of the collectors or transporters of solid waste and the operators or processing or disposal facilities. The amount and types should be determined by the County. Types of bonds which should be considered are performance bonds and payment bonds

SECTION 11: PUBLIC NUISANCES

Section 11.1 Notices

Notice to owner or to person, occupants and operators responsible: Whenever the ordinance official determines that there has been a violation of this ordinance or has grounds to believe that a violation has occurred, notice

SOLID WASTE v.5

shall be given to the owner or the persons, occupants or operators responsible therefore in the manner described in Sections A and B.

A. Such notice described above shall:

1. Be in writing.
2. Include a description of the premises or structures sufficient for identification;
3. Include a statement of the reason or reasons why the notice is being issued; and,
4. Include a correction order allowing a reasonable time, generally not to exceed fourteen (14) days, for the repairs and improvement required to make the structure or premises safe. If, however, the violation constitutes an immediate danger to the health and well-being of the community, said notice shall demand abatement within seventy-two (72) hours.

B. Method of Service: Such notice shall be deemed to be properly served if a copy thereof is, a) delivered to the owner personally; or, b) sent by certified or registered mail addressed to the owner, person, occupant, or operator with return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or premises affected by such notice. Service of such notice in the foregoing manner upon the responsible owner(s), person, occupants, or operator's agent shall constitute service of notice upon the owner, person, occupant, or operator.

C. It shall be the duty of the Code Enforcement Officer or its designated agent or any other designated agent of Martin County, to serve or cause to be served upon the alleged violator, notice which shall describe the violation (see Section A).

Section 11.2: Abatement/Penalties

1. In the event that an owner, lessee, or occupant is notified by the Martin County Code Enforcement Officer that there is an unsafe structure, unsafe premises, or solid waste, as previously defined in this Ordinance, must be removed from the property, the owner, lessee, or occupant shall be responsible for the cost of removal.
2. In the event the owner, lessee or occupant is notified of failure to comply with disposal of solid waste ordinance by the Code Enforcement Officer, the owner, lessee or occupant shall be responsible for taking the necessary actions to comply with the ordinance.
3. In the event the owner, lessee or occupant fails to remove unsafe structure(s), unsafe premises, or solid waste, as previously defined in this Ordinance, following the receipt of notice as provided herein, in such event, the County of Martin, its employees or contractors may enter upon the property, remove the violation or violations and further dispose of same. In such event, Martin County Fiscal Court shall retain a lien against the real property upon which the violation was located for those costs incurred in the removal and disposition of the nuisance plus interest at the rate 12% per annum. A copy of the lien shall be filed in the Office of the Martin County Court Clerk.
4. If the owner, lessee, occupant or person having charge of any residential or commercial property shall maintain or keep a nuisance thereon longer than fourteen (14) days after notice from the Martin County Code Enforcement Officer, then each of them shall be fined not less than one hundred (\$100.00) dollars but no more than two hundred (\$200.00) dollars for each citation. Each day of violation shall constitute a separate offense.
5. The correction of the unsafe condition in the structure or on the premises prior to the time for correction as set forth in the notice herein shall be considered compliance with the provisions of this ordinance and no further action shall be taken.
6. The timeline for fines, citations, and liens shall be as follows:

- On day 1, the nuisance is identified and notice is given to the land owner;
- On day 14, if the nuisance has been rectified, then no further action is necessary; however, if the nuisance has not been corrected, then the Martin County Enforcement Officer shall issue a fine of not less than one hundred (\$100.00) dollars but no more than two hundred (\$200.00) dollars for each citation.
- On day 60, if the landowner has not come to an agreement with the Code Enforcement Board by correcting the nuisance, paying fines, or establishing a payment program for the existing fines, the nuisance on the property will be corrected by Martin County Fiscal Court Code Enforcement and a lien will be filed against the property owner to reimburse the county for taking corrective action and/or fines.
- At six (6) months, Martin County Fiscal Court will initiate the lien judicially through the courts if the landowner has not made arrangements to pay the county for work completed to correct the nuisance and satisfy any liens or additional costs. Repayment amount due will include the cost to correct the nuisance and fines imposed.
- The Board has the authority to negotiate on a case-by-case basis how to address fines, payments, and corrective action plans.

SECTION 12: CODE ENFORCEMENT BOARD

Section 12.1: Creation and Membership

There is hereby created, pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board, which shall be composed of five (5) members, all of whom shall be residents of Martin County for a period of at least one (1) year prior to the creation of the Board, and shall reside in Martin County throughout their term of office.

A violation of this Ordinance shall constitute a civil offense. The maximum civil fine that may be imposed for each violation is set forth hereinbelow. Likewise, the specific civil fine, of less than the maximum civil fine, which will be imposed for each offense if the person charged does not contest the citation is also set forth herein below. KRS 65.8808(2).

