

TITLE III: ADMINISTRATION

Chapter

- 30. MAYOR-COUNCIL PLAN**
- 31. CITY OFFICIALS**
- 32. CITY COUNCIL**
- 33. FINANCE AND REVENUE**
- 34. PUBLIC RECORDS**
- 35. TAXATION**
- 36. COMMISSIONS**
- 37. POLICE AND FIRE DEPARTMENTS**
- 38. CODE OF ETHICS**
- 39. PERSONNEL**

CHAPTER 30: MAYOR-COUNCIL PLAN

Section

- 30.01 Form of government
- 30.02 Governing officers

' 30.01 FORM OF GOVERNMENT.

The form of government provided for this city shall be known as the AMayor-Council Plan.@
(KRS 83A.130 (1))

' 30.02 GOVERNING OFFICERS.

(A) The city shall be governed by an elected executive who shall be called Mayor and by an elected legislative body which shall be called the City Council, and by such other officers and employees as are provided for by statute or city ordinance.
(KRS 83A.130 (2))

(B) The City Council shall be composed of six members.
(KRS 83A.030 (1)) (Ord. 120.1, passed 6-12-78)

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

- 31.01 Oath; bond
- 31.02 Compensation
- 31.03 Removal from office

Elected Officials

- 31.20 Election procedure
- 31.21 Mayor
- 31.22 Councilmembers
- 31.23 Continuity of government

Non-elected City Officials

- 31.35 Establishment of non-elected city offices
- 31.36 City Clerk
- 31.37 Assistant City Attorney

GENERAL PROVISIONS

31.01 OATH; BOND.

(A) *Oath.* Each officer of the city shall, before entering upon the discharge of duties of his office, take the following oath: AI do solemnly swear (or affirm, as the case may be) that I will support the Constitution of this Commonwealth, and the Constitution of the United States, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____, according to law; and I do further solemnly swear (or affirm) that, since the adoption of the present Constitution, I being a citizen of this United States, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a challenge, nor aided or assisted any person thus offending, so help me God,@ as established by section 228 of the Kentucky Constitution.

(B) *Bond.* Official bonds shall, if required, meet the standards of KRS 62.060.

31.02 COMPENSATION.

(A) City Council shall establish the compensation of every elected city officer not later than the first Monday in May in the year in which the officer is elected. An elected officer's compensation shall not be changed after his election or during his term of office.

(1) In order to equate the compensation of Mayors and Councilmembers with the purchasing power of the dollar, the State Finance and Administration Cabinet computes by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky, which provides that the Mayor in cities of the first class shall be paid at a rate no greater than \$12,000 per annum and Mayors in cities other than the first class and Councilmembers shall be paid at a rate no greater than \$7,200 per annum.

(2) The City Council shall set the compensation of these officers in accordance with KRS 83A.070 at a rate no greater than that stipulated by the State Finance and Administration Cabinet.

(3) The salary of the Mayor shall be fixed at the sum of \$750 per month. The salaries of the members of the City Council shall remain at the sum of \$100 per month. (Ord. 88-7, passed 7-11-88)

(B) The City Council shall establish the compensation of city employees and non-elected city officers in accordance with the personnel and pay classification plan ordinance of the city.

(C) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.

Statutory reference:

Compensation, see KRS 83A.070 and 83A.075

31.03 REMOVAL FROM OFFICE.

(A) *Elected officers.* Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the City Council exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

(B) *Non-elected officers.* Non-elected city officers may be removed by the Mayor at will, unless otherwise provided by state law or ordinance. Upon removal of a non-elected officer at will, the Mayor shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at-will dismissal power of the Mayor.

Statutory reference:

Removal of elected officers, see KRS 83A.040(9)

Removal of non-elected officers, see KRS 83A.080(2)

ELECTED OFFICIALS

31.20 ELECTION PROCEDURE.

(A) Election of city officers shall be conducted by nonpartisan elections, as provided for in KRS 83A.050 and KRS 83A.170 and other applicable statutes. (Ord. 87-2, passed 2-9-87)

(1) The nonpartisan primary election for the nomination of candidates to elected city offices is hereby eliminated as authorized by KRS 83A.045(2)(b).

(2) All candidates for elected city offices shall file their nomination papers with the Marion County Clerk no later than the second Tuesday in August.

(3) All nomination papers shall be filed no later than 4:00 prevailing local time when filed on the last day on which such papers are permitted to be filed.

(4) The election of candidates to all elected city offices shall be governed by the provisions of this division (A) and by the applicable provisions of KRS Chapter 83A and Chapters 116 to 121. (Ord. 89-1, passed 1-30-89)

(B) The city may change the manner of election of city officers within the provisions of division (A) of this section by ordinance, except that no change shall be made earlier than five years from the last change.

(C) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

(D) Each appointed and elected city office existing on July 15, 1980, shall continue until abolished by ordinance, except that the offices of Mayor and City Councilmembers may not be abolished.

(E) No abolition of any elected office shall take effect until expiration of the term of the current holder of the office.

(F) No ordinance abolishing any elected office shall be enacted later than 240 days preceding the regular election for that office, except in the event of a vacancy in the office.

(G) The city may not create any elected office. Existing elected offices may be continued under provision of divisions (D), (E), and (F) above, but no existing elected office may be changed.

Statutory reference:

Election of city officers, see KRS 83A.050

Creation, abolishment of city offices, see KRS 83A.080(3), (4)

31.21 MAYOR.

(A) *Election; term of office.* The Mayor of this city shall be elected by the voters of the city at a regular election. A candidate for mayor shall be a resident of the city for not less than one year prior to his or her election. His term of office begins on the first day of January following his election and shall be for four years and until his successor qualifies. If a person is elected or appointed as mayor in response to a vacancy and serves less than four calendar years, then that period of service shall not be considered for purposes of re-election a term of office.

(B) *Qualifications.* The Mayor shall be at least 21 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(C) *Vacancy.* If a vacancy occurs in the office of Mayor, Council shall fill the vacancy within 30 days. If for any reason, any vacancy in the office of Mayor is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(KRS 83A.040 (1),(2),(6))

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Council shall not vote for himself. (KRS 83A.040(2)(c))

(2) When voting to fill a vacancy created by the resignation of the Mayor, the resigning Mayor shall not vote on his successor. (KRS 83A.040(3))

(3) No vacancy by reason of a voluntary resignation in the office of Mayor shall occur unless a written resignation which specifies the resignation date is tendered to the City Council. The resignation shall be effective at the next regular meeting of the city legislative body. (KRS 83A.040(7))

(4) If a vacancy occurs in the office of Mayor which is required by law to be filled temporarily by appointment, the City Council shall immediately notify in writing both the County Clerk and the Secretary of State of the vacancy. (KRS 83A.040(8))

(5) (a) As soon as practicable after the commencement of the terms of office of the members of the City Council, the Council shall select one of their number to serve as Mayor pro-tem in the absence of the Mayor. Election of the Mayor pro-tem shall require the vote of a majority of the members of the Council.

(b) In the event that neither the Mayor nor the Mayor pro-tem is present at any regular or properly called special meeting, and a quorum being present, the remaining members of the Council shall select a presiding officer, who shall preside for that meeting only. Selection of the presiding officer shall require the vote of a majority of the Council members present at the meeting.

(c) The Mayor pro-tem selected pursuant to division (a) above, or the presiding officer selected pursuant to division (b) above, shall have only such duties as are required for the orderly conduct of the meeting and the execution of such lawful actions, other than the approval or rejection of ordinances, as are taken at the meeting.

(Ord. 82-2, passed 1-11-82)

(D) *Powers and duties.*

(1) The executive authority of the city is hereby vested in and shall be exercised by the Mayor. The Mayor shall enforce the Mayor-Council Plan, city ordinances and orders, and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employees under his jurisdiction and require each department to make reports to him as required by ordinance or as he deems desirable.

(2) The Mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities.

(3) The Mayor shall report to the Council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance, but not less than annually. He shall make any recommendations for actions by the Council he finds in the public interest.

(KRS 83A.130(3))

(4) Subject to disapproval of the Council, the Mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statutes or ordinances. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records. (KRS 83A.130(4))

(5) Any delegation of the Mayor's power, duties, or responsibilities to subordinate officers and employees and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and kept in a permanent file.

(KRS 83A.130(7))

(6) All bonds, notes, contracts, and written obligations of the city shall be made and executed by the Mayor or his agent designated by executive order. (KRS 83A.130(8))

(7) The Mayor shall be the appointing authority with power to appoint and remove all city employees, including police officers, except as tenure and terms of employment are protected by statute, ordinance, or contract and except for employees of the Council. (KRS 83A.130(9))

(8) The Mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed, in accordance with division (D)(5) above. However, the Mayor may not delegate the responsibility of presiding at meetings of the Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer. With approval of the Council, the Mayor may rescind any action taken in his absence under this section within 30 days of such action. If for any reason the disability of the Mayor to attend to his duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of ' 31.21(C) shall apply. (KRS 83A.130(10))

' 31.22 COUNCILMEMBERS.

For provisions concerning City Council, see Chapter 32.

' 31.23 CONTINUITY OF GOVERNMENT.

(A) The city deems it necessary to provide for the orderly succession of the office of Mayor in the event of the absence or disability of the Mayor as defined in KRS 83A.130(7) when involving a national, state or local emergency.

(B) Under Kentucky law, KRS 83A.040, any vacancy in the office of Mayor is filled by the City Council within 30 days or, after 30 days, the Governor of the State of Kentucky shall appoint, and a Mayor appointed in this manner serves in accordance with Section 152 of the Kentucky Constitution.

(C) The line of succession contained in this section is to insure that a city governmental official is available to serve in the absence or disability of the Mayor.

