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CHAPTER 30: MAYOR-COUNCIL PLAN

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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)) (Ord. 120.02, passed 12-16-80)

§ 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 not less than six nor more than 12 members as prescribed by ordinance.
(KRS 83A.030 (1))

(C) The Mayor and members of City Council are deemed for all purposes to be full-time officers of the city.
(Ord. 120.02, passed 12-16-80; Am. Ord. 1989-21, passed 11-8-1989)

CHAPTER 31: CITY OFFICIALS

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GENERAL PROVISIONS

§ 31.01 OATH OF OFFICE.

(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 the United States and the Constitution of this Commonwealth, 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 State, 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

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 of oath. 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. The written certification shall be filed in accordance with KRS 62.020.

§ 31.02 BOND.

(A) 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.

(B) 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 subsection (A) of this section.
(KRS Chapter 65)

§ 31.03 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 establish the compensation of city employees and non-elected officers in accordance with the city's compensation and classification plan.

(C) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.
(KRS 83A.070)

Statutory reference:

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

§ 31.04 REMOVAL FROM OFFICE.

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

(B) Non-elected officers. Non-elected city officers may be removed by the Mayor at will, unless otherwise provided by state law or ordinance. Upon removal of a non-elected officer at will, the Mayor shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at-will dismissal power of the Mayor.
(KRS 83A.080)

Statutory reference:

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

Removal of non-elected officers, see KRS 83A.080(2), (3)

ELECTED OFFICIALS

§ 31.20 ELECTION PROCEDURE.

(A) Election of city officers is governed by general election laws as provided in KRS Chapters 116 through 121 unless City Council otherwise prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in KRS Chapter 83A. Such ordinance shall become effective not later than twenty-three (23) days prior to the date prescribed by the election law generally for filing notification and declaration forms with the County Clerk in a year in which a regular election is to be held in which any city office is to be filled. Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of the ordinance shall be filed with the County Clerk of the county in which the city is located.

(B) Under the terms of subsection (A) above, the election of city officers of the City of Dayton shall be under nonpartisan city elections laws as provided in KRS Chapter 83A. However, the City of Dayton hereby exercises its option not to abide by the provisions of KRS 83A.045(2)(b) and there shall be a nonpartisan primary election if required.

(C) 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 (5) years from the last change.

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

(E) 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.

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

(G) 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.

(H) The city may not create any elected office. Existing elected offices may be continued under provision of division (E), (F), and (G) above, but no existing elected office may be changed.
(Ord. 1999-1, passed 1-19-99)

Statutory reference:

Election of city officers, see KRS 83A.050

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

Election to fill unexpired term of city office, see KRS 83A.165

§ 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 (4) years and until his successor qualifies. If a person is elected or appointed as Mayor in response to a vacancy and serves less than four calendar years, then that period of service shall not be considered for purposes of re-election a term of office.

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

(C) Vacancy. If a vacancy occurs in the office of Mayor, Council shall fill the vacancy within thirty (30) days. If for any reason, any vacancy in the office of Mayor is not filled within thirty (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 or special meeting of the city legislative body occurring after the date specified in the written letter of resignation.
(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.
(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 ensure 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 thirty (30) days of such action. If for any reason the disability of the Mayor to attend to his duties persists for sixty (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))

Statutory reference:

Powers and duties of Mayor, see KRS 83A.130

§ 31.22 COUNCILMEMBERS.

For provisions concerning City Council, see Chapter 32.

§ 31.23 OFFICIAL DESIGNEE OF MAYOR DURING DECLARED EMERGENCY.

(A) For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"AVAILABLE." Present within the city or able to be present within the city within a short period of time or able to be in constant voice communication with the emergency personnel within the city; and unaffected by the emergency or other causes so as to be physically and mentally competent to direct emergency personnel with the city.

(B) The Mayor, when available, shall have all powers granted to him during declared emergencies under KRS 39.410 to 39.416. At such times as the Mayor is not available during an emergency, the designee having all powers granted to the Mayor shall be:

(1) The presiding member of City Council as defined by ordinance; if unavailable, then

(2) The member of City Council with the longest continuous service on Council, if unavailable, then

(3) The City Administrative Officer, if unavailable, then

(4) The Police Chief, Fire Chief, Clerk/Treasurer, City Inspector, and Superintendent of Public Works, or the available members thereof, acting in unison.

(C) Any person acting as the designee shall relinquish all powers granted to the Mayor during declared emergencies under KRS 39.410 to 39.416 at such time as any person higher in the chain of authority becomes available.

(Ord. 1990-16, passed 11-20-90; Am. Ord. 1992-6, passed 4-7-92)

Cross-reference:

Disaster and emergency preparedness organization, see §§ 34.85 through 34.86

NON-ELECTED CITY OFFICIALS

§ 31.35 ESTABLISHMENT OF NON-ELECTED CITY OFFICES.

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

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

(B) With the exception of the Police Chief and all city police officers, all non-elected city officers shall be appointed by the Mayor

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with approval of City Council. The Police Chief and all city police officers shall be appointed by the Mayor at will and such appointments need not be approved by City Council.

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

(D) The city may create non-elected offices other than those referred to below. The following are non-elected city offices:

- (1) City Clerk/Treasurer
 - (2) City Manager
 - (3) City Administrator
 - (4) Chief of Police
 - (5) Assistant City Clerk/Treasurer
 - (6) Alcoholic Beverage Control Administrator
 - (7) Civil Defense Director
 - (8) Fire Chief
 - (9) Assistant Fire Chief
- (Am. Ord. 2003-12, passed 6-3-03)

Statutory reference:

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

§ 31.36 CITY CLERK/TREASURER.

The city hereby establishes the office of the City Clerk/Treasurer, who shall be appointed by the Mayor with approval of City Council and who may be removed by the Mayor at will.

(A) The duties and responsibilities of the City Clerk/Treasurer 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/Treasurer;
2. 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 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 or of the City Treasurer by statute or ordinance.

(6) The Department of Local Government shall immediately forward one (1) copy of the information received from the City Clerk to the Legislative Research Commission.
(KRS 83A.085)

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

(C) No person shall be appointed or act as the City Clerk/Treasurer unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in an amount of twenty-five thousand dollars (\$25,000.00) with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(Ord. 230.1, passed 7-3-84)

§ 31.37 ASSISTANT CITY CLERK/TREASURER.

The city hereby establishes the office of Assistant City Clerk/Treasurer, who shall be appointed by the Mayor with approval of City Council and who may be removed by the Mayor at will.

(1) The Assistant City Clerk/Treasurer shall assist the City Clerk/Treasurer in his duties.

(2) The Assistant City Clerk/Treasurer shall take the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky. The Assistant City Clerk/Treasurer shall provide a bond in the amount of ten thousand dollars (\$10,000.00) with corporate surety authorized to transact business in the state and conditioned upon the performance of the duties specified herein.

(3) The compensation of the Assistant City Clerk/Treasurer shall be an amount established by the City Council by ordinance. (Ord. 230.12, passed 7-3-84)

§ 31.38 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) The city hereby establishes the office of Alcoholic Beverage Control Administrator, who shall be appointed upon sole authority of the Mayor and who may be removed by the Mayor at will. (KRS 241.170)

(B) The functions of the Alcoholic Beverage Control Administrator shall be the same with respect to city licenses and regulations, as the functions of the State Alcoholic Beverage Control Board with respect to state licenses and regulations, except that no regulation adopted by the Alcoholic Beverage Control Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulation of the State Board. No regulation of the Alcoholic Beverage Control Administrator shall become effective until it has been approved by the State Board. The specific duties and responsibilities of the Alcoholic Beverage Control Administrator shall include, but are not limited to the following:

(1) Enforcement of all state laws relating to alcoholic beverage control.

(2) Enforcement of all city ordinances relating to alcoholic beverage control.

(3) Enforcement of all administrative regulations relating to alcoholic beverage control.

(4) Direction of preparation of and maintenance of all necessary records and files.

(5) Performance of all necessary correspondence, requisition of supplies and recommendation of the purchase of necessary equipment.

(6) Meet with and answer questions for the public.

(C) The rate of compensation shall be the same as that set forth in the schedules of compensation adopted by the city for the head of any department. Compensation shall be based on the basic pay received by any department head without regard to additional pay for length of service. The Alcoholic Beverage Control Administrator shall also be compensated by the city for any necessary trips to Frankfort in which the Administrator shall be required for testimony related to cases arising out of the city.

(Ord. 220.06, passed 8-4-81)

(D) No person shall be appointed or act as the Alcoholic Beverage Control Administrator unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond of not less than one thousand dollars (\$1,000.00), with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(KRS 241.180)

§ 31.39 CITY INSPECTOR/ZONING ADMINISTRATOR.

(A) The duties and powers of the City Inspector/Zoning Administrator as specified hereunder shall be assigned to the position of City Administrator. (Am. Ord. 2003-12, passed 6-3-03)

(B) Duties.

(1) It shall be the duty of the City Inspector/Zoning Administrator to see to the enforcement of all ordinance provisions relating to building, blight, and zoning and to inspect all buildings or structures being erected or altered as frequently as necessary to ensure compliance with city ordinances.

(2) The City Inspector/Zoning Administrator shall act as plumbing and electrical inspector and shall have all the powers and perform all the duties connected therewith. (Am. Ord. 2003-12, passed 6-3-03; Am. Ord. 2003-17, passed 7-15-03)

(3) The City Inspector/Zoning Administrator shall have the power to order all work stopped on construction, alteration, or repair of buildings in the city when such work is being done in violation of

any ordinance relating thereto, or in violation of the zoning ordinance. Work shall not be resumed after the issuance of such an order except on the written permission of the Inspector; however, if the stop order is an oral one, it shall be followed by a written stop order within 24 hours. Such written stop order may be served by the Inspector or any police officer.

(4) The City Inspector/Zoning Administrator shall have the power to make or cause to be made an entry into any building or premises where the work of altering, repairing, or constructing any building or structure is going on, for the purpose of making inspections, at any reasonable hour.

(5) The City Inspector/Zoning Administrator shall have all powers of a citation officer as described in KRS 83A.087. In addition, the Mayor shall have the power to appoint one other employee of the City Inspector/Zoning Administrator's office as a citation officer as described in KRS 83A.087.

(Ord. 230.6, passed 2- -77; Am. Ord. 230.6A, passed 9-15-81; Am. Ord. 1994-15, passed 10-18-94; Am. Ord. 2003-17, passed 7-15-03)

(C) Oath; bond. The oath and bond shall be the same as required for the position of City Administrator. (Ord. 230.12, passed 7-3-84; Am. Ord. 2003-12, passed 6-3-03)

(D) Compensation. The compensation of the City Inspector/Zoning Administrator shall be included in the compensation of City Administrator as established by City Council by ordinance. (Am. Ord. 2003-12, passed 6-3-03)

§ 31.40 (RESERVED).

§ 31.41 FIRE CHIEF.

For provisions concerning the Fire Chief, see § 33.02.

§ 31.42 ASSISTANT FIRE CHIEF.

For provisions concerning the Assistant Fire Chief, see § 33.02.

CITY EMPLOYEES

§ 31.60 POLICE CHIEF.

For provisions concerning the Police Chief, see § 33.31.

§ 31.61 ANIMAL WARDEN.

For provisions concerning the Animal Warden, see § 91.02.

§ 31.62 CITY ADMINISTRATIVE ASSISTANT.

(A) The city hereby establishes the position of the City Administrative Assistant, who shall be appointed by the Mayor and who may be removed by the Mayor at will.

(B) The duties of the City Administrative Assistant shall be those set forth in the current job classification system adopted by the city.

(C) Compensation shall be in the amount as established by the City Council from time to time.

(D) No person shall be appointed or act as the City Administrative Assistant unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond in the amount of \$10,000 with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.
(Ord. 230.12, passed 7-3-84)

§ 31.63 SUPERINTENDENT OF PUBLIC SERVICES.

(A) The city hereby establishes the position of Superintendent of Public Services, who shall be appointed by the Mayor and who may be removed by the Mayor at will.

