

**TITLE III: ADMINISTRATION**

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## **CHAPTER 30: MAYOR-COUNCIL PLAN**

### Section

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### **§ 30.01 FORM OF GOVERNMENT.**

The form of government provided for this city shall be known as the “Mayor-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))



## CHAPTER 31: CITY OFFICIALS

### Section

#### *General Provisions*

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### **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: “I 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) Certification. Certification of the person administering the oath of office to an elected official shall certify in writing that the oath was administered and the date of its administration. Said certification shall be filed in accordance with KRS 62.020.

(C) Bond.

(1) All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that person's hands or under that person's control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond.

(2) Elected officials who post bond as required by statute, and employees of their offices covered by a blanket or umbrella bond, shall be deemed to have complied with division (C)(1) of this section. (KRS 65.067)

### **§ 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 Department for Local Government 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 Department for Local Government.

(B) The City Council shall fix the compensation of each appointed city officer by ordinance and may change it by ordinance.

(C) The City Council shall establish the compensation of city employees in accordance with the personnel and pay classification plan ordinance of the city.

(D) 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) Nonelected officers. Nonelected city officers may be removed by the Mayor at will, unless otherwise provided by state law or ordinance.

**Statutory reference:**

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

*Removal of nonelected officers, see KRS 83A.080(2)*

***ELECTED OFFICIALS***

**§ 31.20 ELECTION PROCEDURE.**

(A) Election of city officers and Council membership for the city shall be at the time of the general election as provided under the non-partisan city election laws as provided in KRS 83A.045(2)(b). (Ord. 12-4-95-1, passed 12-12-95)

(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:***

*Nonpartisan election of city officers, see KRS 83A.045(2)*

*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.

(B) Qualifications. The Mayor shall be at least 25 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) The City Council shall elect from among its members an individual to preside over meetings of the City Council during any vacancy in the office of the Mayor in accordance with the provisions of KRS 83A.130 to 83A.150. (KRS 83A.040(2)(d))

(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.

### ***NONELECTED CITY OFFICIALS***

### **§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.**

(A) All nonelected city offices shall be created by ordinance which shall specify:

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

(5) Compensation, which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.

(B) With the exception of the Police Chief and all city police officers, all nonelected 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 nonelected officers may be removed by the Mayor at will unless otherwise provided by statute or ordinance.

(D) The following is a nonelected city office: City Clerk.

***Statutory reference:***

*Nonelected city offices, see KRS 83A.080(1), (2)*

**§ 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 such 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 Department for Local Government 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, if required, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.



## 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 City 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 21 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 meeting of the city legislative body.  
(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 least once each month at those times and places established by ordinance.

(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 “Be it ordained by the City of Kuttawa.”  
(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 words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.  
(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 and 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 fines, penalties, forfeitures, 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 Fiscal year

#### *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.

(KRS 91A.010(6))

**GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING.** Those standards and procedures promulgated and recognized by the Governmental Accounting Standards Board.

(KRS 91A.010(7))

### **§ 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 readopted.

(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 following standards shall apply to the form and detail in which the annual budget proposal of the city is to be prepared.

(1) The annual budget proposal shall detail the raising of revenue from all sources, including grants and transfers, and the spending of money for specified programs, functions, activities, or objectives of the city, including all principle and interest due on debt, for the budget year. The total of anticipated revenues shall equal or exceed the total of proposed expenditures.

(2) The form of the annual budget proposal shall be consistent in form, to the extent practical, with the accounting system of the city.

(3) The annual budget proposal shall provide a complete program and financial plan for all funds for the budget year.

(4) The annual budget proposal, together with a budget message, shall be submitted to the legislative body not later than 30 days prior to the beginning of the fiscal year.

(5) The annual budget proposal shall not provide for appropriations to exceed revenues for the budget year.