(D) When the absence or disability of the Mayor shall prevent his serving in the office during a national, state or local emergency, the duties and responsibilities of the Mayor shall be administered temporarily by the City Administrator as set forth in KRS 83A.130(7) and KRS 83A.130(11).

(E) If neither the Mayor nor City Administrator is able to serve in the office of Mayor by reason of absence or disability, the duties of the office of Mayor shall be assumed temporarily by a designee of the Mayor as set forth in KRS 83A.130(7) and KRS 83A.130(11).
(Ord. 03-11, passed 12-8-03)

NON-ELECTED CITY OFFICIALS**31.35 ESTABLISHMENT OF NON-ELECTED CITY OFFICES.**

(A) All non-elected city offices shall be created by ordinance which shall specify:

- (1) Title of office;
- (2) Powers and duties of office;
- (3) Oath of office; and
- (4) Bond, if required.

(B) With the exception of the Police Chief and all city police officers, all non-elected city officers shall be appointed by the Mayor with approval of City Council. The Police Chief and all city police officers shall be appointed by the Mayor at will and such appointments need not be approved by City Council.

(C) All non-elected officers may be removed by the Mayor at will unless otherwise provided by statute or ordinance. Upon removal of a non-elected officer at will, the Mayor shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at-will dismissal power of the Mayor.

(D) The non-elected city offices shall be those of City Manager, City Administrator, City Clerk, Assistant City Clerk, City Treasurer and Assistant City Treasurer, Chief of Police and Fire Chief, other than a volunteer fire chief. The city may from time to time combine these offices as determined by necessity and available personnel.

(1) The powers and duties of such non-elected city offices shall be those set forth in the position descriptions adopted by the city as part of its current Policies and Procedures Manual, and the pay and duties of said non-elected officers shall further be governed by the provisions of the city's current Classification and Compensation Plan for City Employees.

(2) The City Clerk, Assistant City Clerk, City Treasurer and Assistant City Treasurer shall take the oath of office prescribed by Section 228 of the Kentucky Constitution. The City Administrator shall take the official oath prescribed for Mayors and members of the City Council. Each above-mentioned city officer, other than the Assistant City Treasurer, shall post bond in the amount of \$25,000. City officers shall be required to post only one bond.

(Ord. 88-8, passed 8-8-88)

Statutory reference:

Non-elected city offices, see KRS 83A.080(1),(2),(3)

31.36 CITY CLERK.

(A) The city hereby establishes the office of the City Clerk.

(B) The office of City Clerk may, by ordinance, be combined with any other nonelected city office by inclusion of the title and duties of the office.

(C) The duties and responsibilities of the Clerk shall include, but are not limited to the following:

(1) Maintenance and safekeeping of the permanent records of the city;

(2) Performance of the duties required of the official custodian or custodian in accordance with KRS 61.870 through 61.882;

(3) Possession of the seal of the city if used;

(4) No later than January 31 of each year, mail to the Governor's Office for Local Development a list containing current city information including but not limited to the following:

(a) The correct name of the Mayor, legislative body members, and the following appointed officials who are serving as of January 1 of each year:

1. City Clerk;

2. City Treasurer;

3. City Manager;

4. City Attorney;

5. Finance Director;

6. Police Chief;

7. Fire Chief; and

8. Public Works Director;

(b) The correct name of the city, mailing address for city hall, and telephone number of the city hall; and

(c) The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.;

(5) Performance of all other duties and responsibilities required of the City Clerk by statute or ordinance.
(KRS 83A.085)

(D) Compensation shall be in the amount as established by the City Council from time to time as set forth in ' 31.02.

(E) No person shall be appointed or act as the City Clerk unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond, in the amount of \$25,000 with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein. (Ord. 8-88, passed 8-8-88)

' 31.37 ASSISTANT CITY ATTORNEY.

There is hereby created the position of Assistant City Attorney, which shall be a non-elected and non-compensated position. The Assistant City Attorney shall be appointed by the Mayor on the recommendation of the City Attorney and with the advice and consent of the City Council. The Assistant City Attorney=s employment shall be at the will of the Mayor and that the Assistant City Attorney=s duties and obligations shall be identical to those of the City Attorney.
(Ord. 03-02, passed 2-10-03)

CHAPTER 32: CITY COUNCIL

Section

General Provisions

- 32.01 Members; election, qualifications, compensation
- 32.02 Vacancies
- 32.03 Powers and duties

Rules of Procedure

- 32.20 Mayor as Presiding Officer
- 32.21 Meetings
- 32.22 Quorum

Ordinances

- 32.35 One subject; title
- 32.36 Introduction; enacting clause
- 32.37 Form of amendment
- 32.38 Reading requirement; exception for emergency
- 32.39 Approval, disapproval by Mayor
- 32.40 Adoption of standard codes by reference
- 32.41 Official city records
- 32.42 Indexing and maintenance requirements
- 32.43 Publication requirements
- 32.44 Additional requirements for adoption may be established by city
- 32.45 Periodic review required
- 32.46 Municipal orders
- 32.47 Proved by Clerk; received in evidence
- 32.48 Legislative immunity

GENERAL PROVISIONS**' 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.**

(A) *Election; term of office.* Each Councilmember shall be elected at-large by the voters of the city at a regular election. A candidate for council shall be a resident of the city for not less than one year prior to his or her election. Terms of office begin on the first day of January following the election and shall be for two years.

(B) *Qualifications.* A member shall be at least 18 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.
(KRS 83A.040(4))

(C) *Compensation.* For provisions concerning compensation, see ' 31.02.

' 32.02 VACANCIES.

(A) *Vacancies.* If one or more vacancies on Council occur in a way that one or more members remain seated, the remaining members shall within 30 days fill the vacancies one at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies are filled as provided in this section.
(KRS 83A.040(5))

(1) No vacancy by reason of a voluntary resignation of a member of the City Council shall occur unless a written resignation which specifies a resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the city legislative body occurring after the date specified in the written letter of resignation.
(KRS 83A.040(7))

(2) If a vacancy occurs on the City Council which is required by law to be filled temporarily by appointment, the City Council shall immediately notify in writing both the County Clerk and the Secretary of State of the vacancy. (KRS 83A.040(8))

(B) *Failure to fill vacancies.* If for any reason, any vacancy on Council is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
(KRS 83A.040(6))

Statutory reference:

Filling of vacancies for nonpartisan city office, see KRS 83A.175

' 32.03 POWERS AND DUTIES.

(A) The legislative authority of the city is hereby vested in and shall be exercised by the elected Council of the city. The Council may not perform any executive functions except those functions assigned to it by statute. (KRS 83A.130 (11))

(B) The Council shall establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare. (KRS 83A.130 (12))

(C) The Council shall provide, by ordinance, for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which provides for the orderly management of city resources. (KRS 83A.130 (12))

(D) The Council may investigate all activities of city government. The Council may require any city officer or employee to prepare and submit to it sworn statements regarding the performance of his official duties. Any statement required by the Council to be submitted or any investigation undertaken by the Council, if any office, department, or agency under the jurisdiction of the Mayor is involved, shall not be submitted or undertaken unless and until written notice of the Council's action is given to the Mayor. The Mayor may review any statement before submission to the Council and to appear personally or through his designee on behalf of any department, office, or agency in the course of any investigation. (KRS 83A.130 (13))

RULES OF PROCEDURE**' 32.20 MAYOR AS PRESIDING OFFICER.**

(A) The Mayor shall preside at meetings of the Council. The Council has the authority to establish, by ordinance, the manner in which one of its number may be selected to preside at meetings of the Council in the absence of the Mayor.

(B) The Mayor may participate in Council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie. (KRS 83A.130 (5))

Cross-reference:

Council's responsibility to select one of its own members to preside when there is vacancy in the office of Mayor, see ' 31.21

‘ 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held at 7:00 p.m. on the first Monday after the first Tuesday of each month at the city hall. However, if the regular meeting date falls on a legal holiday, the meeting shall take place on the following Monday at the same hour and place. (Ord. 78-3, passed 6-12-78)

(B) Special meetings of the Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the purpose, time, and place of the special meeting with sufficient notice for the attendance of Council members and for compliance with KRS Chapter 61.

(C) At a special meeting no business may be considered other than that set forth in the designation of purpose.

(D) The minutes of every meeting shall be signed by the person responsible for maintaining city records as provided under ‘ 31.36 and by the officer presiding at the meeting.
(KRS 83A.130 (11))

‘ 32.22 QUORUM.

Unless otherwise provided by statute, a majority of the Council constitutes a quorum and a vote of a majority of a quorum is sufficient to take action.
(KRS 83A.060 (6))

ORDINANCES**‘ 32.35 ONE SUBJECT; TITLE.**

Each ordinance shall embrace only one subject and shall have a title that clearly states the subject.
(KRS 83A.060 (1))

‘ 32.36 INTRODUCTION; ENACTING CLAUSE.

Each ordinance shall be introduced in writing and shall have an enacting clause styled ABe it ordained by the City of Lebanon.@
(KRS 83A.060 (2))

' 32.37 FORM OF AMENDMENT.

No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any text being added by a single solid line drawn underneath it. Text that is intended to be removed shall be marked at the beginning with an opening bracket and at the end with a closing bracket. The text between the brackets shall be stricken through with a single solid line.

(KRS 83A.060 (3))

' 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

(A) Except as provided in division (B) of this section, no ordinance shall be enacted until it has been read on two separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Council may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of ' 32.43 shall be complied with within ten days of the enactment of the emergency ordinance.

(KRS 83A.060 (4),(7))

' 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

(A) All ordinances adopted by the Council shall be submitted to the Mayor who, within ten days after submission, shall either approve the ordinance by affixing his signature or disapprove it by returning it to the Council together with a statement of his objections.

(B) No ordinance shall take effect without the Mayor's approval unless he fails to return it to the legislative body within ten days after receiving it or unless the Council votes to override the Mayor's veto, upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one more than a majority of the membership.