(B) The duties of the Superintendent of Public Services shall be those set forth in the current job classification system adopted by the city.

(C) Compensation shall be in the amount as established by the City Council by ordinance.

(D) The Superintendent of Public Services shall have all powers of a citation officer as described in KRS 83A.087.

(E) No person shall be appointed or act as the Superintendent of Public Services 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.
(Am. Ord. 1994-16, passed 10-18-94)

§ 31.64 ASSISTANT CITY INSPECTOR.

(A) The city hereby establishes the position of Assistant City Inspector, who shall be appointed by the Mayor and who may be removed by the Mayor at will.

(B) The duties of the Assistant City Inspector, shall be those set forth in the current job classification system adopted by the city.

(C) Compensation shall be in the amount as established by the City Council by ordinance.

(D) The Assistant City Inspector shall have all powers of a citation officer as described in KRS 83A.087.
(Ord. 1996-18, passed 11-19-96)

§ 31.65 MAIN STREET MANAGER.

(A) The city hereby establishes the position of Main Street Manager, who shall be appointed by the Mayor and who may be removed by the Mayor at will.

(B) The duties of the Main Street Manager shall include daily operations management for the city's Main Street Program. Additional duties of the Main Street Manager shall be those set forth in the current job classification system adopted by the city.

(C) Compensation shall be in the amount as established by the City Council by ordinance.
(Ord. 2015-4, passed 6-2-15)

Cross-reference:

Main Street Board, see §§ 34.30 through 34.33

OTHER CITY OFFICIALS

§ 31.70 CITY ATTORNEY.

(A) The City Attorney shall be employed by the city on a contractual basis, and shall serve as the general law officer and legal counsel of the city. He shall be an attorney licensed to practice in the Commonwealth of Kentucky. He shall be chosen solely on the basis of his legal qualifications, with special emphasis on actual experience in or knowledge of Kentucky municipal and administrative law. The City Attorney may also engage in the private practice of law and may hold other public or private employment.

(B) The City Attorney shall advise the Mayor, the City Council and all other city officers and employees in all legal matters pertaining to their municipal duties or affecting the interests of the city; shall appear for and defend the city in all legal actions and administrative proceedings in which the city is a party or is interested; shall institute legal action for and in behalf of the city wherever necessary for protection or enforcement of rights or interests of the city; shall prepare and examine ordinances, resolutions, orders and legal instruments as the Council may direct; and generally shall attend to all legal business of the city.

CHAPTER 32: CITY COUNCIL

Section

General Provisions

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GENERAL PROVISIONS

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

(A) Election; term of office. Each Councilmember shall be elected at-large by the voters of the city at a regular election. A candidate for Council shall be a resident of the city for not less than one year prior to his or her election. Terms of office begin on the first day of January following the election and shall be for two (2) years.

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

(C) Compensation. For provisions concerning compensation, see § 31.03.

§ 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 thirty (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 Council. (KRS 83A.040(7))

(2) Pursuant to KRS 118.305(7), 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 thirty (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))

Cross-reference:

Council members official designees of Mayor during declared emergencies, see § 31.23.

RULE OF PROCEDURE

§ 32.20 MAYOR AS PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Council. At any duly called regular or special meeting of the City Council at which the Mayor is absent or unable to attend to his duties of presiding at such meetings, that member of City Council who received the highest number of votes at the last general election for a full term on City Council shall preside. (Ord. 120.03, passed 4-17-84)

(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. (Ord. 120.02, passed 12-16-80)
(KRS 83A.130 (5))

§ 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held on the first and third Tuesdays of each and every month, with the time of commencement of the meetings to be at 7:00 p.m., prevailing local time. If the regularly scheduled meeting should occur on a holiday, then the meeting shall be held on the next succeeding work day the time stated herein. Meetings shall be held at the board meeting room of the Dayton Independent Schools Administration Building, 3rd and Clay Streets, Dayton, Kentucky. The Council may, from time to time and for reasons of emergency, access or for any other reason, designate by order, resolution or motion, a change of venue with adequate notice to the public. (Ord. 120.2, passed 10-16-79; Am. Ord. 2014-3, passed 5-6-14)

(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. (Ord. 120.2, passed 10-16-79)

(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 City Clerk/Treasurer 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 shall clearly state 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 Dayton."
(KRS 83A.060 (2))

§ 32.37 FORM OF AMENDMENT.

No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any text being added by a single solid line drawn underneath it. Text that is intended to be removed shall be marked at the beginning with an opening bracket and at the end with a closing bracket. The text between the brackets shall be stricken through with a single solid line.
(KRS 83A.060 (3))

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

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

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Council may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of § 32.43 shall be complied with within ten days of the enactment of the emergency ordinance.
(KRS 83A.060 (4), (7))

§ 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

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

(B) No ordinance shall take effect without the Mayor's approval unless he fails to return it to the legislative body within ten days after receiving it or unless the Council votes to override the Mayor's veto, upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one more than a majority of the membership.
(KRS 83A.130 (6))

§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

The Council may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.
(KRS 83A.060(5))

§ 32.41 OFFICIAL CITY RECORDS.

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

(B) The Council has provided, under the provisions of §§ 31.36(C) and 32.42, for the maintenance and safekeeping of the permanent records of the city. The City Clerk/Treasurer 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/Treasurer 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) The publication requirements for ordinances, including all bond and zoning ordinances, may be satisfied by publication in full or in summary as designated by Council.

(C) The requirements for summary publication may be satisfied by publication of the title, 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 the full text of each section that imposes taxes or fees, prepared and certified by an attorney licensed to practice law in the Commonwealth of Kentucky.

(D) 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 specify by ordinance 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.

At least once every five (5) 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 CITY CLERK/TREASURER; RECEIVED IN EVIDENCE.

All ordinances and orders of the city may be proved by the signature of the City Clerk/Treasurer; 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 the 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
Kentucky Constitution § 43

CHAPTER 33: POLICE AND FIRE DEPARTMENTS

Section

Fire Department

- 33.01 Establishment
- 33.02 Fire Chief; Assistant Chief

Police Department

- 33.20 Establishment
- 33.21 Police Chief
- 33.22 KLEF participation
- 33.23 Auxiliary Police Force

FIRE DEPARTMENT

§ 33.01 ESTABLISHMENT.

(A) There is hereby created in and for the city, a Fire Department composed of a Fire Chief, an Assistant Fire Chief, and firefighters whose employment shall be subject the provisions of and whose compensation is fixed by the current job classification ordinance.

(B) The Fire Department and the members thereof shall perform such duties and be regulated by the current personnel regulations of the city and by the appropriate sections of KRS Chapter 95; however, KRS 95.761 through 95.785 shall have no application hereto.
(Ord. 310.3, passed 1-15-74)

§ 33.02 FIRE CHIEF; ASSISTANT CHIEF.

(A) The city hereby establishes the office of Fire Chief. The Fire Chief shall be appointed by the Mayor with approval of City Council and may be removed by the Mayor at will.

(1) The duties of the Fire Chief shall be those set forth in the current job classification system adopted by the city.

(2) Compensation shall be in the amount as established by the City Council by ordinance.

(3) The Fire Chief shall have all powers of a citation officer as described in KRS 83A.087.

(4) No person shall be appointed or act as the Fire Chief 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.

(B) The city hereby establishes the office of Assistant Fire Chief, who shall be appointed by the Mayor with approval of City Council and who may be removed by the Mayor at will.

(1) The duties of the Assistant Fire Chief shall be those set forth in the current job classification system adopted by the city.

(2) Compensation shall be in the amount as established by the City Council by ordinance.

(3) No person shall be appointed or act as the Assistant Fire Chief 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.

(Am. Ord. 1994-16, passed 10-18-94)

POLICE DEPARTMENT

§ 33.20 ESTABLISHMENT.

(A) There is hereby created a Police Department composed of a Chief of Police, an Assistant Chief of Police, and police officers whose employment shall be subject to and whose compensation is fixed by the current personnel ordinance.

(B) The Police Department and the members thereof shall perform such duties and be regulated by the current personnel ordinance and by the appropriate sections of KRS Chapter 95; however, KRS 95.761 through 95.785 shall have no application hereto.

(Ord. 320.4, passed 1-15-74)

§ 33.21 POLICE CHIEF.

(A) There is hereby created the position of Chief of Police who shall be appointed and removed solely by the Mayor.

(B) The Chief of Police shall be head of the Police Department and have supervision of all officers and members thereof. He shall keep such records and make such reports to the Mayor concerning the activities of his Department as may be required by statute of city ordinance. Under the overall authority and supervision of the Mayor, the Chief of Police shall be responsible for the performance by the Police Department, and all persons who are members of the Police Department shall serve subject to the orders of the Chief of Police.

(C) The Chief of Police shall be specifically charged with the supervision of all members of the Department, and shall be held strictly responsible to the Mayor for the conduct and efficiency of all such members for the general good order of the Department.

(D) The Chief of Police in the exercise of his duties shall have the power to establish and enforce rules and regulations for the government of the members and the employees of the Department, which rules shall, however, be consistent with the ordinances of the city and the laws of the state.

(E) It shall be the duty of the Chief of Police to cause the public peace to be preserved and to enforce all ordinances of the city. The Chief of Police shall receive and give proper attention to complaints of all persons referred to him and perform such other duties as may be required from time to time. The Chief of Police shall have full power and authority to reprimand any member of the Police Department, and to file charges against any member or members of the Police Department for nonconformance with the rules and regulations of the Department.

(Ord. 320.5, passed 5-17-77)

§ 33.22 KLEF PARTICIPATION.

(A) The city hereby declares its intention to participate in the Law Enforcement Foundation Program established by KRS 15.410 through 15.510.

(B) Each officer of the Police Department shall be paid from city funds an annual salary of at least \$4,350.00 based on a standard work year of 2,080 hours.

(C) Each officer employed on or after July 1, 1972, shall have as a minimum educational attainment a high school degree or its equivalent as determined by the Kentucky Law Enforcement Council. Each officer employed on or after July 1, 1972, shall within one year of his date of employment complete a basic training course of at least 400 hours' duration administered or approved by the Department of Criminal Justice Training. Each officer employed on or after July 14, 1992, shall be at least twenty-one (21) years of age.

(D) Each officer, whether originally employed before or after July 1, 1972, shall successfully complete each year an in-service training course of forty (40) hours' duration administered or approved by the Department of Criminal Justice Training. Each officer shall receive in each calendar year, five (5) days' time-off with pay for the purpose of taking the required in-service training.

(E) In the event of extenuating circumstances beyond the control of the officer such as injury, illness, or personal tragedy which prevents the officer from completing the basic or in-service training within the time specified in subsection (C) and (D) of this section, the officer shall complete the training within 180 days after return to duty. Any police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer.

(F) No officer shall have his base salary reduced or be denied a normal salary increase to which he is otherwise entitled because of the salary incentive payments provided by the Kentucky Justice Cabinet under KRS 15.410 through 15.510.

(G) The Police Department and each officer thereof shall comply with all provisions of law applicable to local police, including the 1992 S-4

transmission of data to the centralized criminal history record information system as required by KRS 17.150.

(H) The Chief of Police shall prepare or cause to be prepared such quarterly and other reports as may be reasonably required by the Kentucky Justice Cabinet to facilitate administration of the KLEF Fund and further the purposes of KRS 15.410 through 15.510.

(I) The Police Department and each officer thereof shall further comply with all reasonable rules and regulations appropriate to the size and location of the Police Department issued by the Kentucky Justice Cabinet to facilitate the administration of the Fund and further the purposes of KRS 15.410 through 15.510.

(J) The City Clerk/Treasurer shall deposit in an appropriate account which can be identified separately from all other sources, all monies received under KRS 15.410 through 15.510. Upon receipt of any monies under KRS 15.410 through 15.510 the Clerk/Treasurer shall pay to each police officer the full amount received on behalf of that officer, giving to each officer a check stub or receipt on which gross amount of monies paid to him under KRS 15.410 through 15.510 is included and identified. All financial records relating to monies received under KRS 15.410 through 15.510 shall be retained for a period of three (3) years and until the completion of an audit approved by the Kentucky Justice Cabinet and the United States Law Enforcement Assistance Administration. (Ord. 320.3, passed 4-3-73)

§ 33.23 AUXILIARY POLICE FORCE.