(Ord. passed 8-1-83)

(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)(6) of this section, each city shall forward three copies of the audit report to the Kentucky Department for Local Government for information purposes. The Department shall forward one copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(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 general purpose financial statements of all governmental, proprietary and fiduciary funds of the city;

(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 prepare a typewritten or printed report embodying the general purpose

financial statements and his opinion and statements relating thereto;

(5) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

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

(7) 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 workpapers 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) Upon completion of an audit, the city may elect to publish the auditor's report in accordance with division (E) of this section, or may publish a financial statement in accordance with division (F) of this section. Notwithstanding the election of divisions (E) or (F) of this section, the city shall within 90 days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided such statement.

(E) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the City Council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his personal use. The statement shall notify 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. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of such statement.

(F) If the city elects to publish the financial statement prepared in accordance with KRS 424.220

in lieu of publishing the auditor's report, it shall, within 60 days after the completion of the audit, publish such statement in accordance with KRS Chapter 424.

(G) The city may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.

(H) 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.

(KRS 91A.040)

***Statutory reference:***

*Department for Local Government 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 U.S.C. sec. 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 FISCAL YEAR.**

The start of the city's fiscal year shall be on July 1 of each year.  
(Ord. 10-4-82-4, passed 11-1-82)

***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
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- 34.08 Refusal of unreasonable requests
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- 34.11 Access to records relating to particular individual
- 34.12 Format of copies
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- 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 new 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 city. **PUBLIC RECORDS** shall not include any records owned or maintained by or for the city that are not related to functions, activities, programs, or operations funded by the city 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 city'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 the city 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 city, 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(1))

**§ 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 8½ 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 city maintains electronic public records in a format other than ASCII, and this 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 city. 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) - (2))

**§ 34.13 FEES FOR COPIES.**

(A) The city 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 city, but not including the cost of staff required. If the city 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 city 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 city may establish a reasonable fee.

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

(b) Cost to the city 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 city 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 city. If a party wishes to access public records by electronic means and the city 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 the city 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; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of this chapter and shall remain exempted after enforcement action, including litigation, 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) Preliminary drafts, notes, or correspondence with private individuals, other than correspondence which is intended to give notice of final action by the city.

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

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

(12) 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 nonexcepted 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.



## CHAPTER 35: TAXATION

### Section

- 35.01 County assessment adopted
- 35.02 Due date; payment
- 35.03 Delinquency
- 35.04 Ad valorem taxes on motor vehicles
- 35.05 Disposition of funds
- 35.06 Bank franchise and local deposit tax
- 35.07 Tax on retail sales of food by restaurants

### ***Cross-reference:***

*Business regulations, license taxes, see §§ 112.03, 113.01, 113.02. 113.15*

### **§ 35.01 COUNTY ASSESSMENT ADOPTED.**

(A) Pursuant to the authority granted in KRS 132.285, the city hereby adopts the Lyon County assessment for all real and personal property situated within the city as the basis of all ad valorem tax levies ordered or approved by the City Council.

(B) The assessment as finally determined for county tax purposes shall serve as the basis for all city levies for the fiscal year commencing after the assessment date.

### **§ 35.02 DUE DATE; PAYMENT.**

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due on December 1.

(B) Any taxpayer who pays his city taxes before December 1 after they become due shall be entitled to a 2% discount thereon, and the Clerk shall allow the discount and give a receipt in full to the taxpayer.

### **§ 35.03 DELINQUENCY.**

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent on January 1 following their due dates.

(B) Any taxes not paid by the date when they become delinquent shall be subject to a penalty of 2% per annum until January 31; thereafter, there shall be a penalty of 10% on the taxes due and unpaid. The delinquent taxpayer shall also pay all costs and expenses incidental to any action taken by the city for collection of the delinquent tax bill.

(C) Delinquent taxes shall be collectable under the provisions of the state law relating to the collection of delinquent taxes by cities of the fifth class.

(Am. Ord. 97-10-6-8, passed 10/13/97)

#### **§ 35.04 AD VALOREM TAXES ON MOTOR VEHICLES.**

(A) All ad valorem taxes on motor vehicles shall be collected by the Lyon 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.

#### **§ 35.05 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.

#### **§ 35.06 BANK FRANCHISE AND LOCAL DEPOSIT TAX.**

(A) There shall be on all financial institutions, as defined in KRS 136, located within the city corporate limits a franchise tax at the rate of 0.025% on all deposits, as defined in KRS 136, maintained by such financial institutions.

