

ORDINANCE NO. BG2016 – 42

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 2  
(ADMINISTRATION), 8 (CEMETERIES), 9  
(CRIMES AND OFFENSES), 13 (HEALTH), 15  
(BUSINESS AND GENERAL REGULATIONS), 20  
(SOLID WASTE COLLECTION) AND 23 (WATER  
AND SEWER) OF THE CITY OF BOWLING GREEN  
CODE OF ORDINANCES TO MAKE  
ADMINISTRATIVE REVISION IDENTIFIED IN  
THE JUDICIAL REVIEW AND TO MAKE OTHER  
REVISIONS REMOVING OBSOLETE OR  
OUTDATED LANGUAGE NO LONGER  
APPLICABLE

WHEREAS, the City of Bowling Green recently had a judicial review performed which recommended the correction of various string citations within the language contained in Subchapter 2-2 (Board of Commissioners), Section 2-2.09 (Authority to Create Departments, Prescribed Functions), Subchapter 2-14 (Department of Parks and Recreation), Section 2-14.01 (Parks and Recreation Director), Subchapter 8-3 (Perpetual Fund), Section 8-3.02 (Acceptance of Trusts), Subchapter 15-6 (Storage, Sale and Use of Fireworks), Section 15-6.01 (Definitions), Subchapter 20-1 (Solid Waste Disposal), Section 20-1.01 (Definitions), and Subchapter 23-2 (Bowling Green Municipal Utilities Board), Section 23-2.02 (Creation and Responsibility of BGMU Board and Disposition of Surplus Funds); and,

WHEREAS, the judicial review also recommended further review and consideration regarding certain sections of the Code of Ordinances which may no longer be applicable, are outdated or are determined to be unlawful and require revision or repeal as found in Chapter 9 (Crimes and Offenses), Section 9-1.02 (Begging Unlawful) and Section 9-1.06 (Purchasing Articles From Minors for Second Hand Use Unlawful), and Chapter 13 (Health), Section 13-1.02 (Governing Body; Membership; Selection; Compensation); and,

WHEREAS, staff further recommends the repeal of Section 9-1.05 (Peeping Toms Unlawful)

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which is also found to be obsolete; and,

WHEREAS, other administrative revisions are included in Subchapter 2-1 (General Provisions), Section 2-1.09 (Residency Requirements for Appointment of Board and Commission Members) and Subchapter 2-23 (Greenways Commission of Bowling Green and Warren County), Section 2-22.02 (Membership, Terms, Vacancies) to further clarify the expiration of terms for City appointees; and,

WHEREAS, it is in the best interest of the City to amend these Chapters of the City of Bowling Green Code of Ordinances in accordance with the results of the judicial review and additional administrative review as identified further hereinbelow.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 2 (Administration) is hereby amended as follows:

2-1 GENERAL PROVISIONS.

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2-1.09 Residency Requirements for Appointment of Board and Commission Members;  
Prohibition of Hold-Over Service.

a. All persons appointed by the Mayor, whether or not approved by the Board of Commissioners, to any City board, commission, agency, authority or committee shall have been a resident of the City of Bowling Green for at least one (1) year prior to his appointment, and shall remain a City resident throughout his appointment. These requirements shall not apply to boards, commissions, agencies, authorities or committees where the individual members are appointed jointly by the Mayor and County Judge/Executive or to those boards, commissions, agencies, authorities or committees that receive funding from Warren County. These provisions shall not apply to persons appointed to boards, commissions, agencies, authorities or committees who are employed by the City or who are appointed by virtue of his employment position, occupation or professional skills or license.  
~~[Any non-City residents currently appointed to any boards, commissions, agencies, authorities or~~

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~~committees may serve the remainder of his term, but shall not be eligible for reappointment.]~~

b. Except as otherwise provided by State law, the tenure of a member of any City appointee to any board, commission, agency, authority or committee shall terminate upon the expiration of the member's term, unless the member is re-appointed. A City appointee may not serve as a hold-over member or appointee after the expiration of his term.

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2-2 BOARD OF COMMISSIONERS.

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2-2.09 Authority to Create Departments; Prescribed Functions.

The Board of Commissioners may, upon the written advice of the City Manager, create by ordinance such administrative departments as in the judgment of the Board are reasonably required for the efficient, orderly and economical administration of the business affairs of the City, and prescribe the functions of each department [~~as subject to provisions of KRS 95.440 to 95.515~~].

...

2-14 DEPARTMENT OF PARKS AND RECREATION.

2-14.01 Parks and Recreation Director.

a. The Director of Parks and Recreation shall be in charge of the Parks and Recreation Department subject to the supervision of the City Manager. The Director shall be responsible for the proper administration, operation and maintenance of all the City's parks, playgrounds, golf courses, swimming pools, cemeteries and all of its other recreational facilities [~~in accordance with KRS 97.405 through 97.485~~]. He shall also be responsible for the development of the Comprehensive Recreation Plan and all other duties as assigned to the Department by ordinance and State law.

