

TITLE III: ADMINISTRATION

Chapter

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

CHAPTER 30: MAYOR-COUNCIL PLAN

Section

- 30.01 Form of government
- 30.02 Governing officers

' 30.01 FORM OF GOVERNMENT.

The form of government provided for this city shall be known as the Mayor-Council Plan.
(KRS 83A.130 (1)) (1987 Code, ' 30.01)

' 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 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 6 members.
(KRS 83A.030 (1))
(1987 Code, ' 30.02)

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

- 31.01 Oath
- 31.02 Compensation
- 31.03 Removal from office
- 31.04 Bond

Elected Officials

- 31.20 Election procedure
- 31.21 Mayor
- 31.22 Councilmembers

Nonelected City Officials

- 31.35 Establishment of nonelected city offices
- 31.36 City Clerk/Treasurer
- 31.37 Building Inspector
- 31.38 City Engineer

GENERAL PROVISIONS

' 31.01 OATH.

Each officer of the city shall, before entering upon the discharge of duties of his or her office, take the following oath: AI do solemnly swear (or affirm, as the case may be) that I will support the Constitution of this Commonwealth, and the Constitution of the United States, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____, according to law; and I do further solemnly swear (or affirm) that, since the adoption of the present Constitution, I being a citizen of this United States, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a challenge, nor aided or assisted any person thus offending, so help me God@, as established by Ky. Const. ' 228.
(1987 Code, ' 31.01(A))

' 31.02 COMPENSATION.

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

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

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

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

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

(D) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.
(1987 Code, ' 31.02)

Case law reference:

The limits on compensation contained in the Kentucky Constitution are not absolute limits but rather increase or decrease in accordance with changes in the consumer price index. See *Matthews v Allen*, 360 SW2d 248 (1948)

Editor's note:

Compensation ordinances are not set forth in this code but are rather kept on file and available for public inspection in the office of the City Clerk/Treasurer

Statutory reference:

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

' 31.03 REMOVAL FROM OFFICE.

(A) Elected officers. Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his or her 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 or her removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

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

Statutory reference:

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

Removal of nonelected officers, see KRS 83A.080(3)

' 31.04 BOND.

(A) Official bonds shall, if required, meet the standards of KRS 62.060.
(1987 Code, ' 31.01(B))

(B) All officers and employees of the city who handle public funds in the execution of their duties shall give a good and sufficient bond to the city for the faithful and honest performance of their duties, and as security for all money coming into the officer=s hands or under the officer=s control. The amount of the bond shall be established based on the amount of public funds the officer handles at any point in time during the fiscal year and may be satisfied by a blanket or umbrella bond covering all or a group of city officers and employees. The cost of the bond shall be paid by the city.

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

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 83A.170 and 83A.175. The ordinance shall become effective not later than 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) 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 5 years from the last change.

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

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

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

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

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

Statutory reference:

Creation, abolishment of city offices, see KRS 83A.080(4), (5)

Election of city officers, see KRS 83A.050

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. His or her term of office begins on the first day of January following his or her election and shall be for 4 years and until his or her successor qualifies.

(B) Qualifications. The Mayor shall be at least 25 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his or her term of office.

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

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

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Council shall not vote for himself or herself.

(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 or her successor.

(KRS 83A.040(3))

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

(KRS 83A.040(7))

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

(KRS 83A.040(8))

(5) The City Council shall elect from among its members an individual to preside over meetings of the City Council during any vacancy in the office of the Mayor in accordance with the provisions of KRS 83A.130.

(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 or she shall supervise all departments of city government and the conduct of all city officers and employees under his or her jurisdiction and require each department to make reports to him or her as required by ordinance or as he or she 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 or she finds appropriate or as required by ordinance, but not less than annually. He or she shall make any recommendations for actions by the Council he or she finds in the public interest. (KRS 83A.130(3))

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

(KRS 83A.130(4))

(5) Any delegation of the Mayor's power, duties, or responsibilities to subordinate officers and employees and any expression of his or her 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 or her 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 or she is unable to attend to the duties of his or her 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 or her absence under this section within 30 days of such action. If for any reason the disability of the Mayor to attend to his or her duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of ' 31.21(C) shall apply. (KRS 83A.130(10))

(E) Compensation. The compensation of the Mayor shall be set at \$3,000 annually. (1987 Code, ' 31.21) (Ord. 2002-10, passed 4-30-2002)

' 31.22 COUNCILMEMBERS.