(B) The city will issue tax bills to financial institutions no later than December 1 of each year. Payment of tax shall be due with a 2% discount by December 31 of each year, or without the discount by January 31 of each year.

(C) The city shall have a lien for taxes upon any and all property subject to the tax imposed by these sections, which lien shall be superior to all encumbrances prior or subsequent.

(D) All taxes due in accordance with these sections which are not paid before January 31 shall be deemed delinquent and shall be subject to a penalty of 10% and shall bear interest at the rate of 8% per annum.

(E) All moneys collected pursuant to this section 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. 97-5-5-1, passed 5-5-97)

**§ 35.07 TAX ON RETAIL SALES OF FOOD BY RESTAURANTS.**

(A) Purpose. The purpose of this section is to provide assistance in funding the Lyon County Tourist and Convention Commission in a manner consistent with Chapter 91A of the Kentucky Revised Statutes.

(B) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**RESTAURANT.** Any business at which food is prepared and sold. The word “restaurant” will not include vending machine sales.

(C) Tax imposed. A tax is levied on the sale of all food and beverages at restaurants other than alcoholic beverages. The amount of the tax shall be 2% of the gross sales of food by each restaurant.

(D) Collection. The tax herein imposed shall be collected by the operator of each restaurant within the city, who shall file a tax collection return by the 20th day of each month for the preceding month's sales, upon forms approved by the City Clerk.

(E) Disposition of funds. All funds collected under the tax for which provision is made herein shall be immediately remitted to the Lyon County Tourist and Convention Commission.

(F) Penalty. Failure to pay the monthly remittance within ten days after the due date shall constitute a violation of this section, resulting in an automatic penalty of 10%, together with interest on all delinquent payments of 10% per annum.

(Ord. 01-4-2-6, passed 4-10-01)





## CHAPTER 36: CODE OF ETHICS

### Section

#### *General Provisions*

- 36.01 Short title
- 36.02 Findings
- 36.03 Purpose and authority
- 36.04 Definitions

#### *Standards of Conduct*

- 36.15 Conflicts of interest in general
- 36.16 Conflicts of interest in contracts
- 36.17 Receipt of gifts
- 36.18 Use of city property, equipment or personnel
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- 36.20 Misuse of confidential information
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#### *Financial Disclosure*

- 36.35 Officers and employees required to file
- 36.36 Due date; amended statements
- 36.37 Form of statement of financial interests
- 36.38 Control and maintenance of statements of financial interests
- 36.39 Contents of financial interests statement
- 36.40 Noncompliance with filing requirement; notice and fine

#### *Nepotism*

- 36.50 Nepotism prohibited

#### *Enforcement*

- 36.60 Board of Ethics; establishment; membership
- 36.61 Alternate members
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- 36.63 Powers and duties

- 36.64 Filing and investigation of complaints
- 36.65 Notice of hearings
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- 36.67 Appeals
- 36.68 Limitation of actions
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- 36.70 Reprisals against persons disclosing violations prohibited
  
- 36.99 Penalty

### ***GENERAL PROVISIONS***

#### **§ 36.01 SHORT TITLE.**

This chapter shall be known and may be cited as the “City of Kuttawa Code of Ethics.”  
(Ord. 94-12-5-6, passed 12-12-94)

#### **§ 36.02 FINDINGS.**

The legislative body of the city finds and declares that:

(A) Public office and employment with the city are public trusts.

(B) The vitality and stability of the government of this city depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer or employee, that confidence is imperiled.

(C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

(Ord. 94-12-5-6, passed 12-12-94)

#### **§ 36.03 PURPOSE AND AUTHORITY.**

(A) It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

(B) It is the further purpose of this chapter to meet the requirements of KRS 65.003, as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.  
(Ord. 94-12-5-6, passed 12-12-94)

#### § 36.04 DEFINITIONS.

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

**BUSINESS.** 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.

**BOARD OF ETHICS.** The city Board of Ethics which is created and vested by this chapter with the responsibility of enforcing the requirements of the city's code of ethics.