Section 12.2: Powers

- A. Issue Remedial Orders and Impose Civil Fines: The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing Martin County Ordinances when a violation of the ordinance has been classified as a civil offense.
- B. No Enforcement of Statutory Offenses: The Code Enforcement Board shall not have the authority to enforce any Ordinance, the violation of which constitutes an offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

Section 12.3: Board Members

- A. Appointment of Members: Members of the Code Enforcement Board shall be appointed by the County Judge Executive, subject to the approval of the Fiscal Court.
- B. Term of Office: Initial Board appointments are to be staggered. Two (2) initial appointments will be for two (2) years. One (1) initial appointment will be for three (3) years, and two (2) of the initial appointments will be for four (4) years. All subsequent appointments shall be for a term of two (2) years. A member may be re-appointed, subject to the approval of the Fiscal Court.
- C. Alternate Members: The County Judge Executive may appoint, subject to the approval of the Fiscal Court, two (2) alternate members to serve in the absence of regular members. Alternate Members shall

meet all the qualifications and shall be subject to all of the requirements that apply to regular members of the board.

- D. Board Vacancy: Any vacancy on the board shall be filled by the County Judge Executive, subject to approval of the Fiscal Court, within sixty (60) days of the vacancy.
- E. Removal of Board Member: A board member may be removed from office by the County Judge Executive, with Fiscal Court approval, for misconduct, inefficient or willful neglect of duty. A board member may also be removed if absent for three (3) consecutive meetings.
- F. Oath of Office: All members of the board must, before beginning their term, take the oath, prescribed by Section 228 of the Kentucky Constitution. Said oath shall be administered by the Martin County Judge Executive or his designee.
- G. Martin County Government: No member of the board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the County of Martin.
- H. There shall be a minimum of one (1) board member from each of the five districts in Martin County.

Section 12.4: Organization of Board: Quorum

- A. Chairperson: The board shall annually, elect a chair from among its members. The chairperson shall be the presiding officer and a full voting member of the board.
- B. Meetings: The board may elect to hold regular meetings of the board each month. Meetings, other than established regular meetings, shall be special meetings held in accordance with the Kentucky Open Meetings Act.
- C. Kentucky Open Meetings Act Compliance: All meetings and hearings of the board shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.
- D. Quorum Required for Action: The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.
- E. Minutes: Minutes shall be kept for all proceedings of the board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

Section 12.5: Conflict of Interest

Any member of the board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter in which he has an interest and shall not be counted for purposes of establishing a quorum.

Section 12.6: Jurisdiction

The board shall have jurisdiction to enforce and shall enforce those Martin County ordinances which specifically provide for the Code Enforcement Board.

Section 12.7: Powers of the Code Enforcement Board

The Martin County Enforcement Board shall have the following powers and duties:

- A. To adopt rules and regulations to govern its operations and conduct its hearings.
- B. To conduct hearings to determine if there has been a violation of an Ordinance, over which it has jurisdiction.
- C. To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Board may be served by the Code Enforcement Officer.
- D. To take testimony under oath, the chairperson shall have the authority to administer oaths for the purpose of taking testimony.

- E. To make findings of fact and issue orders necessary to remedy any violation of a County Ordinance which the board is authorized to enforce.
- F. To impose civil fines as authorized on any person found to have violated an Ordinance over which the board has jurisdiction.

Section 12.8: Enforcement Proceedings

The following requirements shall govern all enforcement proceedings before the board:

- A. Enforcement proceedings shall only be initiated by the issuance of a citation or Notice of Violation by a Code Enforcement Officer.
- B. When a Code Enforcement Officer, believes, based on his personal observation or investigation, has reasonable cause to believe that a person has violated a Martin County Ordinance, the Code Enforcement Officer is authorized to issue a citation. A Code Enforcement Officer may, in lieu of immediately issuing a citation, issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy the violation without fine. The time allowed by the Code Enforcement Officer shall depend on the nature of the violation and the time to remedy the violation. If the offender fails, or refuses, to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.
- C. Nothing in this ordinance shall prohibit the County from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible. Also, nothing in this ordinance shall prohibit the County from correcting the violation through self-help and to file liens on property, whether real or personal, to recover the costs incurred by the County.
- D. The citation issued by the Code Enforcement Officer shall contain the following information:
 - 1. The date and time of issuance;
 - 2. The name and address of the person to whom the citation is issued;
 - 3. The date and time the offense was committed;
 - 4. The facts constituting the offense;
 - 5. The section of the ordinance or other code violated;
 - 6. The name of the Code Enforcement Officer;
 - 7. The civil fine that will be imposed for the violation if the person does not contest the citation;
 - 8. The maximum civil fine that may be imposed if the person elects to contest the citation;
 - 9. The procedure for the person to follow in order to pay the civil fine or to contest the citation; and,
 - 10. A statement that if the person pays the civil fine set forth in the citation or fails to contest the citation within the time allowed, the person shall be deemed as having waived the right to a hearing before the Code Enforcement Board and the determination that a violation was committed shall be final.
- E. After issuing a citation to an alleged violator, the Code Enforcement Officer shall deliver a copy of the citation to the Clerk designated by the Board.
- F. The alleged violator to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing to the Board clerk, a hearing before the Code Enforcement Board to contest the citation. If the alleged violator fails to respond to the

citation within seven (7) days, the alleged violator shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final.