For provisions concerning City Council, see Chapter 32.

NONELECTED CITY OFFICIALS

' 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.

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

- (1) Title of office;
- (2) Powers and duties of office;

- (3) Oath of office;
- (4) Bond, if required; and
- (5) Compensation.

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

(C) All nonelected officers may be removed by the Mayor at will unless otherwise provided by statute.

(D) The following are nonelected city offices:

City Clerk/Treasurer
 Building Inspector
 City Engineer

Statutory reference:

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

' 31.36 CITY CLERK/TREASURER.

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

(B) The duties and responsibilities of the 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 pursuant to KRS 61.870 through 61.882;
- (3) Possession of the seal of the city if used; and
- (4) Performance of any other duties and responsibilities required of the City Clerk/Treasurer by statute or ordinance.

(KRS 83A.085)

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

(D) No person shall be appointed or act as the City Clerk/Treasurer unless the person has taken the oath required by Ky. Const. ' 228 of the Constitution of the Commonwealth of Kentucky and has provided

bond in an amount of \$5,000, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(1987 Code, ' 31.36)

' 31.37 BUILDING INSPECTOR.

(A) Establishment. The office of Building Inspector is hereby established.

(B) Appointment. The Building Inspector shall be appointed by the Mayor with the approval of the City Council pursuant to KRS 83A.080; and may be removed by the Mayor at will.

(C) Oath; bond. No person shall be appointed or act as the Building Inspector unless the person has taken the oath required by Ky. Const. ' 228 and has provided a bond in the sum as established by City Council, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(D) Powers and duties.

(1) It shall be the duty of the Building Inspector to administer, execute, and enforce the provisions of the official building, housing, flood control, and zoning ordinances of the city.

(2) The Building Inspector shall take any action as permitted by law to correct the violations of the provisions of the official building, housing, flood control, and zoning ordinances of the city.

(3) The Building Inspector shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations, or structural changes.

(E) Compensation. The compensation of the Building Inspector shall be in an amount to be established by City Council by ordinance.

(F) Deputies. The city hereby authorizes deputies as may be needed from time to time to assist the Building Inspector.

(1987 Code, ' 31.37)

' 31.38 CITY ENGINEER.

(A) The office of City Engineer is hereby established.

(B) The City Engineer shall be appointed by the Mayor with the approval of the City Council pursuant to KRS 83A.080; and may be removed by the Mayor at will.

(C) No person shall be appointed or act as the City Engineer unless the person has taken the oath required by Ky. Const. ' 228 and has provided a bond in the sum as established by City Council, with

corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

(D) The City Engineer shall advise the Mayor and City Council on all matters related to the maintenance and improvement of streets, alleys, and other public ways, and on matters which may be deemed necessary for the public good, welfare, and convenience, including matters pertaining to sewers and culverts, and shall perform work and services in connection therewith, as may be assigned him or her by the City Council.

(E) The compensation of the City Engineer shall be in an amount to be established by City Council by ordinance.

(1987 Code, ' 31.38)

CHAPTER 32: CITY COUNCIL

Section

General Provisions

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

Rules of Procedure

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

Ordinances

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

GENERAL PROVISIONS

' 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

(A) Election; term of office. Each Councilmember shall be elected at-large by the voters of the city at a regular election. Terms of office begin on the first day of January following the election and shall be for 2 years.

(B) Qualifications. A member shall be at least 21 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his or her term of office.
(KRS 83A.040(4))

(C) Compensation. For provisions concerning compensation, see ' 31.02.
(1987 Code, ' 32.01)

' 32.02 VACANCIES.

(A) Vacancies. If 1 or more vacancies on Council occur in a way that 1 or more members remain seated, the remaining members shall within 30 days fill the vacancies 1 at a time, giving each new appointee reasonable notice of his or her selection as will enable him or her to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies are filled as provided in this section.
(KRS 83A.040(5))

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

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

(B) Failure to fill vacancies. If for any reason, any vacancy on Council is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
(KRS 83A.040(6)) (1987 Code, ' 32.02)

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 or her 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 or her designee on behalf of any department, office, or agency in the course of any investigation.