**CANDIDATE.** Any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the County Clerk or Secretary of State, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the County Clerk or Secretary of State.

**CITY AGENCY.** Any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

**EMPLOYEE.** Any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the city. The term **EMPLOYEE** shall not include any contractor or subcontractor or any of their employees.

**FAMILY MEMBER.** A spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

**IMMEDIATE FAMILY MEMBER.** A spouse, an unemancipated child residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

**OFFICER.** Any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The Mayor.
- (2) A legislative body member.

- (3) The City Clerk.
- (4) The City Manager.
- (5) The City Administrator.
- (6) Any person who occupies a non-elected office created under KRS 83A.080.

(5) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.  
(Ord. 94-12-5-6, passed 12-12-94)

### ***STANDARDS OF CONDUCT***

#### **§ 36.15 CONFLICTS OF INTEREST IN GENERAL.**

Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

(A) No officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

(B) No officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a financial benefit for any of the following:

- (1) The officer or employee;
- (2) A family member;
- (3) An outside employer;
- (4) Any business in which the officer or employee, or any family member has a financial interest;
- (5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in divisions (C)(4) and (C)(5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

(E) Every officer or employee who has a prohibited financial interest which the officer or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

### **§ 36.16 CONFLICTS OF INTEREST IN CONTRACTS.**

(A) No officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, except as follows:

(1) The prohibition in division (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in division (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in division (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the requirements set forth in division (3) below are satisfied.

(3) The prohibition in division (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency;

(b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed;

(c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interests of the public and the city or city agency because of price, limited supply, or other specific reasons; and

(d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.

(KRS 61.252) (Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

### **§ 36.17 RECEIPT OF GIFTS.**

No officer or employee of the city or any city agency shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than \$100, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his or her public duties. (Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

### **§ 36.18 USE OF CITY PROPERTY, EQUIPMENT OR PERSONNEL.**

No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(A) The use is specifically authorized by a stated city policy; or

(B) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

### **§ 36.19 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.**

(A) No officer or employee of the city or any city agency shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

(C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interests.

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.  
(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

**§ 36.20 MISUSE OF CONFIDENTIAL INFORMATION.**

No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.  
(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

**§ 36.21 POST-EMPLOYMENT RESTRICTION.**

No officer or employee of the city or any city agency shall appear or practice before the city or any city agency with respect to any matter on which the officer or employee personally worked while in the service of the city or city agency for a period of one year after the termination of the officer's or employee's service with the city or city agency.  
(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

**§ 36.22 HONORARIA.**

(A) No officer or employee of the city or a city agency shall accept any compensation, honorarium or gift with a fair market value greater than \$100 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's or employee's activities outside of municipal service and is unrelated to the officer's or employee's service with the city.

(B) Nothing in this section shall prohibit an officer or employee of the city or any city agency from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer or employee in connection with an appearance, speech or article, provided that the officer or employee can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or city agency and primarily for the benefit of the city or city agency and not primarily for the benefit of the officer or employee or any other person.  
(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

*FINANCIAL DISCLOSURE***§ 36.35 OFFICERS AND EMPLOYEES REQUIRED TO FILE.**

The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

- (A) Elected city officials;
- (B) Candidates for elected city office;
- (C) Members of the Planning and Zoning Commission and Board of Adjustment;
- (D) Members of the Board of Ethics created by this chapter;

(E) Nonelected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$500.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

**§ 36.36 DUE DATE; AMENDED STATEMENTS.**

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4:00 p.m., April 20, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on April 20 of each year, provided that:

(1) An officer or employee newly-appointed to fill an office or position of employment with the city or a city agency shall file his or her initial statement no later than 30 days after the date of the appointment.

(2) A candidate for city office shall file his or her initial statement no later than 30 days after the date on which the person becomes a candidate for elected city office.