(KRS 83A.130 (6))

' 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

The Council may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(KRS 83A.060 (5))

' 32.41 OFFICIAL CITY RECORDS.

(A) Every action of the Council is hereby made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the Council shall be entered on the official record of the meeting.

(B) The Council has provided, under the provisions of ' ' 31.36(C) and 32.42, for the maintenance and safekeeping of the permanent records of the city. The City Clerk and the presiding officer shall sign the official record of each meeting.

(KRS 83A.060 (8))

' 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

At the end of each month, all ordinances adopted in the city shall be indexed and maintained by the City Clerk in the following manner:

(A) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(B) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and maintained in this code of ordinances.

(KRS 83A.060 (8))

' 32.43 PUBLICATION REQUIREMENTS.

(A) Except as provided in ' 32.38(B), no ordinance shall be effective until published pursuant to KRS Chapter 424.

(B) Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared or certified by an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:

(1) The title of the ordinance;

(2) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and

(3) The full text of each section that imposes taxes or fees.

(C) Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.
(KRS 83A.060 (9))

‘ 32.44 ADDITIONAL REQUIREMENTS FOR ADOPTION MAY BE ESTABLISHED BY CITY.

The city may, by ordinance, specify additional requirements for adoption of ordinances in greater detail than contained herein, but the city may not lessen or reduce the substantial requirements of this chapter or any statute relating to adoption of ordinances.
(KRS 83A.060 (10))

‘ 32.45 PERIODIC REVIEW REQUIRED.

Not less than once every five years all ordinances in this code of ordinances shall be examined for consistency with state law and with one another and shall be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.
(KRS 83A.060 (11))

‘ 32.46 MUNICIPAL ORDERS.

(A) Council may adopt municipal orders. All municipal orders shall be in writing and shall be adopted only at an official meeting. Orders may be amended only by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(B) In lieu of an ordinance, municipal orders may be used for matters relating to the internal operation and functions of the city and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the Council has control.
(KRS 83A.060 (12), (13))

‘ 32.47 PROVED BY CLERK; RECEIVED IN EVIDENCE.

All ordinances and orders of the city may be proved by the signature of the City Clerk; and when the ordinances are placed in this code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.
(KRS 83A.060 (14))

' 32.48 LEGISLATIVE IMMUNITY.

For anything said in debate, Councilmembers shall be entitled to the same immunities and protections allowed to members of the General Assembly.

(KRS 83A.060 (15))

Statutory reference:

Privileges of members of General Assembly, see KRS 6.050 and Ky. Const. ' 43

CHAPTER 33: FINANCE AND REVENUE

Section

Financial Administration

- 33.01 Definitions
- 33.02 Accounting records and financial reports
- 33.03 Annual budget ordinance
- 33.04 Annual audit of city funds
- 33.05 Official depositories; disbursement of city funds
- 33.06 Collection of delinquent city taxes, licenses, fees and other charges

Improvements

- 33.10 Definitions
- 33.11 Financing of improvements
- 33.12 Apportionment of cost
- 33.13 Comprehensive report required
- 33.14 Public hearing required
- 33.15 Adoption of ordinance; notice to affected owners
- 33.16 Affected owner may contest
- 33.17 When city may proceed; assessment constitutes lien
- 33.18 Effect of additional property or change in financing

FINANCIAL ADMINISTRATION

33.01 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires, the following definitions shall apply:

BUDGET. A proposed plan for raising and spending money for specified programs, functions, activities, or objectives during a fiscal year.

DEBT SERVICE. The sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

ENCUMBRANCES. Obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

FISCAL YEAR. The accounting period for the administration of fiscal operations.

GENERALLY ACCEPTED GOVERNMENTAL AUDITING STANDARDS. Those standards for audit of governmental organizations, programs, activities and functions issued by the Comptroller General of the United States.

GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING. Those standards and procedures promulgated and recognized by the Governmental Accounting Standards Board. (KRS 91A.010)

' 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

(A) The city shall keep its accounting records and render financial reports in such a way as to:

(1) Determine compliance with statutory provisions; and

(2) Determine fairly and with full disclosure the financial operations of constituent funds and account groups of the city in conformity with generally accepted governmental accounting principles.

(B) The municipal accounting system shall be organized and operated on a fund basis. (KRS 91A.020)

' 33.03 ANNUAL BUDGET ORDINANCE.

(A) The city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. No moneys shall be expended from any governmental or proprietary fund except in accordance with a budget ordinance adopted pursuant to this section.

(B) Moneys held by the city as a trustee or agent for individuals, private organizations, or other governmental units need not be included in the budget ordinance.

(C) If in any fiscal year subsequent to a fiscal year in which the city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year has full force and effect as if re-adopted.

(D) The budget ordinance of the city shall cover one fiscal year.

(E) Preparation of the budget proposal shall be the responsibility of the Mayor.

(F) The budget proposal shall be prepared in such form and detail as prescribed by ordinance.

(G) The budget proposal together with a budget message shall be submitted to Council not later than 30 days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(H) (1) Council may adopt the budget ordinance making appropriations for the fiscal year in such sums as it finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may take any form that Council finds most efficient in enabling it to make the necessary fiscal policy decisions.

(2) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one fiscal year in violation of Section 157 of the Kentucky Constitution.

(I) The full amount estimated to be required for debt service during the budget year shall be appropriated, for all governmental fund types.

(J) Council may amend the budget ordinance at any time after the ordinance's adoption, so long as the amended ordinance continues to satisfy the requirements of this section.

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. Such responsibility includes the preparation and submission to Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. Such reports shall be submitted not less than once every three months in each fiscal year.

(L) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in ' 33.02.

(M) No city agency, or member, director, officer, or employee of any city agency, may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements, and obligations, express or implied, beyond such existing appropriations are void; nor shall any city officer issue any bond, certificate, or warrant for the payment of money by the city in any way to any extent, beyond the balance of any appropriation made for the purpose.

(KRS 91A.030)

' 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten days of the completion of

the audit and its presentation to the city legislative body, in accordance with division (B)(5) of this section, each city shall forward an electronic copy or three paper copies of the audit report to the Department for Local Government for information purposes. The Department for Local Government shall, make available upon request either an electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.

(B) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(1) The auditor be employed to examine the basic financial statements which shall include the governmental wide and fund financial statements;

(2) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended.

(3) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary under the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(4) The auditor shall prepare a typewritten or printed report embodying:

(a) The basic financial statements and accompanying supplemental and required supplemental information;

(b) The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and

(c) Findings required to be reported as a result of the audit.

(5) The completed audit and all accompanying documentation shall be presented to Council at a regular or special meeting.

(6) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(C) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to the city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(D) Within 30 days after the presentation of an audit to the City Council, the city shall publish an advertisement, in accordance with KRS Chapter 424, containing:

(1) The auditor=s opinion letter;

(2) The ABudgetary Comparison Schedules - Major Funds,@ which shall include the general fund and all major funds;

(3) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours.

(4) A statement that any citizen may obtain from city hall a copy of the complete audit report including financial statements and supplemental information, for his personal use;

(5) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed \$.25 per page; and

(6) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

(E) Any person who violates any provision of this section shall be fined not less than \$50 nor more than \$500. In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than \$50 nor more than \$500, in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

(F) Within a reasonable time after the completion of a special audit or examination conducted pursuant to division (A) of this section, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

(KRS 91A.040)

Statutory reference:

Governor=s Office for Local Development to provide assistance, see KRS 91A.050.

33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The Mayor shall designate as the city's official depositories one or more banks, federally insured savings and loan companies, or trust companies within the Commonwealth. The amount of funds

on deposit in an official depository shall be fully insured by deposit insurance or collateralized in accordance with 12 USC 1823, to the extent uninsured, by any obligations, including surety bonds permitted by KRS 41.240(4).

(B) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the Mayor which states the name of the person to whom funds are payable, the purpose of the payment, and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

(KRS 91A.060)

‘ 33.06 COLLECTION OF DELINQUENT CITY TAXES, LICENSES, FEES AND OTHER CHARGES.

(A) The City Council may, by resolution, from time to time direct the collection of existing delinquent city taxes, licenses, fees and other charges, through any legal means, including suit. Any such suits may be brought in the name of the city in any court of competent jurisdiction, provided, however, that any suit seeking to foreclose a lien upon property shall be brought in Circuit Court. In all such legal actions the city may obtain personal judgment for the amount of the delinquent taxes, fees, licenses or other amounts owing, together with all penalties, interest, publication fees and costs of the suit.

(B) The City Council may direct the City Clerk to publish a list of all delinquent taxpayers and the face amounts of all their present delinquent tax bills. Such publication shall be accomplished as provided for in KRS Chapter 424.

(Ord. 83-6, passed 6-29-83)

IMPROVEMENTS

‘ 33.10 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires, the following definitions shall apply:

ASSESSED VALUE BASIS. The apportionment of cost of an improvement according to the ratio the assessed value of individual parcels of property bears to the total assessed value of all such properties.

BENEFITS RECEIVED BASIS. The apportionment of cost of an improvement according to equitable determination by Council of the special benefit received by property from the improvement, including assessed value basis, front foot basis, and square foot basis, or any combination thereof, and

may include consideration of assessed value of land only, graduation for different classes of property based on nature and extent of special benefits received, and other factors affecting benefits received.

COST. All costs related to an improvement, including planning, design, property or easement acquisition and construction costs, fiscal and legal fees, financing costs, and publication expenses.

FAIR BASIS. Assessed value basis, front foot basis, square foot basis, or benefits received basis.

FRONT FOOT BASIS. The apportionment of cost of an improvement according to the ratio the front footage on the improvement of individual parcels of property bears to such front footage of all such properties.

IMPROVEMENT. Construction of any facility for public use or services or any addition thereto, which is of special benefit to specific properties in the area served by such facility.