(A) There is hereby established in the city an Auxiliary Police Force which shall serve as a supplemental law enforcement branch of the regular city Police Department.

(B) While serving as members of the Auxiliary Police Force any person so appointed shall have the same general powers as a regular duly appointed police officer, except that the powers or members of the Auxiliary Police Force may be exercised only within the city limits. The powers of the Auxiliary Police Force shall specifically include without limiting the generality of the foregoing, the power to arrest and the right to bear arms within the city.

(C) The Mayor, by executive order, may promulgate regulations governing the powers and duties of the members of the Auxiliary Police Force, such regulations not to be in conflict with any ordinance approved by the City Council.

(D) The minimum requirement for an auxiliary police officer shall be as defined in KRS 95.951 through 95.955. (Ord. 1995-3, passed 2-21-95)

CHAPTER 34: OTHER DEPARTMENTS, BOARDS, COMMISSIONS, AND AUTHORITIES

Section

Department of Public Services

34.01 Establishment
34.02 Duties

Housing Authority

34.15 Establishment
34.16 Members
34.17 Powers and duties

Civic Activities Board

34.20 Establishment
34.21 Members
34.22 Powers and duties
34.23 Records

Main Street Board

34.30 Establishment
34.31 Members and proceedings
34.32 Powers and duties
34.33 Records

Museum Board

34.50 Establishment
34.51 Members and proceedings
34.52 Powers and duties
34.53 Records

Park Board

out of
order

34.45 Establishment

Planning and Zoning Commission

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34.61 Members
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Zoning Board of Adjustment

34.75 Establishment

Tree Board

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Disaster and Emergency Preparedness Organization

34.85 Establishment
34.86 Appointment of Director

Ethics Board

34.90 Establishment

Code Enforcement Board

34.100 Establishment

DEPARTMENT OF PUBLIC SERVICES

§ 34.01 ESTABLISHMENT.

(A) There is hereby created a Department of Public Services composed of a Superintendent and such other personnel as may be established by ordinance of City Council from time to time.

(B) The personnel and compensation regulations adopted by reference in Chapter 38 are applicable to this department.
(Ord. 610.1, passed 1-15-74)

§ 34.02 DUTIES.

The Department of Public Services and the members thereof shall perform those duties set forth in the personnel regulations in Chapter 38.

(Ord. 610.1, passed 1-15-74)

HOUSING AUTHORITY

§ 34.15 ESTABLISHMENT.

Pursuant to the authority of KRS Chapter 80, there is hereby created the City of Dayton Municipal Housing Authority.

(Ord. 150.2, passed - -60; Am. Ord. 150.4, passed 4-7-70)

§ 34.16 MEMBERS.

(A) The Housing Authority shall consist of the Mayor, ex officio or his designee, and four (4) persons to be appointed by him with the approval of the City Council.

(KRS 80.030)

(B) Each person appointed to the Housing Authority shall be at least twenty-five (25) years of age and a bona fide resident of the city for at least one year preceding the appointment. No officer or employee of the city, whether holding a paid or unpaid office, is eligible to hold an appointment on the Housing Authority. No more than two (2) appointees on the Housing Authority shall be affiliated with the same political party. Appointees to the Housing Authority shall be originally appointed for terms of four (4) years. Upon expiration of the term of the first appointees, their successors shall be appointed for terms of one, two (2), three (3), and four (4) years, respectively, and upon the expiration of the term of each of the second group of appointees his successor shall be appointed for a term of four (4)

years. Vacancies shall be filled for unexpired terms in the same manner as the original appointment.

(KRS 80.040)

(Ord. 150.2, passed - -60; Am. Ord. 150.4, passed 4-7-70)

(C) The members of the Housing Authority shall serve without pay, but shall be entitled to necessary expenses incurred in the discharge of their duties.

(Res. 940.10-R, passed 4-5-83)

§ 34.17 POWERS AND DUTIES.

The Housing Authority shall have all powers necessary and appropriate to engage in low cost housing and slum clearance projects, and shall have all of the powers, authority, and duties prescribed by this subchapter and by KRS Chapter 80.

(Ord. 150.4, passed 4-7-70)

CIVIC ACTIVITIES BOARD

§ 34.20 ESTABLISHMENT.

There is hereby established a Civic Activities Board. The Board shall consist of five (5) resident members appointed by the Mayor.

(Ord. 2015-5, passed 6-2-15)

§ 34.21 MEMBERS.

(A) Terms of office. The terms of office for members of the Board shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve two (2) and four (4) years, respectively, and later appointments or reappointments shall continue the staggered pattern. Members may be reappointed for additional terms. The members shall serve without compensation.

(B) Vacancies. Any vacancy occurring by reason of death, resignation, or removal of any member, shall be filled for the unexpired term of the member.

(C) Organization. The Board shall organize within sixty (60) days after the appointment of its initial total membership. The Board shall annually elect a Chairman, Vice Chairman, and Secretary, who shall be eligible for re-election at the Board's first meeting annually. The Chairman shall preside at the meetings of the Board and shall be the spokesperson for the Board. In the Chairman's absence, the Vice Chairman shall perform these duties. The Board shall meet monthly as needed, with the exact time and date of the meeting to be determined by the Board.

(Ord. 2015-5, passed 6-2-15)

§ 34.22 POWERS AND DUTIES.

The Board shall be responsible to participate in and organize different public social and cultural events within the city for the benefit of the city and its citizens. The Board may take any action

Necessary and appropriate to accomplish this purpose. These public social and cultural events may include, but are not limited to the following:

(A) Easter Egg Hunt;

(B) Light up Dayton;

(C) City festivals.

(Ord. 2015-5, passed 6-2-15)

§ 34.23 RECORDS.

The City Clerk/Treasurer shall, on behalf of the Board, keep a set of books showing the receipts and expenditures of the Board. The books shall be open at all times for examination by the Mayor or any member of the City Council. At the conclusion of each fiscal year, the Board shall make a full and detailed report of the acts of the Board for the preceding year with a complete and itemized accounting of all receipts and disbursements of money.

(Ord. 2015-5, passed 6-2-15)

MAIN STREET BOARD

§ 34.30 ESTABLISHMENT.

There is hereby established a Main Street Board. The Board shall consist of either five (5), seven (7), nine (9), or eleven (11) resident members or stakeholders in the community appointed by the Mayor.

(Ord. 2015-4, passed 6-2-15)

§ 34.31 MEMBERS AND PROCEEDINGS.

(A) Terms of office. The terms of office for members of the Board shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve two (2) and four (4) years, respectively, and later appointments or reappointments shall continue the staggered pattern. Members may be reappointed for additional terms but may not serve more than two (2) consecutive terms. The members shall serve without compensation.

(B) Vacancies. Any vacancy occurring by reason of death, resignation, or removal of any member, shall be filled for the unexpired term of the member.

(C) Organization. The Board shall organize within sixty (60) days after the appointment of its initial total membership. The Board shall annually elect a Chairman, Vice Chairman, and Secretary who shall be eligible for re-election at the Board's first meeting annually. The Chairman shall preside at the meetings of the Board and shall be the spokesperson for the Board. In the Chairman's absence, the Vice Chairman shall perform these duties. The Board shall meet monthly as needed, with the exact time and date of the meeting to be determined by the Board.

(D) Quorum. Fifty percent (50%) of the members shall constitute a quorum for the transaction of business.
(Ord. 2015-4, passed 6-2-15)

§ 34.32 POWERS AND DUTIES.

The Board shall be responsible for revitalizing, maintaining and promoting the city's Historic District while maintaining its character and integrity. The Board shall primarily focus on the city's Central Business District within the Historic District. The Board shall exercise these duties through implementation of a Main Street Program. The Board may also be a corporation with power of perpetual succession and may contract in its corporate name and be contracted with, sue and be sued, and have and use a corporate seal which may be altered or renewed at its pleasure.
(Ord. 2015-4, passed 6-2-15)

§ 34.33 RECORDS.

The City Clerk/Treasurer shall, on behalf of the Board, keep a set of books showing the receipts and expenditures of the Board. The books shall be open at all times for examination by the Mayor or any member of the City Council. At the conclusion of each fiscal year, the Board shall make a full and detailed report of the acts of the Board for the preceding year with a complete and itemized accounting of all receipts and disbursements of money.
(Ord. 2015-4, passed 6-2-15)

MUSEUM BOARD

§ 34.50 ESTABLISHMENT.

There is hereby established a Museum Board. The Board shall consist of three (3) members appointed by the Mayor.
(Ord. 2015-8, passed 9-15-15)

§ 34.51 MEMBERS AND PROCEEDINGS.

(A) Terms of office. The terms of office for members of the Board shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve two (2) and four (4) years, respectively, and later appointments or reappointments shall continue the staggered pattern. Members may be reappointed for additional terms but may not serve more than two (2) consecutive terms. The members shall serve without compensation.

(B) Vacancies. Any vacancy occurring by reason of death, resignation, or removal of any member, shall be filled for the unexpired term of the member.

(C) Organization. The Board shall organize within sixty (60) days after the appointment of its initial total membership. The Board shall annually elect a Chairman, Vice Chairman, and Secretary who shall be eligible for re-election at the Board's first meeting annually. The Chairman shall preside at the meetings of the Board and shall be the

spokesperson for the Board. In the Chairman's absence, the Vice Chairman shall perform these duties. The Board shall meet monthly as needed, with the exact time and date of the meeting to be determined by the Board.

(D) Quorum. Fifty percent (50%) of the members shall constitute a quorum for the transaction of business.
(Ord. 2015-8, passed 9-15-15)

§ 34.52 POWERS AND DUTIES.

The Board shall be responsible for establishing, maintaining and promoting a city Museum. The Board may also be a corporation with power of perpetual succession and may contract in its corporate name and be contracted with, sue and be sued, and have and use a corporate seal which may be altered or renewed at its pleasure.
(Ord. 2015-8, passed 9-15-15)

§ 34.53 RECORDS.

The Board shall keep a set of books showing the receipts and expenditures of the Board. The books shall be open at all times for examination by the Mayor or any member of the City Council. At the conclusion of each fiscal year, the Board shall make a full and detailed report of the acts of the Board for the preceding year with a complete and itemized accounting of all receipts and disbursements of money.
(Ord. 2015-8, passed 9-15-15)

PARK BOARD

§ 34.45 ESTABLISHMENT.

For provisions concerning the Park Board, see §§ 95.55 through 95.58.

PLANNING AND ZONING COMMISSION

§ 34.60 ESTABLISHMENT.

There is hereby created a Planning and Zoning Commission consisting of seven (7) members. All members shall be citizen members as defined in KRS 100.111(4).

(Ord. 920.19, passed 10-2-84; Am. Ord. 1988-15, passed 11-1-88; Am. Ord. 1991-14, passed 12-17-91; Am. Ord. 2000-1, passed 2-15-00; Am. Ord. 2007-1, passed 2-6-07)

Statutory reference:

Planning Commissions, see KRS 100.133

§ 34.61 MEMBERS.

(A) All members of the Planning and Zoning Commission shall be appointed by the Mayor with the approval of City Council. All members shall serve without compensation.

(B) The term of office for members of the Planning and Zoning Commission shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one, two (2), three (3), and four (4) years, respectively, and later appointments or reappointments shall continue the staggered pattern.

(C) All members shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(Ord. 920.19, passed 10-2-84; Am. Ord. 1988-15, passed 11-1-88; Am. Ord. 2000-1, passed 2-15-00)

Statutory reference:

Appointing authority, see KRS 100.141

Compensation, see KRS 100.153

Terms, see KRS 100.143

Oath of Office, see KRS 100.151

§ 34.62 POWERS AND DUTIES.

(A) The Planning and Zoning Commission shall have the power to do any and all things necessary under the powers granted by KRS Chapter 100, as well as the zoning ordinance and subdivision regulation ordinance, and other ordinances of the city.