(B) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

(C) In the event there is a material change in any information contained in a financial statement that has been filed with the Board, the officer or employee shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Board.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

**§ 36.37 FORM OF STATEMENT OF FINANCIAL INTERESTS.**

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than January 1 of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Ord. 94-12-5-6, passed 12-12-94)

**§ 36.38 CONTROL AND MAINTENANCE OF STATEMENTS OF FINANCIAL INTERESTS.**

(A) The Board of Ethics shall be the official custodian of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics, or the administrative official designated by the Board of Ethics as the custodian, as public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five years after filing, provided that:

(1) Upon the expiration of three years after a person ceases to be an officer or employee of the city or a city agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of three years after any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(Ord. 94-12-5-6, passed 12-12-94)

**§ 36.39 CONTENTS OF FINANCIAL INTERESTS STATEMENT.**

(A) The statement of financial interests shall include the following information for the preceding calendar year:

(1) The name, current business address, business telephone number, and home address of the filer;

(2) The title of the filer's office, office sought, or position of employment;

(3) The occupation of the filer and the filer's spouse;

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding \$5,000 during the preceding calendar year, and the nature of the income

(for example, salary, commission, dividends, retirement fund distribution, and the like);

(5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of \$10,000 at fair market value or 5% ownership interest or more;

(6) The name and address of any business located outside of the state, if the business has engaged in any business transactions with the city during the past three years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of \$10,000 at fair market value or 5% ownership interest or more;

(7) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of \$10,000 or more;

(8) Each source by name and address of gifts or honoraria having an aggregate fair market value of \$100 or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year;

(9) The name and address of any creditor owed more than \$10,000, except debts arising from the purchase of a primary residence, or the purchase of consumer goods which are bought or used primarily for personal, family or household purposes;

(B) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

#### **§ 36.40 NONCOMPLIANCE WITH FILING REQUIREMENT; NOTICE AND FINE.**

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under division (A) of this section within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed \$25 per day, up to a maximum total civil fine of \$500. Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(C) Any person who intentionally files a statement of financial interests which he or she knows

to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

*NEPOTISM*

**§ 36.50 NEPOTISM PROHIBITED.**

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the employment, appointment, promotion, transfer, or advancement of a family member to an office or position of employment with the city or a city agency.

(B) No officer or employee of the city or a city agency shall supervise or manage the work of a family member.

(C) No officer or employee shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to the effective date of this chapter.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

*ENFORCEMENT*

**§ 36.60 BOARD OF ETHICS; ESTABLISHMENT; MEMBERSHIP.**

(A) There is hereby created a Board of Ethics which shall have the authorities, duties, and responsibilities as set forth in this chapter to enforce the provisions of this chapter.

(B) The Board of Ethics shall consist of five members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body (if different from the executive authority). The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. The members shall serve for a term of three years, except that with respect to the members initially appointed, one member shall be appointed for a term of one year, two members shall be appointed for

a term of two years, and two members shall be appointed for a term of three years. Thereafter, all appointments shall be for a term of three years. No more than three of the members shall be of the same political party. Each member of the Board of Ethics shall have been a resident of the city for at least one year prior to the date of the appointment and shall reside in the city throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the executive authority, subject to the approval of the legislative body (if different from the executive authority) for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body (if different from the executive authority).

(D) Vacancies on the Board of Ethics shall be filled within 60 days by the executive authority, subject to the approval of the legislative body (if different from the executive authority). If a vacancy is not filled by the executive authority within 60 days, the remaining members of the Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(E) Members of the Board of Ethics shall serve without compensation, unless otherwise approved by the legislative body, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a Chairperson from among the membership. The Chairperson shall be the presiding officer and a full voting member of the Board.

(G) Meetings of the Board of Ethics shall be held, as necessary, upon the call of the Chairperson or at the written request of a majority of the members.

(H) The presence of three or more members shall constitute a quorum and the affirmative vote of three or more members shall be necessary for any official action to be taken. Any member of the Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(I) Minutes shall be kept for all proceedings of the Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.  
(Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.61 ALTERNATE MEMBERS.**

The executive authority of the city, with the approval of the legislative body (if different than the executive authority) may appoint two alternate members of the Board of Ethics who may be called upon to serve when any regular member of the Board is unable to discharge his or her duties. An

alternate member shall be appointed for a term of one year. Alternate members shall meet all qualifications and be subject to all of the requirements of this chapter that apply to regular members.

(Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.62 FACILITIES AND STAFF.**

Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

(Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.63 POWERS AND DUTIES.**

The Board of Ethics shall have the following powers and duties:

(A) To initiate on its own motion, receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this chapter.

(B) 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 Board who has the power to administer oaths.

(C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

(D) To refer any information concerning violations of this chapter to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other appropriate person or body, as necessary.

(E) To render advisory opinions to city and city agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.

(F) To enforce the provisions of this chapter with regard to all officers and employees of the city and city agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.

(G) To control and maintain all statements of financial interests that are required to be filed by this chapter and to insure that the statements are available for public inspection in accordance with the requirements of this chapter and the Kentucky Open Records Act.

(H) To develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the city.

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this chapter, provided that the rules, regulations, and actions are not in conflict with the provisions of this chapter or any state or federal law.

(Ord. 94-12-5-6, passed 12-12-94)

**Statutory reference:**

*Kentucky Open Records Act, see KRS 61.870 through 61.884.*

**§ 36.64 FILING AND INVESTIGATION OF COMPLAINTS.**

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten working days from the date of receipt. The Board shall forward within ten working days to each officer or employee of the city or city agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this chapter.

(B) Within 30 days of the receipt of a proper complaint, the Board of Ethics shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.

(C) All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except that:

(1) The Board may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.

(2) If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry and, at its discretion, make public any documents which were issued to either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this chapter. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances (such as lack of significant economic advantage or gain by the officer or employee, lack of economic loss to the city and its taxpayers, or lack of significant impact on public confidence in city government) issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the city or city agency; or

(2) Initiate a hearing to determine whether there has been a violation.

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor.

(Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

### **§ 36.65 NOTICE OF HEARINGS.**

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within 30 days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued. (Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.66 HEARING PROCEDURE.**

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in connection with the matter to be heard. The Board shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.

(C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.

(D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.

(E) All hearings of the Board of Ethics shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(F) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proven. Within 30 days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of this chapter has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this chapter, the Board may:

(1) Issue an order requiring the violator to cease and desist the violation;

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body (if different than the executive authority) of the city or city agency with which the violator serves;

(3) In writing, recommend to the executive authority and the governing body (if different than the executive authority) that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000; and

(5) Refer evidence of criminal violations of this chapter or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

(Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.67 APPEALS.**

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the circuit court of the county within 30 days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

(Ord. 94-12-5-6, passed 12-12-94)

### **§ 36.68 LIMITATION OF ACTIONS.**

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one year after the violation is discovered.

(Ord. 94-12-5-6, passed 12-12-94)

**§ 36.69 ADVISORY OPINIONS.**

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative or when requested by any officer or employee of the city or a city agency who is covered by this chapter.

(B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.

(C) The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.

(D) The confidentiality of an advisory opinion may be waived either:

(1) In writing by the person who requested the opinion; or

(2) By majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.

(E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the Board if they had existed at the time the opinion was rendered. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion, the Board shall not be bound by the opinion.

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this chapter for actions taken in reliance on that opinion. (Ord. 94-12-5-6, passed 12-12-94)

***Statutory reference:***

*Kentucky Open Records Act, see KRS 61.870 through 61.884.*

**§ 36.70 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.**

(A) No officer or employee of the city or any city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this chapter.

(B) This section shall not be construed as prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

- (1) To be false or which he or she discloses with reckless disregard for its truth or falsity;
  - (2) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884; or
  - (3) Is confidential under any other provision of law.
- (Ord. 94-12-5-6, passed 12-12-94) Penalty, see § 36.99

### **§ 36.99 PENALTY.**

(A) Except when another penalty is specifically set forth in this chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this chapter shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed \$1,000, which may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

(B) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this chapter shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this chapter, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

(Ord. 94-12-5-6, passed 12-12-94)