PROPERTY. Any real property benefited by an improvement.

SPECIAL ASSESSMENT or ASSESSMENT. A special charge fixed on property to finance an improvement in whole or in part.

SQUARE FOOT BASIS. The apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property.
(KRS 91A.210)

‘ 33.11 FINANCING OF IMPROVEMENTS.

(A) The city may not finance any improvement in whole or in part through special assessments except as provided in this subchapter and in any applicable statutes. (KRS 91A.200)

(B) Cost of an improvement shall be apportioned equitably on a fair basis.

(C) The city may provide for lump sum or installment payment of assessments or for bond or other long-term financing, and for any improvement may afford property owners the option as to method of payment or financing.

(KRS 91A.220)

Statutory reference:

Improvements; alternate methods, see KRS Ch. 107

‘ 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious, or charitable

organization. Council may assess such property in the same manner as for privately owned property or it may pay the costs so apportioned out of general revenues.
(KRS 91A.230)

' 33.13 COMPREHENSIVE REPORT REQUIRED.

Before undertaking any improvements pursuant to this subchapter, the city shall prepare a comprehensive report setting out:

(A) The nature of the improvement;

(B) The scope and the extent of the improvement, including the boundaries or other description of the area to be assessed;

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

(E) If financing of assessments is provided, the proposed method, including the proposed years to maturity of any bonds to be issued in connection with the improvement; and

(F) Such other information as may further explain material aspects of the improvement, assessments, or financing.

(KRS 91A.240)

' 33.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by ' 33.13, the city shall hold at least one public hearing on the proposed improvement at which all interested persons shall be heard. Notice of the hearing shall be published pursuant to KRS Chapter 424, and mailed to each affected property owner by certified mail, return receipt requested, and shall include:

(A) The nature of the improvement;

(B) Description of area of the improvement;

(C) Statement that the city proposes to finance the improvement in whole or in part by special assessment of property and the method to be used;

(D) Time and place the report may be examined; and

(E) Time and place of the hearing.

(KRS 91A.250)

' 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

Within 90 days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed shall adopt an ordinance so stating and containing all necessary terms, including the items referred to in ' 33.13 and a description of all properties.

Promptly upon passage the city shall publish such ordinance pursuant to KRS Chapter 424 and shall mail by certified mail to each affected property owner a notice of determination to proceed with the project, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio the cost to each property owner bears to the total cost of the entire project.

(KRS 91A.260)

' 33.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in ' 33.15, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his property in the improvement, or the amount of his assessment. If the action contests the undertaking of the improvement by the special assessment method of the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

(B) The city may proceed with the improvement with respect to any properties whose owners have not filed or joined in an action as provided in this section or who have contested only the amounts of their assessments, and the provisions of the resolution are final and binding with respect to such property owners except as to contested amounts of assessments. After the lapse of time as herein provided, all actions by owners of properties are forever barred.

(KRS 91A.270)

' 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

(A) After the passage of time for the action provided for in ' 33.16, or after favorable final judgment in any such action, whichever comes later, the city may proceed with the improvement or part thereof stayed by the action, including notice requiring payment of special assessment or installment thereon and bonds or other method proposed to finance the improvement. The first installment may be apportioned so that other payments will coincide with payment of ad valorem taxes.

(B) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, constitutes a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien takes precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and is not defeated

or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Council shall exempt any benefited property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

(KRS 91A.280)

' 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that ' ' 33.13 through 33.17 applies if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other sections if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance if all property owners of the improvement consent.

(KRS 91A.290)

CHAPTER 34: PUBLIC RECORDS

Section

General Provisions

34.01 Definitions

Procedures for Requesting Public Records

34.05 Initial request with immediate inspection

34.06 Referral to proper custodian

34.07 Public records not immediately available

34.08 Refusal of unreasonable requests

34.09 Time limitation; denial of inspection

34.10 Concealing or destroying records prohibited

34.11 Access to records relating to particular individual

34.12 Format of copies

34.13 Fees for copies

34.14 Misstatement of purpose prohibited

34.15 Online access to public records in electronic form

34.16 Public records protected from disclosure

34.17 Notification of the Attorney General

GENERAL PROVISIONS

34.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

CITY. The city government of this city.

COMMERCIAL PURPOSE. The direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee. **COMMERCIAL PURPOSE** shall not include:

- (1) Publication or related use of a public record by a newspaper or periodical;
- (2) Use of a public record by a radio or television station in its news or other informational programs; or
- (3) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

CUSTODIAN. The official custodian or any authorized person having personal custody and control of public records. The **CUSTODIAN** having personal custody of most of the public records of this city is the City Clerk.

MECHANICAL PROCESSING. Any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.

MEDIA. The physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards.

OFFICIAL CUSTODIAN. The chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care, and keeping of public records, regardless of whether such records are in his actual personal custody and control. The **OFFICIAL CUSTODIAN** of this city shall be the Mayor.

PERSON. A human being who makes a request for inspection of public records.

PRESCRIBED FEE or FEE. The fair payment required by the city for making copies of public records and for mailing public records, which shall not exceed the actual cost thereof and shall not include the cost of required staff time.

PUBLIC AGENCY. The city, including its legislative body and every officer, department and division of the city; every entity created by authority of the city; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency created and controlled by the city; and any interagency body in which the city participates.

PUBLIC RECORDS. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by the public agency. **PUBLIC RECORDS** shall not include any records owned or maintained by or for the public agency that are not related to functions, activities, programs, or operations funded by the public agency nor any records that may be excluded by ' 34.16.

REQUEST. An oral or written application by any person to inspect public records of the agency.

SOFTWARE. The program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system. ***SOFTWARE*** consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency.
(KRS 61.870)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) Any person desiring to inspect or copy the public records of this city shall make a request for inspection at the office of the City Clerk during regular office hours, except during legal holidays. The official custodian, or the custodian acting under the authority of the official custodian, may require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records may be presented by hand delivery, mail or via facsimile, if one is available.

(B) If the custodian determines that a person's request is in compliance with this chapter and the open records law, and the requested public records are immediately available, the custodian shall deliver the records for inspection. A person may inspect public records at the designated office of the city during the regular office hours, or in appropriate cases, by receiving copies of the records through the mail.

(C) If the public records are to be inspected at the offices of the city, suitable facilities shall be made available in the office of the City Clerk or in another office of the city as determined by the official custodian or custodian for the inspection. No person shall remove original copies of public records from the offices of the city without the written permission of the official custodian of the record. When public records are inspected at the city offices, the person inspecting the records shall have the right to make abstracts and memoranda of the public records and to obtain copies of all written public records. When copies are requested, the custodian may require advance payment of the prescribed fee.

(D) Upon proper request, the city shall mail copies of the public records to a person whose residence or principal place of business is located outside of the county after the person precisely describes the public records which are readily available and after the person pays in advance the prescribed fee.

34.06 REFERRAL TO PROPER CUSTODIAN.

If the City Clerk does not have custody or control of the public record or records requested, the City Clerk shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.

(KRS 61.872(4))

34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage, or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection or mailing of the public records, not to exceed three days (excepting Saturdays, Sundays, and legal holidays) from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection or duplication.

(KRS 61.872(5))

34.08 REFUSAL OF UNREASONABLE REQUESTS.

If the application places an unreasonable burden in producing public records, or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section must be sustained by clear and convincing evidence.

(KRS 61.872(6))

34.09 TIME LIMITATION; DENIAL OF INSPECTION.

The official custodian, upon any request for records made under this chapter, shall determine within three days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any request whether to comply with the request and shall notify in writing the person making the request within the three-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority and shall constitute final agency action.

(KRS 61.880)

34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

No official of the city shall willfully conceal or destroy any record with the intent to violate the provisions of this chapter or these rules and regulations.

' 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of ' 34.16 of these rules and regulations.

(KRS 61.884)

' 34.12 FORMAT OF COPIES.

(A) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all public records not exempted by the terms of ' 34.16. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee, including postage where appropriate. If the applicant desires copies of public records other than written records, the custodian of the records shall duplicate the records or permit the applicant to duplicate the records; however, the custodian shall ensure that such duplication will not damage or alter the original records.

(B) (1) Nonexempt public records used for noncommercial purposes shall be available for copying in either standard electronic or standard hard copy format, as designated by the party requesting the records, where the agency currently maintains the records in electronic format. Nonexempt public records used for noncommercial purposes shall be copied in standard hard copy format where agencies currently maintain records in hard copy format. Agencies are not required to convert hard copy format records to electronic formats.

(2) The minimum standard format in paper form shall be defined as not less than 8 1/2 inches x 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and the format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1) - (3))

' 34.13 FEES FOR COPIES.

(A) The public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff required. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

(B) (1) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee.

(2) The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requestor stating the commercial purpose for which they shall be used, and may require the requestor to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee.

(3) The fee provided for in division (B)(1) of this section may be based on one or both of the following:

(a) Cost to the public agency of media, mechanical processing, and staff required to produce a copy of the public record or records;

(b) Cost to the public agency of the creation, purchase, or other acquisition of the public records.

(KRS 61.874(3),(4))

Cross-reference:

Fees for online access to public records, see ' 34.15

' 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

It shall be unlawful for a person to obtain a copy of any part of a public record for a:

(A) Commercial purpose, without stating the commercial purpose, if a certified statement from the requestor was required by the public agency pursuant to ' 34.13;

(B) Commercial purpose, if the person uses or knowingly allows the use of the public record for a different commercial purpose; or

(C) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.

(KRS 61.874(5)) Penalty, see ' 10.99

' 34.15 ONLINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

(A) Online access to public records in electronic form may be provided and made available at the discretion of the public agency. If a party wishes to access public records by electronic means and the public agency agrees to provide online access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements.