(KRS 83A.130(13))

(1987 Code, ' 32.03)

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

(A) The Mayor shall preside at meetings of the Council. The Council has the authority to establish, by ordinance, the manner in which 1 of its number may be selected to preside at meetings of the Council in the absence of the Mayor.

(B) The Mayor may participate in Council proceedings, but shall not have a vote, except that he or she may cast the deciding vote in case of a tie.

(KRS 83A.130(5)) (1987 Code, ' 32.20)

Cross-reference:

Council's responsibility to select 1 of its own members to preside when there is vacancy in the office of Mayor, see ' 31.21

' 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held on the second Monday of every month at 7:00 p.m. at City Hall, 509 Elm Street.

(Ord. 32.21, passed 4-2-1999)

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

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

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

(KRS 83A.130(11)) (1987 Code, ' 32.21)

' 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 1 subject and shall have a title that clearly states the subject.

(KRS 83A.060(1)) (1987 Code, ' 32.35)

' 32.36 INTRODUCTION; ENACTING CLAUSE.

Each ordinance shall be introduced in writing and shall have an enacting clause styled ABe it ordained by the City of West Point.@

(KRS 83A.060(2)) (1987 Code, ' 32.36)

' 32.37 FORM OF AMENDMENT.

No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.
(KRS 83A.060(3)) (1987 Code, ' 32.37)

' 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 2 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 2/3 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 10 days of the enactment of the emergency ordinance.
(KRS 83A.060(4), (7)) (1987 Code, ' 32.38)

' 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

(A) All ordinances adopted by the Council shall be submitted to the Mayor who, within 10 days after submission, shall either approve the ordinance by affixing his or her signature or disapprove it by returning it to the Council together with a statement of his or her objections.

(B) No ordinance shall take effect without the Mayor's approval unless he or she fails to return it to the legislative body within 10 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 1 more than a majority of the membership.
(KRS 83A.130(6)) (1987 Code, ' 32.39)

' 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)) (1987 Code, ' 32.40)

' 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(B) 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)) (1987 Code, ' 32.41)

' 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)) (1987 Code, ' 32.42)

' 32.43 PUBLICATION REQUIREMENTS.

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

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

(1) The title of the ordinance;

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

(3) The full text of each section that imposes fines, penalties, forfeitures, taxes or fees.

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

(KRS 83A.060(9)) (1987 Code, ' 32.43)

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

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

(KRS 83A.060(10)) (1987 Code, ' 32.44)

' 32.45 PERIODIC REVIEW REQUIRED.

Not less than once every 5 years all ordinances in this code of ordinances shall be examined for consistency with state law and with 1 another and shall be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.

(KRS 83A.060(11)) (1987 Code, ' 32.45)

' 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)) (1987 Code, ' 32.46)

' 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 such ordinances.

(KRS 83A.060(14)) (1987 Code, ' 32.47)

' 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)) (1987 Code, ' 32.48)

Statutory reference:

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

CHAPTER 33: FINANCE AND REVENUE

Section

Financial Administration

- 33.01 Definitions
- 33.02 Accounting records and financial reports
- 33.03 Annual budget ordinance
- 33.04 Annual audit of city funds
- 33.05 Official depositories; disbursement of city funds

Improvements

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

FINANCIAL ADMINISTRATION

' 33.01 DEFINITIONS.

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

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

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

ENCUMBRANCES. Obligations in the form of purchase orders or contracts that are chargeable to an

appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

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

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

GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING. Those standards and procedures promulgated and recognized by the Governmental Accounting Standards Board. (KRS 91A.010) (1987 Code, ' 33.01)

' 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

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

(1) Determine compliance with statutory provisions; and

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

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

(KRS 91A.020) (1987 Code, ' 33.02)

' 33.03 ANNUAL BUDGET ORDINANCE.

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

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

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

(D) The budget ordinance of the city shall cover 1 fiscal year.

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

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

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

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

(2) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any 1 fiscal year in violation of Ky. Const. ' 157.