...

2-22 GREENWAYS COMMISSION OF BOWLING GREEN AND WARREN

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COUNTY.

...

2-22.02 Membership, Terms, Vacancies.

a. The Greenways Commission of Bowling Green and Warren County shall consist of twelve (12) members, with each serving a term of three (3) years. Members may be reappointed for successive terms. ~~[Vacancies shall be filled within sixty (60) days by the appropriate appointing authority as indicated hereinbelow; otherwise the Greenways Commission shall fill the position for the remainder of that term.]~~ The members shall be appointed in the following manner:

1. Six (6) members appointed by the Mayor, with approval by the Board of Commissioners; and,
2. Six (6) members appointed by the County Judge Executive, with approval by the Fiscal Court.

b. The Greenways Commission shall also consist of the City Parks and Recreation Director or designee, the County Parks and Recreation Director or designee, the City Public Works Director or designee, the County Public Works Director or designee and the Warren County Metropolitan Planning Organization (MPO) Coordinator~~[-(BRADD),]~~ who shall act as nonvoting ex-officio members.

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2. Chapter 8 (Cemeteries) is hereby amended as follows:

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8-3 PERPETUAL FUND.

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8-3.02 Acceptance of Trusts.

The City may accept Trusts pursuant to KRS Chapter 386~~[-185]~~, which shall be placed and

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retained in the Perpetual Fund, to be invested in a like manner of all income designated for Perpetual Fund and the proceeds from same used for maintenance and upkeep of the cemeteries.

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3. Chapter 9 (Crimes and Offenses) is hereby amended as follows:

9-1 MISCELLANEOUS OFFENSES.

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9-1.02 ~~[Begging Unlawful]~~ Aggressive Panhandling Prohibited.

~~[It shall be unlawful for any person to beg or solicit aid in the City.]~~

a. Definitions as used in this Section:

“Aggressive Panhandling” shall mean engaging in any conduct with the intention of intimidating another person into giving away money or goods, including, but not limited to, intentionally approaching, speaking to or following a person in a manner that would cause a reasonable person to fear imminent physical injury or the imminent commission of a criminal act upon the person or upon the property in the person’s immediate possession; intentionally touching another person without consent; or intentionally blocking or interfering with the free passage of a person.

“Automated Teller Machine” shall mean a device linked to a financial institution’s account record which is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

“Automated Teller Machine Facility” shall mean the area comprised of one or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours.

“Financial Institution” shall mean any state bank, out-of-state bank, national bank, trust company or credit unions as those terms are defined in the Kentucky Revised Statutes.

“Public Place” shall mean a place to which the public or a substantial group of persons has

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access, including but not limited to any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playgrounds, fairgrounds and sporting facilities.

“Soliciting (Solicit) or Panhandling (Panhandle)” shall mean requesting an immediate donation of money or other thing of value from another person regardless of the solicitor’s purpose or intended use of the money or other thing of value and may be without limitation, by spoken, written or printed word, or by other means of communications and includes the purchase of an item for an amount far exceeding its value where under the circumstances a reasonable person would understand that the purchase is in substance a donation.

b. No person shall engage in aggressive panhandling.

c. No person shall engage in soliciting or panhandling in any of the following circumstances:

1. In a menacing manner in any public place as prescribed by KRS 508.050.

No person shall engage in aggressive panhandling, as defined under this Section, at any time in any public place;

2. On private or residential property after having been asked to refrain from panhandling or aggressive panhandling by the owner or other person lawfully in possession of such property;

3. Within twenty (20) feet of an automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility;

4. When a person is an operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying or reserving a public parking space, or directing the operator or occupant to a public parking space;

5. When a person is an operator or occupant of a motor vehicle on a public

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street in accordance with Subchapter 22-10 of this Code of Ordinances, regardless if the vehicle is in motion, parked or stopped;

6. In any public transportation vehicle or facility, or within twenty (20) feet of any bus stop, or in any public parking lot or structure;

7. Within twenty (20) feet of any outdoor dining area or outdoor merchandise area, if such areas are in active use at the time;

8. Within twenty (20) feet of any school building or school playground when school is in session or school related activities are taking place on the premises;

9. Within twenty (20) feet of an entrance to any public restroom;

10. In a manner that impedes or blocks the flow of pedestrian traffic on a sidewalk or public right-of-way; or

11. Within twenty (20) feet of entry or exits of a public entertainment venue.

...