(B) Fees shall not exceed:

(1) The cost of physical connection to the system and reasonable cost of computer time access charges; and

(2) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in ' 34.13.

(KRS 61.874(6))

' 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

(A) The following public records are excluded from the application of this chapter and these rules and regulations and shall be subject to inspection only upon order of a court of competent jurisdiction, except as provided in KRS 61.878(1) that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(1) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(2) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by other statute.

(3) (a) Records confidentially disclosed to the agency, or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

(b) Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

1. In conjunction with an application for or the administration of a loan or a grant;

2. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Ch. 154;

3. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

4. For the grant or review of a license to do business.

(c) The exemptions provided for in divisions (A)(3)(a) and (b) above, shall not apply to records the disclosure or publication of which is directed by statute.

(4) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within, or expanding within the Commonwealth. This exemption shall not include those records pertaining to applications to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in division (A)(2) above.

(5) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods.

(6) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made by or for a public agency relative to the acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision.

(7) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again.

(8) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations, if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of this chapter, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. The exemptions provided by this subdivision shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this chapter.

(9) (a) Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

1. Criticality lists resulting from consequence assessments;
2. Vulnerability assessments;
3. Antiterrorism protective measures and plans;
4. Counterterrorism measures and plans;
5. Security and response needs assessments;

6. Infrastructure records that expose a vulnerability referred to in this division through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

7. The following records when their disclosure will expose a vulnerability referred to in this division: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

8. Records when their disclosure will expose a vulnerability referred to in this division and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

(b) As used in this section, Aterrorist act@ means a criminal act intended to:

1. Intimidate or coerce a public agency or all or part of the civilian population;
2. Disrupt a system identified in division (9)(a)6.; or
3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

(c) On the same day that a public agency denies a request to inspect a public record for a reason identified with this division, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Office for Security Coordination and the Attorney General.

(d) Nothing in this division shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs;

(e) The exemption established in this division shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this section under the Open Records Law.

(10) Preliminary drafts, notes, or correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency.

(11) Preliminary recommendations and preliminary memoranda in which opinions are expressed or policies formulated or recommended.

(12) All public records or information the disclosure of which is prohibited by federal law or regulation.

(13) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(B) No exemption under this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person. In addition, if any public record contains material which is not excepted under this section, the city shall separate the excepted and make the non-excepted material available for examination, subject to the possible applicability of ' 34.08.

(C) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

(D) No exemption under this section shall be construed to deny, abridge, or impede the right of a municipal employee, an applicant for employment, or an eligible on a register to inspect and copy any record, including preliminary and other supporting documentation, that relates to him. Such records shall include, but not be limited to work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A city employee, applicant, or eligible shall not have the right to inspect or copy any examination or any documents relating to ongoing criminal or administrative investigations by any agency.

(KRS 61.878)

' 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

The official custodian shall notify the Attorney General of any actions filed against the city in circuit court regarding the enforcement of the open records law, KRS 61.870 to 61.884.

Section

**CHAPTER 110
GENERAL PROVISIONS**

- 35.01 Assessment; mailing of tax bills
- 35.02 Levy; establishment of tax rate
- 35.03 Due date; payment and delinquency
- 35.04 Publication of names of delinquent taxpayers
- 35.05 Recording of delinquent tax bills
- 35.06 City to have lien for taxes
- 35.07 Actions to enforce tax liens
- 35.08 Ad valorem taxes on motor vehicles
- 35.09 Disposition of funds

Bank Franchise and Local Deposit Tax

- 35.20 Imposition of tax
- 35.21 Issuance of tax bills
- 35.22 City to have lien for taxes
- 35.23 Delinquent payment
- 35.24 Disposition of funds

Transient Room and Restaurant Tax

- 35.30 Imposition of transient room tax
- 35.31 Payment, due date of transient room tax
- 35.32 Imposition of restaurant tax
- 35.33 Exemptions
- 35.34 Payment, due date of restaurant tax
- 35.35 Taxpayer recordkeeping
- 35.36 Delinquent payment
- 35.37 Audit of funds

- 35.99 Penalty

Cross-reference:

Occupational License Tax, see Chapter 110

GENERAL PROVISIONS**' 35.01 ASSESSMENT; MAILING OF TAX BILLS.**

(A) City ad valorem taxes on real and personal property shall be assessed as of January 1 of each year. The city may use the assessment of the Marion County Property Valuation Administrator or may conduct its own assessment. Such ad valorem taxes shall be collected by the City Clerk, who shall not be required to post any additional bond as a result of the duties imposed under this chapter, and such taxes shall be payable at the City Clerk's office. No demand shall be necessary for the collection of ad valorem taxes due the city.

(B) Tax bills shall be mailed annually to the taxpayer's last known address. Failure on the part of the city to send a tax bill or failure of the taxpayer to receive a tax bill shall not absolve the taxpayer from liability for payment of such taxes and any penalties, interest and publication charges applicable thereto and failure or informality in the publication, notification or recording as required herein shall not affect the validity of such taxes or the collection thereof.

(Ord. 83-5, passed 6-29-83)

' 35.02 LEVY; ESTABLISHMENT OF TAX RATE.

City ad valorem taxes shall be levied at the regular meeting of the City Council held in July of each year, or as soon thereafter as may be practicable. Such levy and the applicable tax rate shall be established annually by ordinance.

(Ord. 83-5, passed 6-29-83)

' 35.03 DUE DATE; PAYMENT AND DELINQUENCY.

(A) All city ad valorem taxes shall be due and payable on November 1 of each year. Any such taxes which are not paid prior to December 1 of the year in which they become due shall be delinquent. A penalty of 5% of the face amount of the tax bill shall be imposed on all delinquent tax bills which are delinquent after December 1 and through December 31. A penalty of 10% of the face amount of the tax bill shall be imposed on all delinquent tax bills after January 1. In addition to the penalty, each delinquent tax bill shall accumulate interest at the rate of 1% per month of the face amount of the tax bill for each month or part thereof that the tax bill remains delinquent.

(B) Any taxpayer may pay the whole tax bill any time after the tax bill has been made out and/or delivered to the taxpayer. Upon payment, the City Clerk shall note on the stub of the bill the amount paid and the date thereof, and shall deliver the receipted bill to the taxpayer. When any person desires to pay taxes on any one item of property in a tax bill, he shall be allowed to do so if the city's interest will not be prejudiced thereby, and the taxpayer shall be given a receipt showing the date and the amount of the payment, the number of the tax bill, the name of the person against whom the tax bill was made out and

a sufficient description to identify the property on which the taxes are paid. A corresponding notation shall be made on the tax bill and the stub, and the city's lien shall thereupon stand released as to that property, but the tax bill shall not be surrendered until paid in full.

(Ord. 83-5, passed 6-29-83)

▸ **35.04 PUBLICATION OF NAMES OF DELINQUENT TAXPAYERS.**

On or before March 1 of each year, or as soon thereafter as may be practicable, the City Clerk shall cause to be published at least once as provided in KRS Chapter 424 a list of all delinquent taxpayers and the face amounts of their delinquent tax bills for the preceding year. The Council may, by resolution, direct the City Clerk to include in such list for publication the names of delinquent taxpayers from prior years and the amount of their delinquencies or to publish the list more than one time. In order to cover publication costs, an additional \$5 shall be added to each delinquent tax bill each year the delinquent taxpayer's name is published.

(Ord. 83-5, passed 6-29-83)

▸ **35.05 RECORDING OF DELINQUENT TAX BILLS.**

Following publication of the list of delinquencies, the City Clerk shall cause to be recorded in the County Clerk's office all delinquent tax bills, or a reasonable facsimile thereof, showing thereon the name of the delinquent taxpayer and the face amount of the delinquent tax bill. Such recordings may be released of record by the City Clerk upon payment of the delinquent tax bill and all applicable penalties, interest and publication costs, and upon payment by the taxpayer of any recording and release fees charged by the County Clerk.

(Ord. 83-5, passed 6-29-83)

▸ **35.06 CITY TO HAVE LIEN FOR TAXES.**

(A) The city shall have a lien for the taxes provided for herein upon all property subject to taxation from January 1 of each year until paid, which lien shall be superior to all other liens and encumbrances, except liens for state taxes, whether such liens and/or encumbrances were acquired before or after the maturity of the taxes referred to in this chapter. The tax lien in favor of the city shall secure payment of the taxes, penalties, interest and publication costs provided for herein. Such lien shall extend for five years from the date such taxes become delinquent and shall be imposed upon all real and personal property assessed and on all other property of the taxpayer, whether owned at the time of assessment or acquired thereafter. The lien shall not be defeated by gift, devise, sale, alienation or any other means.

(B) The City Clerk may distraint sufficient personal property owned by or in the rightful possession of a delinquent taxpayer, if it is found in the city, to satisfy all taxes, penalties, interest and publication charges due, notwithstanding the existence of any other lien upon such property.

(Ord. 83-5, passed 6-29-83)

‡ 35.07 ACTIONS TO ENFORCE TAX LIENS.

Following the publication of the list of delinquencies, the City Council may, at its discretion, proceed to collect by any legal means the remaining delinquent taxes, interest, penalties and publication fees. The city may bring suit in its own name against the delinquent taxpayer in any court of competent jurisdiction. If the city chooses to enforce its lien against the real and/or personal property of a taxpayer, any action brought thereon shall be commenced in Circuit Court. In either instance, the city may also obtain a personal judgement against the delinquent taxpayer for the amount of the tax, together with all penalties, interest, publication fees and cost of the suit. Actions to enforce the city's tax liens shall be conducted and enforced as all other actions to enforce liens are conducted. In all actions, the production of the tax bill shall be prima facie evidence of the correctness therefor.

(Ord. 83-5, passed 6-29-83)

‡ 35.08 AD VALOREM TAXES ON MOTOR VEHICLES.