(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 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 ' 33.02.

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

(KRS 91A.030) (1987 Code, ' 33.03)

' 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within 10 days of the completion of the audit and its presentation to the city legislative body, pursuant to division (B)(6) of this section, the city shall forward 3 copies of the audit report to the Kentucky Department for Local Government for information purposes. The Department shall forward 1 copy of the audit report to the Legislative Research Commission to be used

for the purposes of KRS 6.955 to 6.975.

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

(1) The auditor be employed to examine the general purpose financial statements of all governmental, proprietary and fiduciary funds of the city;

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

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

(4) The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his or her opinion and statements relating thereto;

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

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

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

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

(D) Upon completion of an audit, the city may elect to publish the auditor's report in accordance with division (E) of this section, or may publish a financial statement in accordance with division (F) of this section. Notwithstanding the election of divisions (E) or (F) of this section, the city shall within 90 days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than 8 column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided such statement.

(E) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the City Council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his or her personal use. The statement shall notify citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed \$.25 per page. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

(F) If the city elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within 60 days after the completion of the audit, publish the statement in accordance with KRS Chapter 424.

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

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

(KRS 91A.040) (1987 Code, ' 33.04)

Statutory reference:

Department for Local Government to provide assistance, see KRS 91A.050.

' 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The Mayor shall designate as the city's official depositories 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 surety bonds.

(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) (1987 Code, ' 33.05)

IMPROVEMENTS

' 33.10 DEFINITIONS.

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

ASSESSED VALUE BASIS. The apportionment of cost of an improvement according to the ratio the assessed value of individual parcels of property bears to the total assessed value of all 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 the front footage of all 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 the 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 property.
(KRS 91A.210) (1987 Code, ' 33.10)

' 33.11 FINANCING OF IMPROVEMENTS.

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

(KRS 91A.200)

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

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

(KRS 91A.220) (1987 Code, ' 33.11)

Statutory reference:

Improvements; alternate methods, see KRS Chapter 107

' 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious, or charitable organization. Council may assess the 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) (1987 Code, ' 33.12)

' 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

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

(KRS 91A.240) (1987 Code, ' 33.13)

' 33.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by ' 33.13, the city shall hold at least 1 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) (1987 Code, ' 33.14)

' 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

Within 90 days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed shall adopt an ordinance so stating and containing all necessary terms, including the items referred to in ' 33.13 and a description of all properties. Promptly upon passage, the city shall publish the 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) (1987 Code, ' 33.15)

' 33.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in ' 33.15, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his or her property in the improvement, or the amount of his or her 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 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) (1987 Code, ' 33.16)

' 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

(A) After the passage of time for the action provided for in ' 33.16, or after favorable final judgment in any 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) (1987 Code, ' 33.17)

' 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

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

(KRS 91A.290) (1987 Code, ' 33.18)

CHAPTER 34: PUBLIC RECORDS

Section

General Provisions

34.01 Definitions

Procedures for Requesting Public Records

- 34.05 Initial request with immediate inspection
- 34.06 Referral to proper custodian
- 34.07 Public records not immediately available
- 34.08 Refusal of unreasonable requests
- 34.09 Time limitation; denial of inspection
- 34.10 Concealing or destroying records prohibited
- 34.11 Access to records relating to particular individual
- 34.12 Format of copies
- 34.13 Fees for copies
- 34.14 Misstatement of purpose prohibited
- 34.15 Online access to public records in electronic form
- 34.16 Public records protected from disclosure
- 34.17 Notification of the Attorney General

GENERAL PROVISIONS

' 34.01 DEFINITIONS.

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

CITY. The city government of this city.

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

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

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

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

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

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

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

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

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

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

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

SOFTWARE. The program code which makes a computer system function, but does not include that

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

(KRS 61.870) (1987 Code, ' 34.01)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

' 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) Any person desiring to inspect or copy the public records of this city shall make a request for inspection at the office of the City Clerk/Treasurer during regular office hours, except during legal holidays. The official custodian, or the custodian acting under the authority of the official custodian, may require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records may be presented by hand delivery, mail or via facsimile, if 1 is available.