(B) The Planning and Zoning Commission shall elect officers, hold meetings, require a quorum, and adopt by-laws in conformance with KRS Chapter 100, as well as keep accurate minutes in conformance with KRS 100.167.

(Ord. 920.19, passed 10-2-84)

ZONING BOARD OF ADJUSTMENT

§ 34.75 ESTABLISHMENT.

For provisions concerning the Zoning Board of Adjustment, see §§ 154.240 through 154.249.

TREE BOARD

§ 34.80 ESTABLISHMENT.

For provisions concerning the Tree Board, see §§ 98.02 through 98.05.

DISASTER AND EMERGENCY PREPAREDNESS ORGANIZATION

§ 34.85 ESTABLISHMENT.

There is hereby established, as required by KRS 39.400 et seq., a Disaster and Emergency Preparedness Organization for the city. The Mayor, with approval of Council, may designate the members of such organization, or may designate an existing organization within the city as the organization for disaster and emergency preparedness.
(Ord. 1992-6, passed 4-7-92)

§ 34.86 APPOINTMENT OF DIRECTOR.

The Mayor, by executive order, may appoint a Director of Disaster and emergency preparedness who shall have all of the qualifications and all of the powers, duties, and benefits of such a Director provided in KRS 39.400 et seq. Upon recommendation of the Director, the Mayor may adopt a disaster and emergency response plan by executive order as required by KRS 39.415.
(Ord. 1992-6, passed 4-7-92)

Cross-reference:

Official designee during emergency, see § 31.23

ETHICS BOARD

§ 34.90 ESTABLISHMENT.

For provisions concerning the Ethics Board, see §§ 40.12 through 40.20.

CODE ENFORCEMENT BOARD

§ 34.100 ESTABLISHMENT.

For provisions concerning the Code Enforcement Board, see §§ 41.01 - 41.03.

Section

Financial Administration

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- 35.02 Accounting records and financial reports
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FINANCIAL ADMINISTRATION

§ 35.01 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))

§ 35.02 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)

§ 35.03 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 monies shall be expended from any governmental or proprietary fund except in accordance with a budget ordinance adopted pursuant to this section.

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

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

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

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

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

(G) The budget proposal together with a budget message shall be submitted to Council not later than 30 days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the

reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

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

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

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

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

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. The 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. The reports shall be submitted not less than once every three (3) 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 § 35.02.

(M) No city agency, or member, director, officer, or employee of a 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 any 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)

§ 35.04 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 (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with division (C)(5) of this section, the city shall forward an electronic copy or three (3) paper copies of the audit report to the Department of Local Government for information purposes. The Department of Local Government shall forward one (1) electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(B) The city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one electronic or paper copy to the Department of Local Government for information purposes. The Department of Local Government shall be responsible for forwarding one electronic or paper copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(C) 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 shall be employed to examine the basic financial statements which shall include the government-wide and fund financial statements;

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

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

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

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

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

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

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

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

(D) A copy of the 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 6.995 to 6.975.

(E) Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement, in accordance with KRS Chapter 424, containing:

(1) The auditor's opinion letter;

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

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

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

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

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

(F) Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject a forfeiture of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), at 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.

§ 35.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The Mayor shall designate as the city's official depositories one (1) or more banks, federally insured savings and loan companies, or trust companies within the Commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance, or collateralized in accordance with 12 USC 1823 to the extent uninsured, by any obligations, including surety bonds permitted by KRS 41.240(4).

(B) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the Mayor which states the name of the person to whom funds are payable, the purpose of the payment, and the fund out of which the funds are payable. Each authorization shall be numbered and recorded. (KRS 91A.060)

§ 35.06 PURCHASING REQUIREMENTS.

City Council no longer desires the city government to operate under the Kentucky Model Procurement Code but it elects to follow the requirements of KRS 424.260, 45.354, and other statutes applicable to local government purchasing.

§ 35.07 COLLECTION OF FUNDS.

Funds received by the City Clerk/Treasurer shall be applied to the fees, licenses, and taxes owed by the person for whose benefit the funds are received in the chronological order of the dates on which such fees, licenses, and taxes become due and owing.
(Res. 220.58R, passed 10-21-86)

§ 35.08 ESTABLISHING INVESTMENT POLICY.

(A) It is the policy of the city to invest public funds in a manner which will provide the highest investment return with the maximum security of principal which meet the daily cash flow demands of the city and conform to all state statutes and other regulations.

(B) This investment policy applies to all financial assets held directly by the city. City funds held by trustees or fiscal agents are excluded from this order.

(C) The Mayor shall have the authority to invest and reinvest funds held by the city and may designate, by executive order, the person or persons responsible for investment transactions. The Mayor may, subject to disapproval by City Council, establish additional specific written procedures for investing of city funds and controls to prevent the loss of city funds. The Mayor shall maintain all records relating to the investment of city funds.

(D) City funds may be invested in:

(1) Obligations of the United States and of its agency and instrumentalities;

(2) Obligations backed by the full faith and credit of the United States or a U.S. government agency such as the U.S. Treasury, Export-Import Bank of the U.S., Farmers Home Administration, Government National Mortgage Corporation and Merchant Marine Bonds;

(3) Obligations of any corporation of the United States government, such as the Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, Bank for Cooperatives, Federal Intermediate Credit Banks, Federal Land Banks, Federal Home Loan Banks, Federal National Mortgage Association and the Tennessee Valley Authority;

(4) Certificates of deposit or other interest bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity; or

(5) Bonds or certificates of indebtedness of the Commonwealth of Kentucky and of its agencies or instrumentalities. No investment shall be purchased for the city on a margin basis or through any similar leveraging technique. With the exception of fully insured or fully collateralized investment, no more than 10% of the city's total investments shall be invested in a single security type or with a single financial institution.

(E) The Mayor shall maintain a list of financial institutions authorized to provide investment services to the city. All such institutions shall supply the Mayor with information sufficient to adequately evaluate the institution and answer all inquiries posed by the Mayor, including audited financial statements, regulatory reports on financial condition, written memorandum of agreement for the deposit of funds, and any additional information considered necessary to allow the Mayor to evaluate the creditworthiness of the institution. No financial institution shall be selected as a depository of city funds if those funds would exceed 5% of the institution's capital stock and surplus. The Mayor shall annually evaluate the financial capacity and creditworthiness of each institution and remove any institution not meeting the standards set. Investments shall be held only by bonded city officers or through third party custody and safekeeping procedures.

(F) The Mayor shall submit to City Council an annual report regarding the status of the city's investment program detailing the name

of the financial institution, type, amount, percentage, purchase date, purchase price, maturity date and current market value of each investment.

(G) Each year, the city auditor shall conduct a review of the city's investment program, including internal controls and procedures, and the results of the review, including recommended changes, shall be included in the city's audit.

(Mun. Order 1994-19R, passed 10-18-94)

IMPROVEMENTS

§ 35.10 DEFINITIONS.

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

"ASSESSED VALUE BASIS." The apportionment of the 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)

§ 35.11 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)

§ 35.12 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)

§ 35.13 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)

§ 35.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by § 35.13, 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)

§ 35.15 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 § 35.13 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)

§ 35.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in § 35.15, 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)

§ 35.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

(A) After the passage of time for the action provided for in § 35.16, 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)

§ 35.18 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 §§ 35.13 through 35.17 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 36: PUBLIC RECORDS

Section

General

36.01 Definitions

Procedures for Requesting Public Records

- 36.05 Initial request with immediate inspection
- 36.06 Referral to proper custodian
- 36.07 Public records not immediately available
- 36.08 Refusal of unreasonable requests
- 36.09 Time limitation; denial of inspection
- 36.10 Concealing or destroying records prohibited
- 36.11 Access to records relating to particular individual
- 36.12 Public records protected from disclosure

GENERAL

§ 36.01 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 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 publication or related use of a public record by a newspaper or periodical; use of a public record by a radio or television station in its news or other informational programs; or 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/Treasurer.

"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 the records are in his actual personal custody and control. The "OFFICIAL CUSTODIAN" of this city shall be the Mayor.

"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.

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

"PUBLIC AGENCY." Every city government board, commission, and authority; every city council and council board, commission and committee; every school district board, special district board, and municipal corporation; every city government agency, including the policy-making board of an institution of education created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act; any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government; any entity when the majority of its governing body is appointed by a "public agency", as defined by this section; a member or employee of a "public agency", a state or local officer, or any combination thereof; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, or controlled by a "public agency" as defined in this section; an interagency body of two (2) or more public agencies where each "public agency" is defined in this section.
(KRS 61.805(2))

"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 a public agency. "PUBLIC RECORDS" shall not include any records owned or maintained by or for a body referred to in subsection (1) (h) of KRS 61.870 that are not related to functions, activities, programs, or operations funded by state or local authority nor any records that may be excluded by § 36.12.

"REASONABLE FEE" or "FEE." The fair payment required by a public agency for making copies of non exempt public records requested for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

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

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

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 36.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) As defined in § 36.01, and subject to the limitations set forth in § 36.12, any person desiring to inspect or copy the public records of the city shall make a request or complete a written application for such records at the office of the City Clerk/Treasurer during regular office hours, except during legal holidays. The application shall be hand delivered, mailed, or sent via facsimile to the City Clerk/Treasurer's office. (KRS 61.872 (2))

(B) If the custodian determines that a person's request is in compliance with the open records law and the requested records are immediately available, the custodian shall deliver the records for inspection. Suitable facilities shall be made available in the office of the City Clerk/Treasurer for the inspection. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record. (KRS 61.872(1)).

(C) An applicant may inspect public records during the regular business hours of the city, or by receiving copies of the public records from the city through the mail if the applicant's residence or principle place of business is outside of the county in which the city is located and he has precisely described public records which are available within the city. If the person requesting the public records requests that the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing. KRS 61.872(3).

(D) The applicant shall have the right to make abstracts of the public records and to obtain copies of all public records not exempted by this chapter. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee as defined in § 36.01.

(E) 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.

(F) The minimum standard format in paper form shall be defined as not less than 8½ inches x 11 inches in at least one (1) color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public records may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1))

(G) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee. The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requestor stating the commercial purpose for which they shall be used, and may require the requestor to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee. The fee may be based on the cost to the public agency of media, mechanical processing and staff required to produce a copy of the public record or records or the cost to the public agency of the creation purchase, or the acquisition of the public records.

(KRS 61.874 (4))

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

(1) Commercial purpose, without stating the commercial purpose, if a certified statement from the requestor was required by the public agency pursuant to subsection (G) of this section: or

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

(3) 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))

(I) Online access to public records in electronic form, as provided under this section, may be provided and made available at the

discretion of the public agency. If a party wishes to access public records by electronic means and the public agency agrees to provide online access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements. Fees shall not exceed:

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

(2) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in subsection (G).
(KRS 61.874(6))

§ 36.06 REFERRAL TO PROPER CUSTODIAN.

If the City Clerk/Treasurer does not have custody or control of the public record or records requested, the City Clerk/Treasurer shall so notify the applicant and shall furnish the name and location of the custodian of the public record.
(KRS 61.872(4))

§ 36.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage, or not otherwise available, the official custodian shall immediately so notify the applicant and shall designate a place, time, and date for inspection 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))

§ 36.08 REFUSAL OF UNREASONABLE REQUESTS.

If the application places an unreasonable burden in producing public records, or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies of public records. However, refusal under this section must be sustained by clear and convincing evidence. (KRS 61.872(6))

§ 36.09 TIME LIMITATION; DENIAL OF INSPECTION.

(A) The official custodian, upon any request for records made under this chapter, shall determine within three (3) 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 the official custodian's authority and shall constitute final agency action. (KRS 61.880)

(B) If the requesting party wants the Attorney General to review the denial of a request for inspection of a public record, he shall proceed under the provisions of KRS 61.880 and 61.882. Upon the Attorney General's request, the agency will provide additional documentation.

(C) If upon request by the person seeking inspection, the Attorney General reviews the denial and issues a written opinion upholding, in whole or in part, the request for inspection, the requesting party may institute appeal proceedings within thirty (30) days for injunctive or declaratory relief in the circuit court. In addition, if the Attorney General disallows the request, or if the city continues to withhold the record notwithstanding the Attorney General's opinion, and the person seeking disclosure institutes proceedings in circuit court, the city shall notify the Attorney General of such action. (KRS 61.880, 61.882)

§ 36.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

No official or employee 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.