(A) All ad valorem taxes on motor vehicles shall be collected by the Marion County Clerk in accordance with KRS 134.800.

(B) Ad valorem taxes on motor vehicles shall become due and delinquent as set forth in KRS 134.810 and any such taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.

‡ 35.09 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Council.

BANK FRANCHISE AND LOCAL DEPOSIT TAX**‡ 35.20 IMPOSITION OF TAX.**

There is hereby imposed on all financial institutions, as defined in KRS Chapter 136, located within the city, for the 1996 tax year and all subsequent tax years, a franchise tax known as the Bank Franchise and Local Deposit Tax, at the rate of 0.025% on all deposits, as defined in KRS Chapter 136, maintained by such financial institutions.

(Ord. 96-11, passed 8-12-96)

35.21 ISSUANCE OF TAX BILLS.

(A) *1996 tax year.* For transition purposes, the 1996 tax year will be treated differently in terms of collection of taxes than for all subsequent years. For the 1996 tax year, the following timetable is hereby established: The city will issue tax bills to financial institutions no later than May 1, 1997. Payment of the tax shall be due with a 2% discount by May 31, 1997, or without the discount by June 30, 1997.

(B) *Subsequent years.* For all tax years subsequent to the 1996 tax year, the following timetable is hereby established: The city will issue tax bills to financial institutions no later than December 1 of each year. Payment of the tax shall be due with a 2% discount by December 31 of each year, or without the discount by January 31 of each year.

(Ord. 96-11, passed 8-12-96)

35.22 CITY TO HAVE LIEN FOR TAXES.

The city shall have a lien for taxes on the property assessed for taxes to the extent allowed under KRS 134.420.

(Ord. 96-11, passed 8-12-96)

35.23 DELINQUENT PAYMENT.

All taxes due in accordance with these sections which are not paid before June 30, 1997, for tax year 1996, or which are not paid before January 31 for all subsequent years tax years shall be deemed delinquent and shall be subject to a penalty of 10% and shall bear interest at the rate of 12% per annum.

(Ord. 96-11, passed 8-12-96)

35.24 DISPOSITION OF FUNDS.

All moneys collected pursuant to these sections shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Council.

(Ord. 96-11, passed 8-12-96)

TRANSIENT ROOM AND RESTAURANT TAX**35.30 IMPOSITION OF TRANSIENT ROOM TAX.**

In order to provide a source of funds for the operation of the Commission and to finance the costs of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, there is hereby imposed and levied a Transient Room Tax of 3% of the rent for every occupancy of a suite, room or rooms within the city charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses. The Transient Room Tax shall not apply to the renting or leasing of an apartment or any other facility where rental periods are usually and customarily for a period of 30 days or more. The Transient Room Tax shall be in addition to other taxes imposed by the city.

(Ord. 03-03, passed 3-10-03)

35.31 PAYMENT, DUE DATE OF TRANSIENT ROOM TAX.

The Transient Room Tax shall be collected and paid by the person, company, corporation or other like or similar person, group or organization doing business as a motor court, motel, hotel, inn or like or similar accommodations business. The Transient Room Tax shall be paid to the City Clerk no later than the twentieth day of the calendar month following the calendar month in which the tax was imposed, and shall be submitted with a return on a form provided by the City Clerk setting forth the aggregate amount of gross rentals charged and collected during the preceding month for every occupancy to which the tax applies, together with such other pertinent information as the City Clerk may require.

(Ord. 03-03, passed 3-10-03; Am. Ord. 03-05, passed 5-12-03)

35.32 IMPOSITION OF RESTAURANT TAX.

In order to provide a source of funds for the operation of the Commission and to finance the costs of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, there is hereby imposed and levied a Restaurant Tax of 2% of the retail sales by all restaurants doing business within the city. For purposes of this subchapter, a restaurant shall include any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to, restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grilles, tea rooms, sandwich shops, soda fountains, roadside stands, street vendors, catering kitchens, delicatessens or similar places or facilities in which food is prepared for sale for consumption on the premises or elsewhere. The Restaurant Tax shall be in addition to other taxes imposed by the city.

(Ord. 03-03, passed 3-10-03; Am. Ord. 03-05, passed 5-12-03)

35.33 EXEMPTIONS.

Exempt from the Restaurant Tax are bona fide governmental, religious and charitable non-profit organizations. The term Restaurants shall not include schools, food vending machines and establishments serving only beverages in single service or original containers. Temporary food stands, booths, street concessions and similar type operations that prepare and sell food for immediate consumption, whether or not operated by nonprofit entities, are not exempt from the Restaurant Tax.

(Ord. 03-05, passed 5-12-03)

35.34 PAYMENT, DUE DATE OF RESTAURANT TAX.

The Restaurant Tax shall be collected and paid by the person, company, corporation or other like or similar person, group or organization doing business as a restaurant. The Restaurant Tax shall be paid to the City Clerk no later than the twentieth day of the calendar month following the calendar month in which the tax was imposed, and shall be submitted with a return on a form provided by the City Clerk setting forth the aggregate amount of retail sales during the preceding month for every restaurant to which the tax applies, together with such other pertinent information as the City Clerk may require.

(Ord. 03-03, passed 3-10-03; Am. Ord. 03-05, passed 5-12-03)

35.35 TAXPAYER RECORDKEEPING.

It is the responsibility of the taxpayer to maintain books and records in support of all amounts reported on any return required by this subchapter. The city may examine the books and records of the taxpayer upon prior written notification to the taxpayer.

(Ord. 03-03, passed 3-10-03)

35.36 DELINQUENT PAYMENT.

Any Transient Room Tax or Restaurant Tax that shall remain unpaid after it becomes due, as set forth herein, shall carry interest at the rate of 12% per annum.

(Ord. 03-03, passed 3-10-03)

35.37 AUDIT OF FUNDS.

All funds collected pursuant to this subchapter shall be maintained in an account separate and unique from all other funds and revenues collected by the city. Said account and the books of the Commission shall be audited annually by an independent auditor in accordance with KRS 91A.360(5).

(Ord. 03-03, passed 3-10-03)

' 35.99 PENALTY.

Any person who shall purposely refuse to file a return required herein or pay the Transient Room Tax or Restaurant Tax due, knowingly file a false or fraudulent return, or otherwise violate any provision of ' ' 35.30 through 35.35 shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than \$100 per violation for each month during which such violation shall have occurred or continues to occur, or imprisonment for not more than 30 days for each violation, or both.
(Ord. 03-03, passed 3-10-03)

Section

CHAPTER 36. COMMISSIONS

- 36.01 Policy
- 36.02 Definitions
- 36.03 Creation; members
- 36.04 Functions
- 36.05 Powers and duties
- 36.06 Cooperation of city departments
- 36.07 Election of officers
- 36.08 Expenditures
- 36.09 Office space
- 36.10 Relationship with Kentucky Commission on Human Rights

Tourist and Convention Commission

- 36.25 Creation
- 36.26 Members; appointment; terms
- 36.27 Officers; duties
- 36.28 Budget; report

Statutory reference:

State Equal Opportunities Act, see KRS 207.130 through 207.260
State Civil Rights statutes, see KRS 344.010 through 344.990

COMMISSION ON HUMAN RIGHTS

36.01 POLICY.

It is the public policy of the city to promote fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age (40 and above), disability or familial status (in housing).

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. The Lebanon Commission on Human Rights or a member of the Commission.

DISCRIMINATION. Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or an other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, age (40 and above), disability and familial status (in housing), or the aiding, abetting, inciting, coercing or compelling thereof. (Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.03 CREATION; MEMBERS.

There is hereby created a Lebanon Commission on Human Rights. It shall consist of 11 members who shall be appointed on a nonpartisan basis and shall be broadly representative of employers, proprietors, religious groups, human rights groups, general public and the geography of Lebanon. The Mayor shall appoint the members. Of the first members appointed, three shall be appointed for one year, four shall be appointed for two years, and four shall be appointed for three years; after the first appointments, all appointments shall be for a term of three years. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member whom he/she is to succeed. A member of the Commission is eligible for reappointment. No elected or appointed city official shall be a member of the Commission. The members shall serve without compensation. (Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.04 FUNCTIONS.

The Commission shall encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age (40 and above) or disability and shall promote mutual understanding and respect among all economic, social, racial, sex, age, religious, disability and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between groups and their members because of their race, color, religion, national origin, sex, age, religion or disability. The Commission shall administer such enforceable ordinances forbidding discrimination as the City Council may enact. (Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.05 POWERS AND DUTIES.

In performing its functions, the Commission shall have the following powers and duties:

(A) To employ an executive director and other necessary personnel within the limits of funds made available;

(B) To conduct or arrange for research projects and studies into, and publish reports on discrimination and progress in equal opportunity in the community;

(C) To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities;

(D) To receive, initiate, investigate, seek to conciliate, and hold hearings on complaints alleging discrimination;

(E) To recommend methods for elimination of discrimination and intergroup tensions, and to use its best efforts to secure compliance with its recommendations;

(F) To cooperate with other intergroup relations agencies, both public and private, on the local, state and national level in performing its functions under this subchapter;

(G) To cooperate with the various departments, agencies and boards of the city and of the Commonwealth in effectuating the purposes of this subchapter;

(H) To enlist the support of civic, labor, religious, professional, educational organizations and institutions in community activities and programs that will further the goals of this subchapter;

(I) To organize community committees and councils that will work toward the goals of this subchapter;

(J) To recommend legislation to the City Council and modes of executive action to the Mayor that will effectuate the purposes of this subchapter;

(K) To submit an annual report of its activities and of the progress and problems in intergroup relations in the community to the Mayor and the City Council; and

(L) To adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of this subchapter.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.06 COOPERATION OF CITY DEPARTMENTS.

The services of all other city departments, agencies and boards shall be made available to the Commission upon its request. Information in the possession of any city department, agency or board shall be furnished to the Commission upon its request, and to the extent permitted by law.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.07 ELECTION OF OFFICERS.