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

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

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

(1987 Code, ' 34.05)

' 34.06 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 notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.

(KRS 61.872(4)) (1987 Code, ' 34.06)

' 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage, or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection or mailing of the public records, not to exceed 3 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)) (1987 Code, ' 34.07)

' 34.08 REFUSAL OF UNREASONABLE REQUESTS.

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

(KRS 61.872(6)) (1987 Code, ' 34.08)

' 34.09 TIME LIMITATION; DENIAL OF INSPECTION.

The official custodian, upon any request for records made under this chapter, shall determine within 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 3-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his or her authority and shall constitute final agency action.

(KRS 61.880) (1987 Code, ' 34.09)

' 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

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

(1987 Code, ' 34.10)

' 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

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

(KRS 61.884) (1987 Code, ' 34.11)

' 34.12 FORMAT OF COPIES.

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

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

(2) The minimum standard format in paper form shall be defined as not less than 8 1/2 inches x 11 inches in at least 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 the format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1),(2))

' 34.13 FEES FOR COPIES.

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

(B) (1) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are

requested for commercial purposes, the public agency may establish a reasonable fee.

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

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

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

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

(KRS 61.874(3), (4))

Cross-reference:

Fees for online access to public records, see ' 34.15

' 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

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

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

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

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

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

' 34.15 ONLINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

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

(B) Fees shall not exceed:

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

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

(KRS 61.874(6))

' 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) 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.

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

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

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

(KRS 61.878) (1987 Code, ' 34.12)

' 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

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

CHAPTER 35: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Planning Commission

- 35.01 Definitions
- 35.02 Establishment
- 35.03 Powers, duties, and functions
- 35.04 Members
- 35.05 Officers
- 35.06 Meetings
- 35.07 Bylaws; transcript
- 35.08 Quorum
- 35.09 Hearing examiner
- 35.10 Employment of staff or contractors
- 35.11 Expenditures

Police Department

- 35.50 Establishment
- 35.51 Police Chief; police officers

Volunteer Fire Department

- 35.65 Establishment
- 35.66 Fire Chief; Assistant Fire Chief
- 35.67 Fees charged to nonresidents for Fire Department services

Cross-reference:

- Board of Zoning Adjustment, see ' 152.097
- Personnel Board, see ' ' 37.135 - 37.138

PLANNING COMMISSION**' 35.01 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CHAIRMAN. The citizen member of the Planning Commission elected by the members of the Planning Commission to serve in the capacity of Chairman.

CITIZEN MEMBER. Any member of the Planning Commission who is not an elected or appointed public official or employee of the city.

ELECTED PUBLIC OFFICIAL. A member of the Planning Commission who simultaneously holds a position to which he or she was elected by the citizens.

MEMBER. Any person duly appointed and acting as a member of the Planning Commission.

PLANNING COMMISSION. The 7-member body authorized by this subchapter to formulate plans for the physical development and social and economic well-being of the city and which shall formulate proposals for implementing such plans and shall have the powers granted to it by KRS Chapter 100.

TRANSCRIPT. For purposes of meetings, shall be the record maintained of the proceedings indicating the business transacted at the meetings and shall not be required to be a verbatim record. The transcript of a public hearing shall be a verbatim record of the evidence and arguments made to the Planning Commission or its designated hearing officer and the record shall be taken by any person authorized to take a record under the Kentucky Rules of Civil Procedure.
(1987 Code, ' 35.25) (Ord. passed 10-4-1976)

' 35.02 ESTABLISHMENT.

The Planning Commission is hereby established and shall continue in full force and existence unless dissolved by further action of the City Council.
(1987 Code, ' 35.26) (Ord. passed 10-4-1976)

' 35.03 POWERS, DUTIES, AND FUNCTIONS.

The City Council or Mayor may assign to the Planning Commission any powers, duties, and functions relating to urban renewal or public housing.
(1987 Code, ' 35.27) (Ord. passed 10-4-1976)

‡ 35.04 MEMBERS.

(A) The Planning Commission shall consist of 7 members. Each member must be a resident of the city. One of the 7 members may be an elected public official of the city.

(B) Each member shall be appointed by the Mayor with approval of the City Council.