§ 36.11 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 this chapter. (KRS 61.884)

§ 36.12 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 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) Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if opened would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

(b) Upon and after July 15, 1992, 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 (i) in conjunction with an application or the administration of a loan or grant; (ii) in conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154; (iii) 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 (iv) for the grant or review of a license to do business. These exemptions shall not, however, apply to records the disclosure or publication of which is directed by other statutes.

(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) (3) above.

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

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

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

(8) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations, if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a

prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of this chapter, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. The exemptions provided by this subdivision shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this chapter.

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

(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.

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

1. Criticality lists resulting from consequence assessments;

2. Vulnerability assessments;

3. Antiterrorism protective measures and plans;

4. Security and response needs assessments;

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

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

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

(b) As used in this division, "TERRORIST ACT" means a criminal act intended to:

1. Intimidate or coerce a public agency or all or part of the civilian population;

2. Disrupt a system identified in division (a)5.;

or

3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

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

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

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

(14) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law.

(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 § 36.08.

(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 person on an employment register to inspect and copy any record, including preliminary and other supporting

documentation, that relates to that person. 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 municipal employee, applicant, or eligible person on an employment register shall not have the right to inspect or copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
(KRS 61.878)

CHAPTER 36A: PUBLIC MEETINGS

Section

General

36A.01 Definitions

Public Meeting Requirements

- 36A.04 Meetings open to the public
- 36A.05 Requirements for closed sessions
- 36A.06 Public meeting schedules
- 36A.07 Special meetings
- 36A.08 Video teleconferences
- 36A.09 Enforcement

GENERAL

§ 36A.01 DEFINITIONS.

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

"ACTION TAKEN." A collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.
(KRS 61.805(3))

"MEETING." All gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings held in anticipation of or in conjunction with a regular or special meeting.
(KRS 61.805(1))

"MEMBER." A member of the governing body of a public agency. "MEMBER" does not include employees or licensees of the agency.
(KRS 61.805(4))

"PUBLIC AGENCY." Every city government board, commission, and authority; every city council and council board, commission and committee; every school district board, special district board, and municipal corporation; every city government agency, including the policy-making board of an institution of education created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act; any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government; any entity when the majority of its governing body is appointed by a "public agency", as defined by this section; a member or employee of a "public agency", a state or local officer, or any combination thereof; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, or controlled

by a "public agency" as defined in this section; an interagency body of two (2) or more public agencies where each "public agency" is defined in this section.

(KRS 61.805(2))

"VIDEO TELECONFERENCE." One (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.

(KRS 61.805(5))

PUBLIC MEETING REQUIREMENTS

§ 36A.04 MEETINGS OPEN TO THE PUBLIC.

(A) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:

(1) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;

(2) Discussions of proposed or pending litigation against or on behalf of the public agency;

(3) Collective bargaining negotiations between public employers and their employees or their representatives;

(4) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;

(5) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;

(6) Local cabinet meetings and executive cabinet meetings;

(7) Deliberations of quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;

(8) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(i). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly.

(9) Meetings which federal or state law specifically require to be conducted in privacy; and

(10) Meetings which the Constitution provides shall be held in secret.

(B) Any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (A) of this section, shall be subject to the requirements of subsection (A) of this section. Nothing in this subsection shall be construed to prohibit discussion between individual members where the purpose of the discussions is to educate the members on specific issues.
(KRS 61.810)

§ 36A.05 REQUIREMENTS FOR CLOSED SESSIONS.

(A) The following requirements shall be met as a condition for conducting closed sessions by those public agencies authorized by § 36A.05(A) (1) and (4) except as (4) relates to students:

(1) Notice shall be given in regular open meetings of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of § 36A.05 authorizing the closed session;

(2) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(3) No final action may be taken in closed session;
and

(4) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

(B) Public agencies and activities identified in § 36A.04(A) paragraphs (2), (3), (4), but only so far as (4) relates to students, (5), (6), (7), (8), (9) and (10) are excluded from the requirements of subsection (A) of this section.
(KRS 61.815)

§ 36A.06 PUBLIC MEETING SCHEDULES.

(A) All meetings of a public agency shall be held at specified times and places which are convenient to the public. In considering locations for public meetings, the agency shall evaluate space requirements, seating capacity, and acoustics.

(B) All public agencies shall provide for a schedule of regular meetings by ordinance, order, resolution, by laws or by whatever other means may be required for the conduct of business of the public agency. The schedule of regular meetings shall be made available to the public.
(KRS 61.820)

§ 36A.07 SPECIAL MEETINGS.

(A) Except as provided by subsection (F) of this section, special meetings shall be held in accordance with the provisions of divisions (B), (C) and (D) of this section.

(B) The presiding officer or a majority of the members of the public agency may call a special meeting;

(C) The public agency shall provide written notice of the special meeting containing the date, time, place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.

(D) (1) As soon as possible, written notice shall be delivered personally, transmitted by facsimile, or mailed to every member of the public agency as well as each media organization which has filed a ~~written request, including a mailing address, to receive notice of~~ special meetings. The notice shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform ~~media organizations that they will have to submit a new written request~~ or no longer receive written notice of special meetings until a new written request is filed.

(2) A public agency may satisfy the requirements of division (1) of this section by transmitting the written notice by electronic mail to public agency members and media organizations that have filed a written request with the public agency indicating their preference to receive electronic mail notification in lieu of notice by personal delivery, facsimile machine, or mail. The written request shall include the electronic mail address or addresses of the agency member or media organization.

(E) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency. The notice shall be posted at least twenty-four (24) hours before the special meeting.

(F) In the case of an emergency which prevents compliance with the notice requirements in this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (A) (1) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the

record the emergency circumstances preventing compliance with the notice requirements of this section. These comments shall appear in the minutes. Discussion and action at the emergency meeting shall be limited to the emergency for which the meeting is called.
(KRS 61.823)

§ 36A.08 VIDEO TELECONFERENCES

(A) A public agency may conduct any meeting, other than a closed session, through video teleconference.

(B) Notice of a video teleconference shall comply with the requirements of KRS 61.820 or 61.823 as appropriate, in addition the notice of a video teleconference shall:

(1) Clearly state that the meeting will be a video teleconference; and

(2) Precisely identify the video teleconference locations as well as which, if any, location is primary.

(C) The same procedure with regard to participation, distribution of materials, and other matters shall apply in all video teleconference locations.

(D) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.
(KRS 61.826)

§ 36A.09 ENFORCEMENT.

The provisions of this Chapter shall be enforced pursuant to KRS 61.846 and 61.848 for enforcing KRS 61.805 to 61.850.

Cross-reference:

Rules of Procedure, see Chapter 32.

CHAPTER 37: TAXATION

Section

37.01	County assessment adopted
37.02	Due date; payment
37.03	Delinquency
37.04	Ad valorem taxes on motor vehicles
37.05	(Reserved)
37.06	Disposition of funds
37.07	Property reassessment moratorium
37.08	Tax rate on abandoned urban properties

§ 37.01 COUNTY ASSESSMENT ADOPTED.

(A) Pursuant to the authority granted in KRS 132.285, the city hereby adopts the annual Campbell 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.

§ 37.02 DUE DATE; PAYMENT.

All taxes, except ad valorem taxes on motor vehicles, shall become due on July 1.

§ 37.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent after October 31 following their due dates or as otherwise established by ordinance.

(B) Any taxes not paid by the date when they become delinquent as established by the ordinance shall be subject to a penalty of 20% 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. Interest at the rate of 12% per annum shall be charged on the account of such tax from November 1 of each year, or as otherwise provided by Council by resolution, to the date of payment.

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

§ 37.04 AD VALOREM TAXES ON MOTOR VEHICLES.

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

§ 37.05 (RESERVED).§ 37.06 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.

§ 37.07 PROPERTY REASSESSMENT MORATORIUM.

(A) Pursuant to KRS 99.595 through 99.605, the city grants a property assessment or reassessment moratorium deferring the value of improvements to the owner of any existing residential building which has been in existence for twenty-five (25) years or longer or the owner or lessee of any commercial facility which has been in existence for twenty-five (25) years or longer, who undertakes the repair, rehabilitation, restoration or stabilization of said building or facility. The moratorium shall be in effect for five (5) years after the issuance of a moratorium certificate as described herein.

(B) The property reassessment moratorium program described herein shall be administered by the City Inspector's office. Any owner seeking a property reassessment shall apply to the City Inspector's office for a moratorium certificate within thirty (30) days before commencing repair, rehabilitation, restoration or stabilization on a form prescribed by the Revenue Cabinet. In addition the City Inspector, acting through regulations promulgated by the Mayor, may require the applicant to provide any and all necessary information for administration of the program, including but not limited to, information required by statute.

(C) Within thirty (30) days after filing of the application, the City Inspector shall have the property valuation administrator reassess the property, or if the property valuation administrator is unavailable, the City Inspector shall reassess the property. Thereafter, the owner shall have two (2) years to complete the project during which normal reassessment shall occur. After completion of the project, the City Inspector shall issue a moratorium certificate which shall become effective on the assessment date next following the issuance and for a period of five (5) years thereafter. On the assessment date next following the expiration, cancellation or revocation of the moratorium certificate, the property shall be assessed on the basis of its full fair cash value.

(D) Any property granted a reassessment moratorium may be eligible for a subsequent moratorium certification provided that reapplication be made no sooner than three (3) years following the expiration of the original moratorium, or any other moratorium and provided that such property shall otherwise meet the requirements for the reassessment moratorium.

(E) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner

or lessee of the property.
(Ord. 1997-3, passed 3-4-97)

§ 37.08 TAX RATE ON ABANDONED URBAN PROPERTIES.

(A) Abandoned urban property is established as a separate classification of real property for the purposes of ad valorem taxation. As used in this subchapter, "abandoned urban property" shall have the same meaning as in KRS 132.012 as now adopted and hereafter amended.

(B) The rate of taxation levied upon abandoned urban properties shall be the maximum amount allowable pursuant to Section 157 of the Kentucky Constitution.

(C) The City Administrator and Blight Administrator shall each year determine which properties in the city are abandoned urban properties and shall prepare and furnish a list of the abandoned urban properties located in the city to the City Clerk/Treasurer and to the Campbell County Property Valuation Administrator prior to January 1 of each year.

(D) Except as otherwise provided in this section, a property classified by the City Administrator and Blight Administrator, as abandoned urban property as of January 1 shall be taxed as abandoned urban property for such tax year. If the owner repairs, rehabilitates or otherwise returns the property to productive use so that the property is no longer abandoned urban property, said owner shall notify the City Administrator and Blight Administrator, who shall, if they find the property is no longer abandoned urban property, notify the City Clerk/Treasurer and the Campbell County Property Valuation Administrator to strike the property from the list of abandoned properties as of the succeeding January 1.

(E) No later than January 15 of each year the City Administrator and Blight Administrator shall mail, by first-class mail, to the owner(s) of each abandoned urban property, as those names and addresses are listed in the records of the Property Valuation Administrator, a notice that this property has been classified as abandoned urban property. The owner of any abandoned urban property who believes that his, her, its property has been incorrectly classified may appeal such classification to the Dayton Code Enforcement Board. Such appeal shall be in writing and shall be made no later than April 1 of the year. The Dayton Code Enforcement Board shall afford the owner the opportunity for a hearing. If the Dayton Code Enforcement Board finds the property was incorrectly classified as abandoned urban property, it shall cause the property to be removed from the list of properties so classified.
(Ord. 2004-14, passed 12-20-04)

CHAPTER 38: HUMAN RESOURCES

Section

Policies Adopted

- 38.001 Job Classification System adopted
- 38.002 Participation in County Employees Retirement System

Affirmative Action Plan

- 38.015 Statement of policy
- 38.016 Dissemination of policy
- 38.017 Personnel administration
- 38.018 Affirmative recruitment
- 38.019 Workforce and utilization analysis
- 38.020 Goals and timetables
- 38.021 Implementation
- 38.022 Grievance procedure

Employment Policies

- 38.035 Adoption by reference
- Appendix: Attachments relative to affirmative action plan

POLICIES ADOPTED

§ 38.001 JOB CLASSIFICATION SYSTEM ADOPTED.