The Commission shall elect a chairperson, vice-chairperson, secretary, treasurer and such other officers as it shall deem necessary in order to carry out its functions.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.08 EXPENDITURES.

The Commission shall adopt a budget for expenditures within the limits of the funds made available by the city. The Treasurer shall make a semi-annual financial report to the City Council and other city officials.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.09 OFFICE SPACE.

The Mayor may provide suitable office space and facilities for the Commission if such is available.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

36.10 RELATIONSHIP WITH KENTUCKY COMMISSION ON HUMAN RIGHTS.

The Commission shall, when requested, act in an advisory capacity to and otherwise cooperate with the Kentucky Commission on Human Rights wherever possible to effectuate compliance with state laws. The Commission is authorized to enter into cooperative working agreements with the Kentucky Commission on Human Rights whenever enforceable ordinances forbidding discrimination are enacted which are in conformity with state law.

(Ord. 150.1, passed 11-10-69; Am. Ord. 04-01, passed 2-9-04)

TOURIST AND CONVENTION COMMISSION**‘ 36.25 CREATION.**

That pursuant to KRS 91A.350(2), there is hereby created a commission to be known as the Lebanon Tourist and Convention Commission.
(Ord. 03-03, passed 3-10-03)

‘ 36.26 MEMBERS; APPOINTMENT; TERMS.

That the Lebanon Tourist and Convention Commission shall be composed of seven members appointed by the Mayor in accordance with KRS 91A.360. Vacancies on the Commission shall be filled in the same manner that original appointments are made. The commissioners shall be appointed for terms of three years; provided, that in making the initial appointments, the Mayor shall appoint two commissioners for a term of three years, two commissioners for a term of two years, and three commissioners for a term of one year. Subsequent appointments shall be for three year terms. There shall be no limitation on the number of terms to which a commissioner is re-appointed. A commissioner may be removed by the Mayor, as provided in KRS 65.007.
(Ord. 03-03, passed 3-10-03)

‘ 36.27 OFFICERS; DUTIES.

That the Commission shall elect from its membership a chairperson and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.350 through 91A.390. Such contracts may include, but shall not be limited to, the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.
(Ord. 03-03, passed 3-10-03)

‘ 36.28 BUDGET; REPORT.

That the Commission shall annually submit to the City Council a request for funds for the operation of the Commission for the ensuing year, and a report of the operation of the Commission during the preceding year.
(Ord. 03-03, passed 3-10-03)

Section

CHAPTER 37: POLICE AND FIRE DEPARTMENTS

- 37.01 Creation
- 37.02 Duties
- 37.03 Probationary period for appointees
- 37.04 Longevity, shift differential and educational incentive pay
- 37.05 Arrest fee
- 37.06 City impoundment facility

Volunteer Fire Department

- 37.20 Establishment
- 37.21 Fire Chief
- 37.22 Members
- 37.23 Rules and regulations

POLICE DEPARTMENT

37.01 CREATION.

There is hereby created a Police Department for the city, which shall consist of the Chief of Police, who shall be director of the Department, and such other members and officers as may be provided for from time to time by the City Council.
(Ord. 320.1, passed 6-12-78)

37.02 DUTIES.

It shall be the duty of the members of the Police Department to see to the enforcement of all ordinances of the city and all statutes effective in the city, and to preserve order and prevent infractions of the law and to arrest violators thereof.
(Ord. 320.1, passed 6-12-78)

37.03 PROBATIONARY PERIOD FOR APPOINTEES.

(A) Each sworn full- or part-time officer of the Police Department hired after the effective date of this section shall be hired and classified as an appointee. No appointee shall be deemed to be a member of the Police Department until such time as the appointee has satisfactorily completed a probationary period of 12 consecutive months, beginning with the date of the appointee's appointment. During such 12-month probationary period, an appointee shall not be a member of the Police Department as that term is used in KRS 95.700 or a *Police officer* as that term is used in KRS 15.520. During that probationary period, the appointment shall be conditional and at the discretion of the Chief of Police, who shall have the power of summary removal. During the 12-month probationary period, an appointee shall not be subject to the provisions of KRS 15.520, to the two-year term of office provided for in KRS 95.700, or to any other provision which would frustrate the probationary plan herein provided for.

(B) Upon successful completion of the 12-month probationary period, an appointee shall automatically become a *Member* of the Police Department and a *Police officer* as that term is used in the Kentucky Revised Statutes.

(C) The 12-month probationary period herein provided shall consist of 12 consecutive months of service with the Police Department. If either an appointee's or a member's service with the city is interrupted or terminated for any reason or for any length of time, other than for military service required by the United States or for other reasons for which the city shall grant the appointee or member a leave of absence, the appointee or member shall again successfully complete the 12-month probationary period from the date of his re-employment before becoming a member of the Police Department.

(D) An appointee shall have the powers, duties, rights and responsibilities, except as set forth herein, of a member of the Police Department, and shall be required to post such bonds and to take such oaths as may be required by statute before assuming the status of appointee.

(E) The provisions hereof shall apply to all sworn full- and part-time officers of the Police Department and shall include, but not be limited to, all sworn officers of every classification other than Chief. Nothing herein shall be construed so as to prevent an appointee from being hired, promoted or demoted during such 12-month probationary period to any rank, classification or pay grade which the Police Department now has or may then have, provided such appointee retains his probationary status.

(Ord. 80-16, passed 1-12-81; Am. Ord. 81-1, passed 2-9-81)

37.04 LONGEVITY, SHIFT DIFFERENTIAL AND EDUCATIONAL INCENTIVE PAY.

(A) Any sworn law enforcement officer who has completed his probationary status with the city and who has completed five or more years as a sworn law enforcement officer in any jurisdiction or combination of jurisdictions shall be entitled to longevity pay of \$45 per month. At the completion of ten years of service with the Police Department, longevity pay shall be increased by an additional \$5 per month. At the completion of each additional five-year period of service with the Police

Department, beginning with the completion of the 15th year of service, the longevity incentive shall be increased by an additional \$5 per month for each additional five-year period of service completed, provided, however, that no sworn law enforcement officer of any rank shall receive more than \$75 per month in longevity pay incentives.

(B) Each sergeant assigned to the 11:00 p.m. through 7:00 a.m. duty shift shall receive an additional \$.11 per hour for each hour worked during such shift. Each patrolman assigned to that shift shall receive an additional \$.10 per hour for each hour worked during such shift.

(C) (1) Any sworn law enforcement officer who has completed the basic training for police officers provided by the Kentucky Law Enforcement College shall be entitled to receive the following educational incentive pay:

| <i>Classification</i> | <i>Educational Incentive Pay</i> |
|---|----------------------------------|
| Officers having completed 60 college semester hours | \$29 per month |
| Officers having attained a Bachelor's Degree | \$42 per month |

(2) In order to receive educational incentive pay, officers must provide certified transcripts from the registrar of the institutions attended.

(D) Longevity pay, shift differential pay and educational incentive pay provided for herein shall be in addition to the base salary as provided for in the current classification and compensation ordinance, as same may from time to time be amended, and all other incentive programs, including the Kentucky Law Enforcement Foundation Program Fund, which officers may be entitled to receive.
(Ord. 88-9, passed 8-8-88)

37.05 ARREST FEE.

The statutory arrest fee payable to members of the Police Department under the provisions of KRS 64.060 shall be paid to the city treasury. (Ord. 79-11, passed 9-18-79)

37.06 CITY IMPOUNDMENT FACILITY.

(A) There is hereby established a city impoundment facility, located at the city barn on Woodlawn Avenue in the city.

(B) All vehicles impounded, stored or otherwise held by the city or by the Police Department and all vehicles held, stored or kept by the city and/or by the Police Department at the request and/or direction of any court, any other law enforcement agency and/or any individual, corporation or firm, shall be stored, kept and held at said city impoundment facility.

(C) The Chief of Police shall establish written procedures for the acceptance, keeping and release of all vehicles at the city impoundment facility and shall further establish a schedule of charges therefor, which written procedures and schedule of charges and any subsequent additions thereto or modifications thereof shall require the prior approval of the City Council.

(D) The Police Department shall use only such towing services as shall agree in writing to the written procedures and schedule of charges prepared by the Chief of Police and approved by the City Council.
(Ord. 82-18, passed 1-10-83)

VOLUNTEER FIRE DEPARTMENT

37.20 ESTABLISHMENT.

A Volunteer Fire Department for the city is hereby established.
(Ord. 310.1, passed 6-12-78)

37.21 FIRE CHIEF.

The Volunteer Fire Department shall be headed and controlled by the Fire Chief, who shall have the control, subject to the order and direction of the City Council, of all personnel and all fire apparatus belonging to the city.
(Ord. 310.1, passed 6-12-78)

37.22 MEMBERS.

The Fire Department shall consist of so many members as the City Council may determine and all members thereof shall be appointed to the Fire Department and to their rank by the City Council.
(Ord. 310.1, passed 6-12-78)

37.23 RULES AND REGULATIONS.

The City Council shall establish written rules and regulations for the Fire Department.
(Ord. 310.1, passed 6-12-78)

Section

| | | |
|-------|----------------------|-----------------------------------|
| 38.01 | Title | CHAPTER 38: CODE OF ETHICS |
| 38.02 | Definitions | |
| 38.03 | Standards of conduct | |
| 38.04 | Nepotism | |
| 38.05 | Financial disclosure | |
| 38.06 | Ethics Commission | |

‘ **38.01 TITLE.**

This chapter shall be known and may be cited as the ACode of Ethics.@
(Ord. 94-16, passed 12-19-94)

‘ **38.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS ASSOCIATE.