- G. If the alleged violator does not contest the citation within the time prescribed, the Code Enforcement Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

Section 12.9: Hearing; Notice; and Final Order

- A. Hearing: When a hearing has been requested, the board shall schedule a hearing for the next regular meeting of the board that will permit adequate notification to be made to all parties.
- B. Notice: Not less than seven (7) days before the date of the hearing, the Board shall notify the requester of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen years of age or older and who is informed of the contents of the notice.
- C. Failure to Appear: Any person requesting a hearing before the board who fails to appear at the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. The Board shall enter a final order determining the violation was committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.
- D. Testimony: All testimony shall be taken under oath and recorded. Testimony shall be taken from the Code Enforcement Officer, the alleged violator and any witnesses to the violation offered by the Code Enforcement Officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- E. Board Determination: The Board shall, based on the evidence, determine whether a violation was committed. If it determines that no violation was committed, an order dismissing the citation shall be entered. If it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized or requiring the offender to remedy a continuing violation, or both.
- F. Final Order: Every final order of the board shall be reduced to writing, which shall include the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth above.

Section 12.10: Legal Counsel

Each case before the Board shall be presented by an attorney selected by the County or by the Code Enforcement Officer for the County. If the Board determines that it needs the County Attorney present at the hearing, the County Attorney shall either be counsel to the board.

Section 12.11: Appeals; Final Judgement

An appeal from any final order of the Board may be made to the Martin County District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the Code Enforcement Board. If no appeal of the final order of the Board is filed within the time allowed, the Board's order shall be deemed final for all purposes.

Section 12.12: Ordinance Fine Schedule

Violations of ordinances that are enforced by the County Code Enforcement Board shall be subject to the

following schedule of civil fines:

- A. Non-contested Citations: If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties section, as set forth below, shall apply; however, the Board may waive any or all of a penalty for an uncontested violation if in its discretion, the Board determines that such waiver will promote compliance with the ordinance in issue. The penalties listed below are for each day a violation continues beginning on the fourteenth (14) day after the date the citation was issued. A second offense in an offense that occurs within five (5) years of the determination by the Code Enforcement Board of a prior offense. All others are those that occur within five (5) years of the determination by the Code Enforcement Board of two or more prior offenses.
- B. Contested Citations: If the citation is contested and a hearing before the board is required, the following maximum penalties may be imposed at the discretion of the Board.
 - o 1st Offense: \$500
 - o 2nd Offense: \$500
 - o Others: \$300

***All fines listed above are maximum daily fines. The Code Board, at their discretion, may waive and/or issue a lesser fine, on each offense.

***Violators may be shut down or other remedies allowed.

Section 12.13: Liens; Fines; Charges; and Fees

- A. The County shall possess a lien on property, whether real or personal, owned by the person found by a final, non-appealable order of the board, or by a final judgment of the court to have committed a violation of a County ordinance for all fines assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the ordinance.
- B. The lien shall be recorded in the Office of the Martin County Clerk and shall be notice to all persons from the time of its recording and shall bear interest until paid. The interest shall accrue at a rate of twelve percent (12%).
- C. The lien shall take precedence over all other subsequent liens except state, county, school board and city taxes and may be enforced by judicial proceedings.
- D. In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the County in connection with the enforcement of the ordinance. The County may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

Section 12.14: Code Enforcement Officer(s)

- A. A Code Enforcement Officer shall be appointed by the County Judge/Executive and approved by the Martin County Fiscal Court. A Code Enforcement Officer may issue citations as authorized upon observation of violations of Martin County Ordinances. Any constable may serve as Code Enforcement Officer if recommended by the County Judge/Executive and approved by the Martin County Fiscal Court.
- B. The procedures for citations issued by a citation officer shall be as provided in KRS 431.015 and by the Code Enforcement Board. The Code Enforcement Officer shall carry identification identifying themselves immediately to any member of the public while enforcing any ordinance of the County.
- C. This section shall not be a limitation on the power of a Code Enforcement Officer to make an arrest as a private person as provided in KRS 431.005. This sub-chapter shall not be the exclusive means for enforcement of Martin County ordinances and Code Enforcement Officer(s) are not limited to use of a

criminal citation, but may swear to a complaint in lieu of citation and may issue citations for civil violations of County ordinances.

SECTION 13: SAVINGS CLAUSE

Nothing in this ordinance shall be deemed to affect, modify, amend or repeal any provision of any ordinance administered by the Martin County Health Department or other department, board, commission or agency of Martin County.

SECTION 14: 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 invalidity, unconstitutionality and inapplicability shall not affect or impair the remaining provisions of this ordinance.

Effective Date

This Ordinance shall be effective on and after legal publication of this Ordinance pursuant to KRS 67.077(3) and KRS 424.

IT IS NOW HEREBY ORDERED AND ORDAINED by the Martin County Fiscal Court, Commonwealth of Kentucky, that this Ordinance be adopted as hereinabove written.

This Ordinance is adopted pursuant to KRS 67.077 in that it was introduced on September 21st, 2023, and given final reading on October 12th, 2023, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS 67.077(3).

APPROVED this 12th day of October, 2023.


Martin County Judge/Executive

ATTESTED:


Martin County Court Clerk

SOLID WASTE v.5