There is hereby adopted by the city, the City of Dayton, Kentucky Job Classification System, November/2004 Edition, amended April/2006, amended February/2007, Amended August/2009 Edition, Amended February/2010, Amended December/2011 Edition. A copy of the November/2004, Amended, April/2006, amended February/2007, Amended August/2009, Amended February/2010 Edition, Amended December/2011 Edition is hereby incorporated by reference as if fully set forth herein; copies are on file for inspection at the office of the City Clerk/Treasurer during normal business hours.

(Ord. 230.12, passed 7-3-84; Am. Ord. 1990-2, passed 3-20-90; Am. Ord. 1990-10, passed 7-17-90; Am. Ord. 2003-23, passed 12-2-03; Am. Ord. 2004-12, passed 11-16-04; Am. Ord. 2007-5, passed 2-6-07; Am. Ord. 2009-9, passed 9-1-09; Am. Ord. 2010-2, passed 3-2-10; Am. Ord. 2011-14, passed 1-3-12)

§ 38.002 PARTICIPATION IN COUNTY EMPLOYEES RETIREMENT SYSTEM.

(A) The city is authorized to participate in the County Employees Retirement System Alternative Participation Plan as described in KRS 78.530(3) et seq., effective January 1, 1990 and all eligible regular full-time officers and employees of the city are hereby authorized and directed to comply with the statutory requirements of this Retirement System.

(B) All employees of the city whose duties require an average of one hundred (100) hours during each working month shall be considered as "regular full-time employees" for County Retirement System purposes except those employees of agencies excluded as shown below which may participate in the system as a separate agency and those other persons who are employed as "temporary part-time and seasonal" workers as defined in KRS 78.510(21).

(C) Agencies excluded as authorized by KRS 78.530 are the Dayton Housing Authority and the Urban Renewal and Community Development Agency of the City of Dayton, Kentucky.

(D) All eligible employees of the Police Department and Fire Department may participate in the "hazardous duty" employee portion of the aforesaid retirement system. All other employees of the city shall participate in the "nonhazardous duty" employee portion of the system. (Ord. 1988-11, passed 9-20-88; Am. Ord. 1989-16, passed 10-3-89)

AFFIRMATIVE ACTION PLAN

§ 38.015 STATEMENT OF POLICY.

The affirmative action policy of the city is to promote equal employment opportunity for all persons in all aspects of employment without regard to race, color, religion, national origin, sex, age, or disability not related to performance of the job; and to bring about a fair representation and utilization of females and minorities at all levels of city employment.

§ 38.016 DISSEMINATION OF POLICY.

The city will advise all employees and applicants for employment of this policy and will make known to the public that employment opportunities are available on the basis of individual ability and will encourage all persons who are employed by the city to strive for advancement on that basis.

§ 38.017 PERSONNEL ADMINISTRATION.

(A) The city will take affirmative action to ensure that applicants are recruited and employed and that employees are treated during their employment, without regard to race, color, religion, sex, national origin, age, or disability not related to ability to perform the job; and such affirmative action shall include all terms and conditions of employment such as: hiring, placement, upgrading, demotion, transfer, layoff, and termination.

(B) Every aspect of a city's personnel management system is of concern in guaranteeing equal opportunity. Specifically, Dayton's affirmative action program will include, but not be limited to, the following specific actions:

(1) Job classifications will be job related and shall not include discriminatory factors. Position specifications will be periodically reviewed, evaluated, and revised, as needed, to assure that the requirements are job related. Discriminatory or unnecessary restrictions on age, sex, physical restrictions, experience, and educational level will be deleted if present;

(2) Job descriptions will be examined to develop departmental career ladders. The career ladder will include the natural progression from entry level to supervisory level;

(3) Particular attention will be given to upward mobility and promotional opportunities for minorities, women, and disabled individuals;

(4) Selection of employees for training programs including on-the-job training, supervisory training, management training, and for educational leave shall be objective and non-discriminatory; and

(5) The city's employee benefits program will continue to be thoroughly reviewed and evaluated to ensure that benefits are understood and provided to all city employees on an equal basis without regard to race, religion, sex, national origin, age, or disability.

§ 38.018 AFFIRMATIVE RECRUITMENT.

(A) The city recognizes the need for a vigorous program of affirmative recruitment for minority group members and women in all job categories represented in the city's workforce. Accordingly, the city will conduct an expanded program of open recruitment in all positions to avoid the possible discriminatory effects of informal job networks.

(B) The city's affirmative recruitment program will include, but not be limited to, the following actions:

(1) Open posting of vacancy announcements on all departmental bulletin boards;

(2) Broad public announcement of vacancies;

(3) Use of media and organizational sources specializing in recruitment and referral of minority, women, and disabled applicants;

(4) A continuous line of communication will be initiated with community organizations, teachers, and other groups which are most likely sources for referring minority and female applicants;

(5) The City Clerk/Treasurer will review public announcements of job opportunities to ensure that the announcements are clear, concise, and understandable to the educationally disadvantaged;

(6) The phrase "An Equal Opportunity Employer" will be placed on outgoing recruitment literature and position advertisements;

(7) The city's personnel office will maintain a list of minority and female applicants. Referrals will be made to the various departments when recruitment efforts are initiated and/or for jobs which there are few or no minority applicants;

(8) The city commits itself to use only job related and valid tests which will meet the testing selection guidelines of the

Kentucky Commission on Human Rights and the U.S. Equal Employment Opportunity Commission;

(9) Appointing authorities will make every effort to conduct employment interviews with all eligible minority, female, and disabled applicants; and

(10) The city will periodically evaluate all aspects of its recruitment and selection process to ensure that artificial barriers to hiring or promoting women, minority, or disabled applicants are eliminated.

§ 38.019 WORKFORCE AND UTILIZATION ANALYSIS.

(A) Survey of labor market. The city has determined that the labor market in which it operates is Campbell County, Kentucky. The latest reliable data that shows the utilization of females and minorities by job category is the 1980 general census. This information is set forth in Attachment 1 in the Appendix following this chapter.

(B) City workforce. The number of women and minorities employed by the city in each job category was compared with those available in the workforce of the community. The percentage of such employees in the community was multiplied by the total city employees in each job category to determine the number required for fair selection.

§ 38.020 GOALS AND TIMETABLES.

(A) The city examined each category (Attachment 3 of the Appendix) in which the number of females and minorities were fewer than the number required for fair selection. Appropriate goals for females are established in Attachment 3, Part B to bring the city's utilization to a level 40 comparable to the community workforce. Timetables were based on the anticipated annual job openings in each category. According to Attachment 3, Part A, the city has fair representation on its workforce of minorities. The city will continue to promote and implement policies and procedures to insure that this representation is maintained, if not improved.

(B) The goal of fair utilization of minorities and females in each category is to be met within the next three (3) years through the city's personnel procedures without discrimination of any kind.

§ 38.021 IMPLEMENTATION.

It is understood that implementation of this affirmative action plan in an on-going process which will make the plan an effective document.

(A) Responsibility. The City Clerk/Treasurer shall serve as the Equal Employment Opportunity (EEO) Coordinator and shall be responsible for implementation of this affirmative action plan (AAP) and shall have authority to require department heads to furnish such information as is necessary to keep current forms and reports.

(B) Duties. The EEO Coordinator shall disseminate the city's equal opportunity policy as set forth in the AAP and shall update the workforce analysis (Attachment 1), the Job Roster (Attachment 2), and the Goals and Timetable Report (Attachment 3) as necessary. (See Appendix following this chapter for attachments.)

(C) Reports. The EEO Coordinator shall monitor the operation of this AAP and shall prepare a progress report for the Mayor and City Council annually that will provide indications of problem areas and recommendations for solutions.

§ 38.022 GRIEVANCE PROCEDURE.

(A) Any employee who believes he/she has been adversely affected by an act or decision of the supervisory or managerial personnel of the city and that such act or decision was based on race, color, sex, religion, national origin, age or disability, shall have the right to process a complaint or grievance in accordance with the following procedure:

(1) Any employee who has a grievance regarding his employment by the city may discuss the grievance with his supervisor;

(2) If, following the discussion, the decision of the supervisor regarding the grievance does not satisfy the employee, he/she may discuss it with the EEO Coordinator;

(3) If, following the discussion, the decision of the EEO Coordinator regarding the grievance does not satisfy the employee, he/she may discuss it with the City Chief Executive Officer (Mayor);

(4) If the decision of the Chief Executive Officer does not satisfy the employee, he/she may request a hearing with the Council by submitting a written request for the hearing. The decision of the Council regarding the grievance shall be final; and

(5) In discussing the grievance, the employee may designate any person of his/her choice to appear with him/her and participate in the discussion.

(B) Any prospective employee or applicant for employment who is denied employment with the city and believes that denial was based in whole or in part on the race, religion, sex, age, or disability of the applicant may file a written complaint with the EEO Coordinator who shall make every effort to resolve the matter impartially and expeditiously. The appeal procedure above is also available to such grievant.

EMPLOYMENT POLICIES

§ 38.035 ADOPTION BY REFERENCE.

(A) The city hereby adopts the City of Dayton, Kentucky, Employment Policies, Evaluation System, and Drug/Alcohol Testing Program, Risk Management, and Job Classification System, August, 1996 Edition. A copy of the August, 1996 Edition is attached hereto and made part hereof by reference.

(B) If any provision of the City of Dayton, Kentucky, Employment Policies, Evaluation System, and Drug/Alcohol Testing Program, August, 1996 Edition, or any provisions of its subsequent application are declared to be unconstitutional, illegal or unenforceable, all other portions shall continue in effect and, to such extent, the provisions are severable.

(Ord. 1996-11, passed 8-20-96; Am. Ord. 2001-19, passed 10-16-01; Am. Ord. 2003-21, passed 10-21-03)

Cross Reference:

Employment Policy Changes, see T.S.O. X

APPENDIX: ATTACHMENTS RELATIVE TO
AFFIRMATIVE ACTION PLAN

Section

1. Attachment 1 - Workforce analysis
2. Attachment 2 - Workforce analysis
3. Attachment 3 - Part A Utilization goals and timetables for minorities
4. Attachment 3 - Part B Utilization goals and timetables for females

§ 1. ATTACHMENT 1.