- (1) A private employer;
- (2) A general or limited partnership, or a general or limited partner within the partnership;
- (3) A corporation that is family-owned or in which all shares of stock are closely held, and its shareholders, owners and officers; or
- (4) A corporation, business association, or other business entity in which the city officer or employee in question serves as a compensated agent or representative.

BUSINESS ORGANIZATION. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;

CANDIDATE. An individual who seeks nomination or election to an elected city government office. An individual is a candidate when the individual:

- (1) Files a notification and declaration for nomination for office with the County Clerk or the Secretary of State; or
- (2) Is nominated for office by a political party under KRS 118.105, 118.115, 118.325, or 118.760.

CITY. The City of Lebanon, Kentucky.

CITY GOVERNMENT AGENCY. Any board, commission, authority, non-stock corporation, or other entity formed by the city government or a combination of cities and/or county governments.

CITY GOVERNMENT EMPLOYEE, CITY EMPLOYEE, and EMPLOYEE. Any person, whether compensated or not, whether full-time or part-time, employed by or serving the city government, or a city government agency who is not a city government officer, but shall not mean any employee of a school district or a school board.

CITY GOVERNMENT OFFICER, CITY OFFICER, or OFFICER. Any person, whether compensated or not, whether full-time or part-time, who is elected to any city government office or any person who serves as a member of the governing body of any city government agency, but shall not mean persons serving on or employed by any or special taxing or non-taxing district.

ETHICS COMMISSION. The Lebanon Ethics Commission created under this chapter.

FAMILY MEMBER. A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.
(Ord. 94-16, passed 12-19-94)

38.03 STANDARDS OF CONDUCT.

The following standards of conduct are applicable to, and shall be followed by, all appointed officers and employees of the city, including the Mayor, members of the Council, the City Administrator, and anyone who holds a nonelected office created under KRS 83A.080.

(A) No city government officer or employee or member of his family shall have an interest in a business organization or engage in any business transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

(B) No city government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself;

(C) No city government officer or employee shall act in his official capacity in any matter where he, a family member, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

(D) No city government officer or employee shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

(E) No city government officer or employee, or family member thereof, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given, or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by the Kentucky Revised Statutes.

(F) No city government officer or employee shall be prohibited from giving or receiving an award publicly presented in recognition of public service, commercially reasonable loans made in the ordinary course of the lender's business, or reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearance, ceremonies or fact-finding trips, provided that such expenses are related to official city government business.

(G) No city government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any family member, or any business organization with which he is associated;

(H) No city government officer or employee or business organization in which he has an interest shall represent any person or party other than the city in connection with any cause, proceeding, application, or other matter pending before any city government agency.

(I) No city government officer shall be deemed in conflict with these provisions if, by reason of his participation in the enactment of any ordinance, resolution, or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

(J) No elected city government officer shall be prohibited from making an inquiry for information or providing assistance on behalf of a constituent, if no fee, reward or other thing or value is promised to, given to or accepted by the officer or a member of his family, whether directly or indirectly, in return therefor.

(K) Nothing shall prohibit any city government officer or employee, or family members, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests; and

(L) No city government officer or employee, or family member thereof, shall use or permit the use of any city labor, funds, equipment or other personal or real property for his private use.
(Ord. 94-16, passed 12-19-94)

38.04 NEPOTISM.

(A) After the effective date of this chapter, a family member of the Mayor or a family member of a member of the City Council shall not be employed by the city or appointed to a position in a city government agency. In the case of other city officers, a family member shall not be employed in or appointed to a position which is supervised by such officer. This provision shall not apply to a family member of a city officer, who, on the date of the officer's election or appointment, has been employed by the city for at least six months or has held a position in a city government agency for at least six months.

(B) No family member of a city government officer shall be compensated more than others in like job positions, other than for reasons permitted by statute or ordinance, such as education, training and longevity.
(Ord. 94-16, passed 12-19-94)

38.05 FINANCIAL DISCLOSURE.

(A) The following individuals shall be required to file a financial disclosure statement:

(1) Elected city officers;

(2) Candidates for elected city office;

(3) City Treasurer and any other city government officers or employees with procurement authority to sign checks for the city for amounts in excess of \$500 per purchase;

(4) Members of the Ethics Commission;

(B) The financial disclosure statement filed each year shall cover the preceding calendar year.

(C) The financial disclosure statement shall include the following information:

(1) Name of the filer;

(2) Current business address, business telephone number and home address of the filer;

(3) Title of the filer's public office or office sought;

(4) Occupations of the filer and the filer's spouse;

(5) Positions held by the filer, the filer's spouse, or the filer's unemancipated children in any business organization or nonprofit entity from which the filer or the filer's spouse and unemancipated children received compensation in excess of \$5,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;

(6) Name, address, and telephone number of each source of income of both the filer, the filer's spouse, or the filer's unemancipated children which exceeded \$5,000 during the preceding calendar year, provided that nothing herein shall require disclosure of income received for services provided to individual clients if such income is aggregately reported under the immediately preceding paragraph hereof;

(7) Name, address, and telephone number of each business organization in which the filer or the filer's spouse or unemancipated children had an interest of \$5,000 or more at fair market value or 5% ownership interest or more during the preceding calendar year; and

(8) The location and type (commercial, residential, agricultural) of all real property within the city, other than the filer's primary residence, in which the filer or the filer's spouse, or unemancipated children had an interest of \$5,000 or more during the preceding calendar year.

(D) The financial disclosure statement shall be on a form provided by the Ethics Commission. The financial disclosure statement shall be filed annually by officers and employees no later than February 1. Candidates for elected city office shall be required to file the financial disclosure statement no later than 21 days after the filing date or the date of nomination. Newly-appointed officers and employees should be required to file their initial financial disclosure statement no later than 21 days after their date of appointment.

(E) Each financial disclosure statement shall be signed and dated by the filer. Signing a fraudulent financial disclosure statement shall be a Class A misdemeanor.

(F) Financial disclosure statements shall be filed with the City Clerk and, as public documents, may be reviewed by the public consistent with the Kentucky Open Records Law.
(Ord. 94-16, passed 12-19-94)

' 38.06 ETHICS COMMISSION.

(A) The Ethics Commission shall consist of five members. The members shall be appointed by the Mayor with approval by the City Council. Members shall receive no compensation but may be reimbursed for all necessary expenses. The terms of the members shall be staggered and shall serve four-year terms. Two of the initial terms shall be for four years, one for three years, one for two years and one for one year.

(B) A member of the Ethics Commission may be removed by the Mayor, subject to approval by the City Council, for misconduct, inability, or wilful neglect of duties. Before any member is removed, the member shall be afforded the opportunity for a hearing before the Mayor and City Council.

(C) Vacancies on the Ethics Commission shall be filled within 60 days by the Mayor, subject to the approval of the City Council. Any vacancy not so filled within 60 days may be filled by the remaining members of the Ethics Commission. All vacancies shall be filled for the remainder of the unexpired term.

(D) The Ethics Commission shall have the following powers:

(1) To initiate on its own motion, receive, hear, and review complaints and hold hearings regarding possible violations of the Code of Ethics:

(2) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Ethics Commission who has the power to administer oaths.

(3) To refer any information concerning violations of this Code of Ethics to the Mayor, the City Council, the governing body of any city government agency, the City Attorney, or other appropriate person or body, as necessary.

(4) To render advisory opinions to city officers and employees regarding whether a given set of facts and circumstances constitutes a violation of any provisions of this Code of Ethics;

(5) To enforce the provisions of the this Code of Ethics and to impose penalties for violations as authorized; and

(6) To adopt rules and regulations necessary to implement this Code of Ethics.

(E) The Ethics Commission may seek the advice of the City Attorney, but may retain private counsel at the expense of the city should the Ethics Commission or the City Attorney determine that an actual or perceived conflict of interest may arise.

(F) The Ethics Commission may impose an administrative fine of not to exceed \$1,000 for non-compliance with the provisions hereof. Any person who intentionally violates the provisions hereof shall be subject to the criminal prosecution, said offense to be classified as a AClass A@ misdemeanor.

(G) Decisions of the Ethics Commission regarding violations shall be appealable to the County Circuit Court.

(Ord. 94-16, passed 12-19-94)

Section

- 39.01 [Reserved] **CHAPTER 39: PERSONNEL**
- 39.02 Controlled substances and alcohol use testing program

‘ **39.01 [RESERVED.]**

‘ **39.02 CONTROLLED SUBSTANCES AND ALCOHOL USE TESTING PROGRAM.**

(A) The city hereby adopts in its entirety the Controlled Substances and Alcohol Use Testing Program attached to Ord. 96-04, passed 4-8-96.

(1) The Controlled Substances and Alcohol Use Testing Program hereby adopted may only be waived, altered or suspended by ordinance.

(2) The city's Controlled Substances and Alcohol Use Testing Program hereby adopted shall be applicable only to those city employees who fall within the regulations mandated by the United States Department of Transportation, Title 49, Code of Federal Regulations.

(3) All ordinances or parts of ordinances that are in conflict with Ord. 96-04, including certain portions of the city's Personnel Policies and Procedures (Ordinance No. 91-3), are repealed, but only to the extent of such conflict and only insofar as the employees subject to the regulations promulgated by the United States Department of Transportation in Title 49 of the Code of Federal Regulations are concerned. (Ord. 96-04, passed 4-8-96)

(B) The city hereby adopts in its entirety the Controlled Substances and Alcohol Use Testing Program attached to Ord. 96-05, which program shall be applicable to all full-time city employees not covered by Ordinance No. 96-04.

(1) The Controlled Substances and Alcohol Use Testing Program hereby adopted may only be waived, altered or suspended by ordinance.

(2) All ordinances or parts of ordinances that are in conflict with Ord. 96-5, including certain portions of the city's Personnel Policies and Procedures (Ordinance No. 91-3), are repealed, but only to the extent of such conflict.

(Ord. 96-5, passed 5-13-96)