(C) The term of office for each citizen member of the Planning Commission shall be 4 years, but the term of office of citizen members first appointed shall be staggered so that a proportionate number serve 1, 2, 3, and 4 years respectively, and later appointments or reappointments shall continue the staggered pattern. Of those first appointed, the first member appointed shall serve a term of 4 years; the second member appointed shall serve a term of 3 years; the third member appointed shall serve a term of 2 years; the fourth member appointed shall serve a term of 1 year; and the fifth member appointed shall serve a term of four years. The term of office of all elected public officials appointed to the Planning Commission shall be the same as their tenure in office.

(D) Vacancies on the Planning Commission shall be filled within 60 days by the Mayor. If the Mayor fails to act within that time, the Planning Commission shall fill the vacancy. When a vacancy occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.

(E) Any member of the Planning Commission may be removed by the Mayor for inefficiency, neglect of duty, malfeasance, or conflict of interest. When the Mayor exercises the power to remove a member of the Planning Commission, he or she shall submit a written statement to the Planning Commission setting forth the reasons for removal, and the statement shall be read at the next general meeting of the Planning Commission which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court.

(1987 Code, ‡ 35.28) (Ord. passed 10-4-1976; Am. Ord. 2001-08, passed 1-14-2002)

‡ 35.05 OFFICERS.

The Planning Commission on an annual basis, shall elect a Chairperson and any other officers which it deems necessary from the citizen members of the Planning Commission. All officers shall be eligible for re-election at the expiration of the term provided they continue as members of the Planning Commission.

(1987 Code, ‡ 35.29) (Ord. passed 10-4-1976)

‡ 35.06 MEETINGS.

(A) The Planning Commission shall conduct regular meetings as it deems necessary for the transaction of its business, but there shall be at least 6 regular meetings annually. The schedule for regular meetings shall be expressed in the rules and regulations of the Planning Commission.

(B) Special meetings shall be held at the call of the Chairperson who shall give written or oral notice to all members at least 7 days prior to the meeting; which notice shall contain the date, time, place, and the subjects which shall be discussed.

(1987 Code, ' 35.30) (Ord. passed 10-4-1976)

' 35.07 BYLAWS; TRANSCRIPT.

The Planning Commission shall adopt bylaws for the transactions of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, determinations, the number of votes for and against each question, and if any member is absent or disqualified from voting, the minutes and records shall indicate that fact. All minutes and records shall immediately after adoption be filed in the office of the Planning Commission. A transcript of the entire proceedings of a Planning Commission meeting shall be provided, if requested by a party, at the expense of the requesting party and the transcript shall constitute the record.

(1987 Code, ' 35.31) (Ord. passed 10-4-1976)

' 35.08 QUORUM.

A simple majority of the total membership of the Planning Commission as established by this subchapter shall constitute a quorum. Any member of the Planning Commission who has any direct or indirect financial interest in the outcome of any question before the Planning Commission shall disclose the nature of the interest and shall disqualify himself or herself from voting on the question, and he or she shall not be counted for the purpose of a quorum. A simple majority vote of all members present where there is a properly constituted quorum shall be necessary to transact any official business, except that a vote of a simple majority of the total membership shall be necessary for the adoption or amendment of the comprehensive plan.

(1987 Code, ' 35.32) (Ord. passed 10-4-1976)

' 35.09 HEARING EXAMINER.

The Planning Commission may appoint 1 or more of its members to act as a hearing examiner or examiners or preside over a public hearing and make recommendations to the Commission based upon a transcript of record of the hearing.

(1987 Code, ' 35.33) (Ord. passed 10-4-1976)

' 35.10 EMPLOYMENT OF STAFF OR CONTRACTORS.

The Planning Commission may employ a staff or contract with planners or other persons as it deems necessary to accomplish its assigned duties under this subchapter provided that its operations expense does not exceed the Planning Commission's budget.

(1987 Code, ' 35.34) (Ord. passed 10-4-1976)

' 35.11 EXPENDITURES.

The City Council may appropriate out of general revenues for the expenses and accommodations necessary for the work of the Commission. The Planning Commission shall have the right to receive, hold, and spend funds which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this subchapter. All bylaws shall describe the method for administration of funds. An annual audit shall be performed of all receipts, expenditures, and funds on hand, by the City Clerk/Treasurer's office or by an accountant. The audit report including financial statements, shall be kept in the same manner prescribed for other records.