WORKFORCE ANALYSIS

City/County	<u>Campbell, Kentucky</u>
Total Population	<u>83,317</u>
Total Minority Population	<u>1,190</u>
Total Female Population	<u>43,603</u>

Job Category	Total Number	Females			Minorities		
		Number	%	Comm %	Number	%	Comm %
1. Officials and Administrators	5	1	20	25.01	0	0	0.99
2. Professionals Para-Professionals Technicians	0	--	--	--	--	--	--
3. Clerical	3	3	100	73.78	0	0	0.48
4. Skilled Craft	0	--	--	--	--	--	--
5. Service/Maintenance	2	0	0	14.88	0	0	4.2
6. Protective Service (Police, Firearm)	13	0	0	11.33	1	7.7	1.2

WORKFORCE ANALYSIS

Employee/ Classification	Dept.	Status	Sex	Race	Birthdate	Handicap	Hired	Personnel Actions	
								Promoted	Terminated
Gerry Heeg	ADM	FT	F	C	6/16/25	No	4/68	3/76	--
Helen Lenz	ADM	FT	F	C	9/15/30	No	8/79	7/85	--
Bruce Wong	Zoning				11/19/44				
Earl Glasscock	Building	FT	M	C		No	6/87	--	--
	Public				9/25/32				
	Works	FT	M	C		No	6/74	7/79	--
Edward Schweitzer	Public				11/1/40				
	Works	FT	M	C		No	8/63	7/80	--
Eugene Norton	Public				2/2/39				
	Works	FT	M	C		No	6/72	--	--
Charles Spreter	Fire	FT	M	C	9/13/26	No	6/45	--	--
Dennis Lynn	Fire	FT	M	C	2/13/54	No	12/75	5/83	--
Jos. Campoamor	Fire	FT	M	O	4/29/55	No	11/77	9/80	--
Ron Schulkerer	Fire	FT	M	C	9/17/54	No	1/75	--	--
Les Harrison	Fire	FT	M	C	3/20/57	No	5/81	--	--
Mike Vawter	Fire	FT	M	C	1/29/54	No	8/87	--	--
Craig Worthington	Fire	FT	M	C		No	11/75	--	7/87
Gerald Early	Police	FT	M	C	10/14/42	No	5/78		
Paul Wynn	Police	FT	M	C	11/16/47	No	8/79	10/80	--
C.R. Marshall	Police	FT	M	C	5/19/48	No	2/78	--	10/87
Howard Kessel	Fire	FT	M	C	5/25/34	No	7/73	10/82	--
Mike Hall	Police	FT	M	C	7/23/58	No	7/79	8/84	--
John Davis	Police	FT	M	C	7/15/58	No	5/83	5/86	--
Fred Hall	Police	FT	M	C	10/15/56	No	1/85	1/87	--
Allan Napier	Police	FT	M	C	10/16/58	No	8/86	--	--
Donna Leger	Adm.	PT	F	C	9/12/56	No	12/85	--	--
Betty Powell	Adm./	PT	F	C	7/12/33		5/87	--	--
	Zoning					No			
Thelma Vacca	Zoning/ Building	L	F	C	5/8/27	No	10/77	7/84	5/15/87

S 2. ATTACHMENT 2.

App., S 2

DAYTON - PERSONNEL POLICIES

UTILIZATION GOALS AND TIMETABLES FOR MINORITIES

Category	Community %	Total Local Gov't Employees	Total Prot. Group Employees	Number Fair Selection	Add'tl. Required	Projected Timetable For Goal Achievements		
						Jobs per Year	Yr.1	Yr.2
1. Officials and Administrators	0.98	5	0	.05	.05			
2. Professionals Para-Professionals Technicians	--	0	--	--	--			
3. Clerical	0.48	3	0	.01	.01			
4. Skilled Craft	--	0	--	--	--			
5. Service/ Maintenance	4.18	2	0	.08	.08			
6. Protective Service (Police, Firemen)	1.20	13	1	.16	(.84)	1		1
<hr/>								
ALL CATEGORIES COMBINED	--	23	1	.30	(.70)			

Projected job openings are based on the annual turnover rate for the particular classification and the new positions expected to be created for each year of the Plan. Recruitment and promotion policies will be revised to provide sufficient qualified applicants from the protected groups to at least equal the promotion of such persons in the community-wide force.

UTILIZATION GOALS AND TIMETABLES FOR FEMALES

Category	Community %	Total Local Gov't Employees	Total Prot. Group Employees	Number Fair Selection	Add'tl. Required	Projected Timetable For Goal Achievements			
						Yr.1	Yr.2	Yr.3	
1. Officials and Administrators	25.01	5	1	1.25	.25	1	1		
2. Professionals Para-Professionals Technicians	--	0	--	--	--				
3. Clerical	73.78	3	3	2.21	(.79)	1		1	
4. Skilled Craft	--	0	--	--	--				
5. Service/Maintenance	14.88	2	0	.30	.30				
6. Protective Service (Police, Firemen)	11.33	13	0	1.47	1.47				
=====									
ALL CATEGORIES COMBINED	--	23	4	5.23	1.23				

Projected job openings are based on the annual turnover rate for the particular classification and the new positions expected to be created for each year of the Plan. Recruitment and promotion policies will be revised to provide sufficient qualified applicants from the protected groups to at least equal the promotion of such persons in the community-wide force.

CHAPTER 39: DISCRIMINATION BASED ON DISABLED STATUS

Section

- 39.01 Adoption of procedure
- 39.02 Steps in the procedure

§ 39.01 ADOPTION OF PROCEDURE.

The city hereby adopts an internal grievance procedure as set forth in § 39.02 providing for prompt and equitable resolution of complaints alleging any act prohibited by the following Office of Revenue Sharing (ORS) regulations: 31 C.F.R. 5.55 (d)(2), implementing Section 504 of the Rehabilitation Act of 1973 as amended by 29 U.S.C. 749, and the Americans with Disabilities Act. No otherwise qualified individual with a disability shall, solely by reason of the disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance...."

(Res. 230.13-R, passed 10-2-84)

§ 39.02 STEPS IN THE PROCEDURE.

The grievance procedure shall be as follows:

(A) A complaint should be filed in writing or verbally, containing the name and address of the person filing it, and briefly describing the alleged violation of the regulations. The complaint should be addressed to the Mayor.

(B) The complaint must be filed within 30 days after the complainant becomes aware of the alleged violation.

(C) An investigation shall follow the filing of a complaint. The investigation shall be conducted by the Mayor. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives an opportunity to submit evidence relevant to a complaint. Pursuant to 31 C.F.R. 51.55 (d)(2), the city will not process complaints from applicants for employment.

(D) A written determination as to the validity of the complaint and description of resolution shall be issued by the Mayor and a copy forwarded to the complainant no later than 15 days after its filing.

(E) The City Clerk/Treasurer shall maintain the files and records of the city relating to the complaints filed.

(F) The complainant may request a reconsideration of the case by City Council in instances where he is dissatisfied with the resolution. The request for reconsideration should be made within 15 days of receipt of the determination by the Mayor.

(G) The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's

pursuit of other remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

(H) These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that the city complies with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.
(Res. 230.13-R, passed 10-2-84)

CHAPTER 40: CODE OF ETHICS

Section

40.01	Definitions
40.02	Conflicts of interest
40.03	Conflicts of interest in contracts
40.04	Receipt of gifts
40.05	Use of city property, equipment and personnel
40.06	Misuse of confidential information
40.07	Financial disclosure
40.08	When to file financial disclosure
40.09	Maintenance of financial disclosure statements
40.10	Contents of financial disclosure statements
40.11	Nepotism prohibited
40.12	Ethics Board created
40.13	Power and duties of the Board
40.14	Filing and investigation of complaints
40.15	Notice of hearing
40.16	Hearing procedure
40.17	Appeals
40.18	Limitation of actions
40.19	Advisory opinions
40.20	Reprisals against persons disclosing violations prohibited
40.99	Penalties

§ 40.01 DEFINITIONS.

As used in this chapter, unless the context clearly requires a different meaning:

"BUSINESS." Any person or legal entity through which business is conducted for profit.

"CANDIDATE." An individual who seeks nomination or election to a city office and who has filed the notification and declaration required by law.

"CITY AGENCY." Any entity created, either individually or jointly, by the City.

"EMPLOYEE." Any paid full time or part time person who is employed by the City but shall not include any contractor or subcontractor or their employees.

"ETHICS BOARD" or "BOARD." The City of Dayton Ethics Board created by this chapter.

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

"IMMEDIATE FAMILY MEMBER." A spouse or unemancipated child.

"OFFICER." The Mayor, a member of City Council, the city administrator, a person who occupies a nonelected office created under KRS 83A.080 or a member of the governing body of any city agency who has been appointed thereto by the city.
(Ord. 1994-18, passed 11-15-94)

§ 40.02 CONFLICTS OF INTEREST.

Every officer and employee of the city or one of its agencies shall comply with the following standards of conduct:

(A) No officer or employee, or any immediate family member thereof, shall have an interest in a 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 official position with the city to secure unwarranted privileges or advantages for himself or others.

(C) No officer or employee shall intentionally take or refrain from taking any discretionary action, or agree to do so, or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city or its agency 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 of the officer or employee or a family member.

(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 persons listed in (C)(1) through (C)(5) above, 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, or has reason to believe

he has, a prohibited financial interest under this section, shall disclose the precise nature of the interest which disclosure shall be entered on the financial record of the city or its agency and the officer or employee shall refrain from taking any action with respect to the matter.

(Ord. 1994-18, passed 11-15-94)

§ 40.03 CONFLICTS OF INTEREST IN CONTRACTS.

No officer or employee of the city or any of its agencies 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:

(A) The prohibition in 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 one of its agencies, or before an employee was hired by the city or one of its agencies. However, if any contract entered into by a city or city agency officer or employee before he became a candidate, was appointed to office, or was hired as an employee, is renewable after he becomes a candidate, assumes the appointed office, or is hired as an employee, the prohibition contained in this section shall apply to the renewal of the contract.

(B) The prohibition in 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 subpart (C) below are satisfied.

(C) The prohibition in this section shall not apply in any case where the following requirements are satisfied:

(1) 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 its agency.

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

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

(4) The finding is made a part of the official record of the governing body of the city or its agency before the contract is

executed.

(Ord. 1994-18, passed 11-15-94)

§ 40.04 RECEIPT OF GIFTS.

No officer or employee of the city or any of its agencies shall directly or indirectly through any other person or business, solicit or accept any gift, 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 public duties.

(Ord. 1994-18, passed 11-15-94)

§ 40.05 USE OF CITY PROPERTY, EQUIPMENT AND 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 the use is specifically authorized by a stated city policy.

(Ord. 1994-18, passed 11-15-94)

§ 40.06 MISUSE OF CONFIDENTIAL INFORMATION.

No officer or employee of the city or one of its agencies shall intentionally use or disclose information acquired in the course of his official duties, if the primary purpose of the use or disclosure is to further his 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. 1994-18, passed 11-15-94)

§ 40.07 FINANCIAL DISCLOSURE.

All elected city officers and candidates for elected city offices shall file an annual financial disclosure statement with the Ethics Board. (Ord. 1994-18, passed 11-15-94)

§ 40.08 WHEN TO FILE FINANCIAL DISCLOSURE.

The initial statement of financial interests required by § 40.07 shall be filed with the Ethics Board no later than January 31, 1995. All subsequent statements shall be filed no later than January 31 of each succeeding year, provided that:

(A) An officer or employee newly-appointed to fill an office with the city shall file his initial statement no later than thirty (30) days after the date of the appointment.

(B) A candidate for city office shall file his initial statement no later than thirty (30) days after the date on which the candidate files his notification and declaration for election as required by law.

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

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

(Ord. 1994-18, passed 11-15-94)

§ 40.09 MAINTENANCE OF FINANCIAL DISCLOSURE STATEMENTS.

The Ethics Board, or its designee, shall maintain all financial disclosure statements as public documents, available for public inspection immediately upon filing.

(Ord. 1994-18, passed 11-15-94)

§ 40.10 CONTENTS OF FINANCIAL DISCLOSURE STATEMENTS.

The contents of the financial disclosure statement shall be as follows:

(A) The name, address, telephone number of, and office held, or sought, by the filer.

(B) The occupation of the filer and the filer's spouse.

(C) Information that identifies each source of income of the filer or his immediate family exceeding five thousand dollars (\$5,000) during the preceding calendar year.

(D) Information that identifies any business located within the state, or within 50 miles of the city, in which the filer or his immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more.

(E) Information that identifies any business if the business has engaged in any business transaction with the city during the past three (3) years or which is anticipated to engage in any business transactions with the city, in which the filer or his immediate family had at any time during the preceding year an interest of ten thousand dollars (\$10,000.00) at fair market value or more or five percent (5%) ownership interest or more.

(F) Information that identifies each source of gifts or honoraria having an aggregate fair market value of one hundred dollars (\$100.00) or more from any single source, excluding gifts from family members, received by the filer or his immediate family during the preceding year.

(G) The name and address of any creditor owed more than ten thousand dollars (\$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.

(H) 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.

(Ord. 1994-18, passed 11-15-94)

§ 40.11 NEPOTISM PROHIBITED.

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

(B) No officer or employee of the city or one of its agencies shall directly 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 prohibitions, but which existed prior to the effective date of this chapter.

(Ord. 1994-18, passed 11-15-94)

§ 40.12 ETHICS BOARD CREATED.

