

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 16-03

**AN ORDINANCE CREATING CERTAIN LIMITATIONS
AND PROHIBITIONS FOR COUNTY ROADS**

WHEREAS, the Mason Fiscal Court operates the County Maintained Road System with consideration of the safety of the traveling public, concern for the maintenance thereof and regard for the interests of property owners abutting such roadways; and

WHEREAS, the Fiscal Court of Mason County has adopted a comprehensive plan, as mandated by statute, and in furtherance of such plan, has adopted Ordinance No. 02-07, and amendments thereto, recognizing that certain portions of Mason County are not appropriate for commercial development and use due to the unavailability of sufficient infrastructure, specifically adequate roadways; and

WHEREAS, the Mason Fiscal Court enacted Ordinance No. 03-03, finding that certain roads within the County Maintained Road System are inadequate to carry commercial vehicles, and limiting or prohibiting the use thereof for certain commercial purposes; and

WHEREAS, the Mason Fiscal Court enacts this ordinance to amend Ordinance No. 03-03, and to create a system for permitting prohibited use where necessary while providing safeguards for the protection of roadway and the traveling public.

NOW THEREFORE, BE IT RESOLVED by the Fiscal Court of Mason County, Kentucky, as follows:

1. CLASSIFICATION. The Mason Fiscal Court hereby finds that the majority of roads within the County Maintained Road System are not constructed in a manner which would sustain commercial traffic, and that commercial traffic on such roads due to the limited width and

shoulders thereon creates a substantial danger to the traveling public. While not specifically determining that Springdale Road and the Clarkson Sherman Road are necessarily appropriate for all commercial vehicular traffic and uses, the Fiscal Court finds that consideration of the existing facilities upon such roads and the economic welfare of the citizens of the County require that such roads be exempted from the prohibitions upon commercial traffic, provided that the limitations on height, weight and length established by KRS 189.221 and other statutes and regulations applicable to all roadways shall apply to such roads. All other roadways within the County Maintained Road System are hereby determined to be insufficient or inadequate for commercial purpose or use, and are hereby designated as residential or agricultural in nature.

2. PROHIBITION. No vehicles shall be operated upon any road within the County Maintained Road System for a commercial purpose or use, except as specifically provided herein, except for Springdale Road and Clarkson Sherman Road, which are exempted from this prohibition as determined by the findings in the immediately preceding paragraph.

3. COMMERCIAL VEHICLES. All vehicles defined by federal or state statutory or regulatory authority as a "commercial vehicle" shall be presumed to be operated for a commercial purpose.

4. OTHER VEHICLES. Regardless of whether such vehicle has been classified by federal or state regulations as a "commercial vehicle," the prohibition or limitation created hereby shall apply to all vehicles and trailers utilized upon the subject roadways for a commercial purpose or use. All business uses, or use which is for profit or otherwise promotes a business, and all uses which are not either public, residential or agricultural uses, shall be deemed for a commercial purpose.

5. EXCEPTIONS. The following vehicles or vehicular use is hereby excepted from

the prohibition or limitation, and thereby permitted:

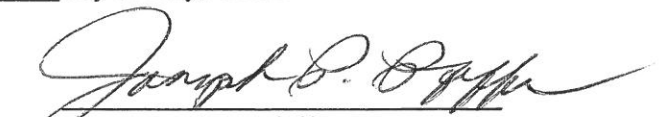
- A. School buses;
- B. Vehicles used by public utilities;
- C. Publicly owned vehicles associated with public road construction or maintenance, or vehicles used by a contractor or other third party for road construction or maintenance pursuant to contract or direction of the Mason Fiscal Court, provided that such exception shall only apply to private contractors or third parties only as to the County road being constructed or maintained or other roads strictly necessary to access such road;
- D. Vehicles utilized to transport agricultural products to market, provided that the harvesting and transport of logs or timber products shall not be considered as the transport of agricultural products and shall not be exempted from the prohibitions created hereby;
- E. Vehicles utilized to convey fertilizer, feed, fuel, or other materials and supplies for agricultural use to the place of its end use;
- F. Vehicles which are utilized to convey any substance or material used for residential use, including but not limited to, building materials, heating oil and propane;
- G. Vehicles utilized to convey those providing services to a residence or farm on such roadway;
- H. Vehicles utilized for the collection and disposal of solid waste; and
- I. Vehicles utilized for a commercial purpose to a business existing on the subject roadway before the enactment of Ordinance No. 03-03, provided that said use is necessary for the continued operation of such business, and does not otherwise violate the weight limitation for such roadway, cause damage thereto, or otherwise interfere with the reasonable use of such road by others.

6. PERMITS. Permits for commercial uses prohibited herein may be applied for by a commercial user and such permit issued by the County Judge/Executive. Upon denial of any such permit, or upon issuance with a condition objectionable by the applicant, such denial or permit condition may be appealed to the Mason Fiscal Court at its next regularly scheduled meeting. Before the issuance of any such permit, the Judge/Executive or Road Supervisor shall survey and document the existing condition, determine the public benefit of the use versus the damage to the roadway and risk of harm to the traveling public, and then deny the permit application in writing or issue the permit with such conditions as are appropriate. Permit conditions may include requirements to protect, preserve or repair the road, traffic control or public safety requirements, deposit of bond or bond with adequate surety thereon, and such other conditions as determined at the discretion of the Judge/Executive, subject to the appeal rights above to the Mason Fiscal Court. Such permit shall be limited in duration or use as appropriate, and require the remediation or reimbursement for any damages caused to the Count Maintained Road System.

7. PENALTIES. Offenses of the prohibition or limitations created hereby shall be punishable by a fine of up to \$500.00, with each separate violation constituting a separate offense.

8. RESTITUTION. In addition to any fines imposed hereunder, the Mason Fiscal Court shall recover as restitution an amount sufficient to repair any damage caused the roadway by the prohibited use thereof.

GIVEN FIRST READING this 28th day of June, 2016. Thereafter, GIVEN SECOND READING AND UNANIMOUSLY ADOPTED this ____ day of July, 2016.


Hon. Joseph P. Pfeffer
Judge/Executive

Attest:

Stephanie Schumacher

Stephanie Schumacher,
Mason County Clerk