~~[9-1.05 — Peeping Toms Unlawful.]~~

~~[It shall also be unlawful for any person to peep, spy or attempt to peep or spy or to use any video, electronic, optical or photographic device to look into a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location or enclosure for the purpose of viewing any non-consenting person and the circumstances are such that the person would have a reasonable expectation of privacy. The provisions of this Section shall not be applicable to law enforcement officers while engaged in the scope of employment or employees of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail or a local correctional facility whose actions have been authorized for security or investigative purposes.]~~

~~[9-1.06 — Purchasing Articles From Minors for Secondhand Use Unlawful.]~~

~~[No person doing business as a pawnbroker or dealer in secondhand goods shall purchase~~

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~~or receive from any minor under the age of eighteen (18) years in the City any gas or water pipe or piece thereof, or any copper, brass, lead, steel, iron or other attachment, fitting or connection for water or gas pipe, or any part of an automobile, motorcycle or bicycle, or attachments of any kind, unless the affidavit of the minor's parents or guardian is delivered to such dealer and kept by him, showing that such minor is the bona fide owner of such pipe, part or attachment offered for sale and has authority to sell the same, which fact the dealer must ascertain to be true before purchasing.]~~

9-1.05[7] Defacing Sidewalks and Public Property Unlawful.

9-1.06[8] Unlawful to Post Political Campaign Posters, Pictures or Signs.

9-1.07[9] Possession and Consumption of Alcoholic Beverages Prohibited In or On Public Property.

9-1.[1]08 Reporting Requirements for Sale or Exchange of Certain Jewelry, Coins Precious Stones and Metals.

9-1.09[11] Obstructive Congregation Prohibited.

9-1.10[2] Concealment of Identity Prohibited.

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4. Chapter 13 (Health) is amended as follows:

13-1 HEALTH DEPARTMENT.

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13-1.02 Governing Body; Membership; Selection; Compensation.

The Bowling Green-Warren County Health Department shall be governed by the Bowling Green-Warren County Board of Health composed of twelve (12) ~~[seven (7)]~~ members, one (1) of whom shall be the Mayor, ~~[of the]~~ City Manager or the City Manager's designee, who shall be appointed by the Mayor with approval of the Board of Commissioners, and one (1) of whom shall be the County Judge Executive ~~[of Warren County, one of whom shall be a registered nurse, one of~~



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~~whom shall be a dentist, and three (3) of whom shall be practicing physicians residing in Warren County, and appointed and selected by the State Board of Health in accordance of two (2) years from the date of their appointment and until their successors are appointed]. All other members shall be appointed by the Secretary of the Cabinet for Health and Family Services pursuant to applicable State law. The members of the Board shall receive no compensation for their services.~~

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5. Chapter 15 (Business and General Regulations) is hereby amended as follows:

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15-6 Storage, Sale and Use of Fireworks.

15-6.01 Definitions.

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“COMPETENT DISPLAY OPERATOR” shall have the same definition as set out in KRS [Chapter] 227.710.

“CONSUMER FIREWORKS” shall have the same definition as set out in KRS [Chapter] 227.702.

“DISPLAY FIREWORKS” shall have the same definition as set out in KRS [Chapter] 227.706.

“FIREWORKS” shall have the same definition as set out in KRS [Chapter] 227.700, including the applicable exceptions set forth in that statute.

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“SEASONAL FIREWORKS RETAILERS” shall have the same definition as set out in KRS [Chapter] 227.715.

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6. Chapter 20 (Solid Waste Collection) is hereby amended as follows:

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20-1 SOLID WASTE DISPOSAL.

20-1.01 Definitions.

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“Solid Waste” shall mean 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 farm 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, recovered material special wastes as designated by KRS 224.50-[224.]760, solid or dissolved material in domestic sewage, manure, corps, 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 or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

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7. Chapter 23 (Water and Sewer) is hereby amended as follows:

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23-2 BOWLING GREEN MUNICIPAL UTILITIES BOARD.

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23-2.02 Creation and Responsibility of Bowling Green Municipal Utilities Board and Disposition of Surplus Funds.

a. Pursuant to KRS 96.550[0]-96.900, 96.350-96.510 and the declaratory judgment entered by Warren Circuit Court, Division II, in Civil Action No. 18099 on 3 March 1976, there is hereby created the Bowling Green Municipal Utilities Board (hereinafter “Board”) by merging into it

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all of the authority and responsibilities heretofore delegated to the former Electric Plant Board and the Water and Sewer Commission.

...

8. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

9. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

10. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on December 6, 2016, and given final reading on December 20, 2016, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: December 20, 2016

APPROVED: Bruce Wilkerson  
Mayor, Chairman of Board of Commissioners

ATTEST: Kate Schaller Ward  
City Clerk

SPONSORED BY: Bruce Wilkerson, Mayor, 11/30/2016, 1:20 p.m.