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ORDINANCE NO. 950.1  
AN ORDINANCE RELATING TO THE REGULATION OF  
CONDITIONS UNDER WHICH NUISANCE SUITS MAY BE  
BROUGHT AGAINST AGRICULTURAL OPERATIONS;  
AND THE CREATION OF AN AGRICULTURAL GRIEVANCE COMMITTEE

WHEREAS, it is declared a policy of Pendleton County to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products; and

WHEREAS, agriculture continues to be important to the economy of Pendleton County; and

WHEREAS, when non-agricultural land uses extend into agricultural areas, agricultural operations can become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations and others are discouraged from making investments in farm improvements. It is the purpose of this ordinance to reduce the loss to Pendleton County of its agricultural resources by regulating the circumstances under which agricultural operations may be deemed to be a nuisance.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of County of Pendleton, Commonwealth of Kentucky, as follows:

SECTION I

DEFINITIONS

For the purpose of this Ordinance the following words and phrases shall have the meaning ascribed to them in this section:

1. "Agricultural Land" shall mean all real property within the boundaries of Pendleton County used for agricultural operations.
2. "Agricultural Operation" shall mean and include, without limitation, any facility for the production of crops, livestock, poultry, livestock products, poultry products including horticultural and growing of timber and all activities necessarily related thereto.
3. "Person" shall include both individuals as well as corporations, partnerships, firms and trusts.

SECTION II

NUISANCE

No agricultural operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed

conditions in or about the locality thereof after the same has been in operation and/or existence prior to the changed condition, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent operation of any such agricultural operation or its appurtenances.

The provisions of this Ordinance shall not affect the right of any person firm, or corporation to recover damages for any injuries or damages sustained by them or account of pollution of the waters of any stream of any such person, firm, or corporation.

### SECTION III

#### SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

### SECTION IV

#### PRECEDENCE

This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance, they are hereby repealed with respect to the conflict and no more.

### SECTION V

#### RESOLUTION OF DISPUTES

1. If any person who resides adjacent or proximate to an agricultural operation believes that an agricultural operation has caused or is causing a nuisance from agricultural operations, including, but not limited to, noises, odors, fumes, dust, the operation of machinery of any kind during any 24 hour period, the storage and disposal of manure, or the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, or other similar activities so as to be maintaining or conducting the operation in a manner not substantially consistent with proper and accepted customs and standards then the person may submit the matter to a grievance committee as set forth below in an attempt to resolve the matter prior to the filing of any formal legal action.

2. Any dispute arising under subsection (1) may be submitted to a grievance committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the

) particular activity giving first to the controversy or of the date a party became aware of the occurrence.

3. The committee shall be composed of Five (5) members. Those members shall be:

1. Designee of Pendleton County, Judge Executive (who shall be chairman of the committee)
2. Pendleton County, Extension Agent of Agriculture
3. Chairman of the Pendleton County Comprehensive Planning Committee
4. President, Pendleton County Farm Bureau
5. A person from the real estate broker/auctioneer community approved by the Judge Executive

4. The parties shall cooperate in the exchange of pertinent information concerning the dispute.

5. The committee may investigate the facts of the dispute and shall, within thirty (30) days of the initial request, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting render a written decision to the parties. At the time of the meeting each party shall have an opportunity to present material, relevant or pertinent facts.

) PASSED AND APPROVED on first reading this 11th day of July, 1996.

PASSED AND APPROVED on second reading this 8th day of August, 1996.

Daryl R. Mang  
JUDGE EXECUTIVE  
PENDLETON COUNTY, KENTUCKY

ATTEST: Bonnie S. Moore, Clerk  
B. Darlene Powell R.