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

(B) The Ethics Board shall consist of three (3) members who shall be appointed by the Mayor with the approval of City Council. The initial members of the Ethics Board shall be appointed immediately after the effective date of this chapter. No member of the Board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or one of its agencies. The members shall serve for a term of three (3) years; except that with respect to the initial Board, one (1) member shall be appointed to a one (1) year term, one (1) member shall be appointed for a two (2) year term, and one (1) member shall be appointed to a three (3) year term. Vacancies on the Board shall be filled within sixty (60) days by the Mayor with the approval of City Council.

(C) A member of the Board may be removed by the Mayor for misconduct, inability or willful neglect of duties. Before any member of

the Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before the Mayor.

(D) Members of the Board shall serve without compensation.

(E) The Board 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.

(F) The Board may set a regular schedule of meetings or may hold meetings, as necessary, upon the call of the chairperson or at the written request of a majority of the members. The presence of two (2) members shall constitute a quorum and the affirmative vote of two (2) members shall be necessary for any official action to be taken. Any member of the Board 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 from voting on the matter and shall not be counted for purposes of establishing a quorum.

(G) Minutes shall be kept for all proceedings of the Board and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

(Ord. 1994-18, passed 11-15-94)

§ 40.13 POWER AND DUTIES OF THE BOARD.

The Board shall have the following powers and duties:

(A) To receive complaints or initiate complaints on its own motion, 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 issue orders requiring the attendance, so far as the city has such power, 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 Mayor, City Council, 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 or its agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.

(G) To maintain all financial disclosure statements that are required to be filed by this chapter and to insure that the statements are available for public inspection.

(H) To develop and submit any reports regarding the conduct of its business that may be required by the Mayor or City Council.

(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. 1994-18, passed 11-15-94)

§ 40.14 FILING AND INVESTIGATION OF COMPLAINTS.

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Ethics Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board. The Board shall, within a reasonable time, acknowledge receipt of a complaint to the complainant and forward a copy of the complaint to any officer or employee who is the subject of the complaint.

(B) Within thirty (30) days of the receipt of the complaint, the Board shall conduct a preliminary inquiry. The Board shall afford a person who is the subject of the complaint an opportunity to respond. 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) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether there is reasonable cause to believe that the officer or employee has violated this chapter. If the Board finds that the complaint is outside 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.

(D) If the Board concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and there is reasonable cause to believe that a violation occurred, the Board shall notify the officer or employee who is the subject of the complaint and shall initiate a hearing to determine whether there has been a violation.

§ 40.15 NOTICE OF HEARING.

If the Board determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order, and mail it to the alleged violator within a reasonable time, setting the matter for a hearing within thirty (30) days of the date of the order is issued, unless the alleged violator petitions for and the Board consents to a later date.

(Ord. 1994-18, passed 11-15-94)

§ 40.16 HEARING PROCEDURE.

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board; 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 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 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) The Board may, upon its own motion or that of any party, grant a continuance of a hearing for the receipt or taking of further evidence. However, the Board shall make all efforts to complete the hearing and taking of evidence at the earliest possible time so as not to unduly burden the alleged violator or any other party.

(F) After conclusion of the hearing, the Board shall, as soon as practicable, begin deliberations for the purpose of reviewing the evidence and making a determination whether a violation of this chapter has been proven. Within thirty (30) days after conclusion 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 has occurred, it shall immediately send written notice of this determination

to the officer or employee who was the subject of the complaint, to the party who filed the complaint, to the Mayor, and to the City Council or governing board of the appropriate city agency.

(H) If the Board concludes in its report that, based upon the evidence, there is clear and convincing proof of a violation, the Board may do one or more of the following:

(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 Mayor, City Council and the governing board of the appropriate city agency.

(3) In writing, recommend to the Mayor and City Council that the violator be sanctioned as recommended by the Board, which may include discipline, dismissal or removal from office.

(4) Issue an order requiring the violator to pay, within a specified period of time, a civil penalty as set forth in this chapter.

(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. 1994-18, passed 11-15-94)

§ 40.17 APPEALS.

Any person who is found guilty of a violation may appeal the finding to the circuit court within thirty (30) days after the date of the final action of the Ethics Board by filing a petition with the court against the Board.

(Ord. 1994-18, passed 11-15-94)

§ 40.18 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 (1) year after the violation is discovered.

(Ord. 1994-18, passed 11-15-94)

§ 40.19 ADVISORY OPINIONS.

(A) The Board 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 one of its agencies.

(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) All 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 and cannot be discerned.

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

(1) In writing by the person who requested the opinion.

(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. 1994-18, passed 11-15-94)

§ 40.20 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city or one of its agencies 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 Ethics Board 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 one of its agencies discloses information which he knows:

(1) To be false or which he 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 or is confidential under any other provision of the law.

§ 40.99 PENALTIES.

(A) Any violation of § 40.03 shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation thereof. Additionally, such a violation 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.

(B) Any person who fails or refuses to file the financial disclosure statement under § 40.07 above, or who fails or refuses to remedy a deficiency in the filing of a financial disclosure statement under § 40.08 above within the time period required, 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 twenty-five dollars (\$25) per day, up to a maximum total civil fine of five hundred dollars (\$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 financial disclosure statement under § 40.07 above which he knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

(D) Any person who knowingly files with the Board a false complaint under § 40.14 above alleging a violation of this chapter shall be guilty of a Class A misdemeanor.

(E) Except when another penalty is specifically set forth in this chapter, any officer or employee of the city or one of its agencies who is found by the Board 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 not to exceed one thousand dollars (\$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.

(F) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or one of its agencies who is found by the Board to have violated any provision of this chapter shall forfeit to the city 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.

(G) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or one of its agencies who is found by the Board to have violated any provision of this chapter shall be subject to removal, suspension, demotion, or other disciplinary

action by the Mayor. 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. 1994-18, passed 11-15-94)

CHAPTER 41: CODE ENFORCEMENT BOARD

Section

- 41.01 Members, appointment, meetings, compensation
- 41.02 Powers and duties
- 41.03 Property lien for violations

§ 41.01 MEMBERS, APPOINTMENT, MEETINGS, COMPENSATION.

(A) There is hereby created within the city the Dayton Code Enforcement Board pursuant to KRS 65.8808 which shall have the power to issue remedial orders and impose any and all civil fines for all civil offenses established by the Dayton Code of Ordinances and to do any other acts as required by ordinance.

(B) The Code Enforcement Board shall consist of five (5) members and two (2) alternates appointed by the Mayor with approval of City Council. The terms of the members and alternate members of the Board shall be for three (3) years. However, the terms of the initial Board members and alternate members shall be as follows: one (1) member shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of two (2) years; two (2) members shall be appointed for a term of three (3) years; one (1) alternate member shall be appointed for a term of one (1) year and one (1) alternate member shall be appointed for a term of two (2) years. Membership requirements, vacancies, removals and oaths of members shall be as required by statute.

(C) The City Council may provide compensation, reimbursement for expenses and education of members as it shall from time to time order.

(D) Meetings of the Board shall be held as necessary to enforce all civil offenses established by the Dayton Code of Ordinances. (Ord. 1996-14, passed 10-1-96; Am. Ord. 1997-6, passed 3-4-97)

§ 41.02 POWERS AND DUTIES.

The Code Enforcement Board shall have all powers and duties granted under statute, including but not limited to KRS 65.8801 through KRS 65.8839, and shall have all powers and duties granted to it by the Dayton Code of Ordinances. The Mayor may, on its own or upon advice of the Code Enforcement Board, adopt regulations for the operation of the Board, enforcement of civil offenses, or undertake other responsibilities granted it by the Dayton Code of Ordinances which are not inconsistent with statute or ordinance.

(Ord. 1996-14, passed 10-1-96; Am. Ord. 1997-6, passed 3-4-97)

§ 41.03 PROPERTY LIEN FOR VIOLATIONS.

The city shall have a lien on all property owned by any person found by a final, nonappealable order of the Code Enforcement Board or by a final judgment of a court of law, if the Board's decision has been

appealed, to have committed a violation, for all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement. The lien shall be recorded in the office of the County Clerk where the property is located. The lien shall be notice to all persons from the time of its recording and shall bear interest as allowed by law until paid. The lien shall take precedence over all other subsequent liens, except state, county, school board, and other city taxes, and may be enforced by judicial proceedings. In addition to said lien, the person found by a final, nonappealable order of the Code Enforcement Board or by a final judgment of a court of law, if the Board's decision has been appealed, to have committed a violation, shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(Ord. 1996-14, passed 10-1-96; Am. Ord. 1997-6, passed 3-4-97)

Statutory reference:

Code Enforcement Board, see KRS 65.8811 - 65.8838

CHAPTER 42: CITY POLICIES

Section

42.01 Administrative search warrants

§ 42.01 ADMINISTRATIVE SEARCH WARRANTS.

(A) An administrative search warrant is a written order of a judge or other officer authorized by statute to issue search warrants that commands the search or inspection of any property, place or thing, and the seizure, photographing, copying, or recording of property or physical conditions found. An administrative search warrant authorizes an officer to enter any premises to conduct any inspection, sampling, and other functions required or authorized by law to determine compliance with the provisions of an ordinance, code, or other regulation including, but not limited to, those relating to the use, conditions, or occupancy of property or structures.

(B) Whenever a law requires or authorizes an inspection or investigation of any place or thing, the administrative officer charged to enforce that law, acting in the course of his or her official duties, may apply for an administrative search warrant. For this purpose, administrative officer includes a building inspector, code enforcement officer, fire marshal, their deputies, or other duly authorized representative, as the case may be.

(C) Before filing an application for an administrative search warrant, the administrative officer shall consult with legal counsel as to its legality in both form and substance.

(D) The application shall be supported by an affidavit sufficient under Section 10 of the Kentucky Constitution and be sworn to before an officer authorized to administer oaths as provided in the Kentucky Rules of Criminal Procedure or other applicable law.

(E) The affidavit shall state the applicant's status in applying for the warrant, the ordinance or regulation requiring or authorizing the inspection or investigation, and the nature, scope and purpose of the inspection to be performed. Further, it shall describe the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it. Further it shall state:

(1) That, for the purpose of making an inspection, access to the property has been sought from and refused by the regulated party; or

(2) That, after making a reasonable effort, the applicant has been unable to locate the regulated party; or

(3) That the facts or circumstances reasonably show that the purposes of the inspection or investigation might be frustrated if entry were sought without first procuring a warrant; and

(4) Finally, it shall state the basis upon which sufficient cause exists to search or inspect for violations of the ordinance or regulation specified.

(F) An administrative search warrant may issue upon a showing that probable cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied. Probable cause may be shown if a health, public protection or safety ordinance, regulation, rule, standard or order exists and that there is specific evidence of a nonconformity exists with respect to the particular location.

(G) A copy of the administrative search warrant and supporting affidavit shall be retained by the issuing officer and filed by such officer with the Clerk of the Court to which the warrant is returnable.

(H) The warrant:

(1) May direct its execution and return by the administrative officer charged to enforce the ordinance or regulation specified in the application;

(2) Shall specify the property, place, structure, premises, vehicle or records to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(3) May contain a direction as to the time and manner of its execution; and

(4) Shall command the return to the appropriate court of any evidence of ordinance violations found, or of any property seized pursuant thereto, or a description of such property seized, to be dealt with according to law.

(I) Unless otherwise prescribed in the warrant, the officer executing an administrative search warrant shall make return thereof to the appropriate court within a reasonable time of its execution. The return shall show the date and hour of service.

(J) Except as provided in the following sentence, in executing a search warrant the person authorized to execute it shall before entry make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show him or her the warrant or a copy thereof upon request. In executing a search warrant, the person authorized to execute the warrant need not inform anyone of his or her authority and

purpose, as prescribed in the preceding sentence, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition, but shall orally announce their credentials and authority to execute the warrant prior to entry.

(K) If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place. The return shall be accompanied by any photographs, copies or recordings made, and by any property seized, along with a copy of the itemized receipt of such property required by this section.

(L) The officer may summon as many persons as he or she deems necessary to assist him or her in executing the warrant and may request that a peace officer assist in the execution of the warrant.
(Ord. 2010-6, passed 6-1-10)