(1987 Code, ' 35.35) (Ord. passed 10-4-1976)

POLICE DEPARTMENT

' 35.50 ESTABLISHMENT.

There is hereby established a Police Department in the city.

(1987 Code, ' 35.50)

' 35.51 POLICE CHIEF; POLICE OFFICERS.

(A) The Police Department shall consist of a Chief of Police and regular police officers and those personnel as may be established by the City Council.

(B) The Police Chief and all police officers shall be appointed by the Mayor at will, and may be removed by the Mayor at will except as tenure and terms of employment are protected by statute, ordinance, or contract.

(C) No person shall be appointed or act as the Police Chief unless the person has taken the oath required by Ky. Const. ' 228, and has provided a bond, if required, with corporate surety authorized to transact business in the Commonwealth of Kentucky and conditioned upon the performance of the duties specified herein and with the qualifications set forth in division (D) below.

(D) Training and experience shall consist of any combination of education, training, and experience which provides the necessary knowledge, skills, and abilities to perform effectively the duties of the position.

(E) Subject to the authority of the Mayor, the Chief of Police shall be responsible for the organization and operation of the Police Department of the city, and shall supervise, direct, and control the equipment

and personnel thereof in the enforcement of all statutes, laws, and ordinances of the city.

(F) The compensation of the Police Chief and all police officers shall be in an amount to be established by City Council by ordinance in accordance with ' 31.02.
(1987 Code, ' 35.51)

VOLUNTEER FIRE DEPARTMENT

' 35.65 ESTABLISHMENT.

A Fire Department is hereby established in the city to be known as the West Point Volunteer Fire Department.
(1987 Code, ' 35.65)

' 35.66 FIRE CHIEF; ASSISTANT FIRE CHIEF.

(A) The positions of Fire Chief and Assistant Fire Chief are hereby established.

(B) The Fire Chief and the Assistant Fire Chief shall be elected by the members of the Department with the approval of the Mayor and City Council.

(C) The Volunteer Fire Department shall operate pursuant to rules and regulations promulgated by the Volunteer Fire Department and approved by the Mayor and City Council.
(1987 Code, ' 35.66)

' 35.67 FEES CHARGED TO NONRESIDENTS FOR FIRE DEPARTMENT SERVICES.

(A) The City Clerk/Treasurer shall collect fees for the Fire Department services to nonresidents of the city as follows.

(1) The city shall collect a fee of \$500 for the first hour and any portion thereof when the Fire Department responds to a call. This fee includes any and all vehicles and manpower within that first hour, regardless of the number of vehicles and personnel responding to the call.

(2) After the first hour, the city shall collect a fee of \$100 per hour for each fire engine that responds to the call.

(3) After the first hour, the city shall collect a fee of \$50 per hour for any other emergency vehicles that respond to the fire call. For purposes of this section, 'other emergency vehicles' include command car and personnel and rehabilitation vehicle.

(4) After the first hour, the city shall collect a fee of \$20 per hour per firefighter that responds to the call.

(B) The above fees shall be binding upon all persons receiving the services as well as their successors in interest, assigns, estates, and heirs.

(C) The city may enforce the provisions of this section by civil actions in court for the collection of amounts due, or other appropriate relief.

(D) Nothing in this section shall authorize any city department or city personnel to refuse or delay any service to any person, firm, or corporation that has not paid for service or that owes for previous service.

(E) Failure to receive payment within 30 days from the bill date constitutes a delinquent account and is subject to a 10% late fee and interest shall be imposed at a rate of 12% per annum for any delinquent account.

(Ord. 2001-03, passed 5-31-2001; Am. Ord. 2002-11, passed 5-13-2002)

CHAPTER 36: TAXATION

Section

- 36.01 County assessment adopted
- 36.02 Due date; payment
- 36.03 Delinquency
- 36.04 Ad valorem taxes on motor vehicles
- 36.05 Disposition of funds

' 36.01 COUNTY ASSESSMENT ADOPTED.

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

(1987 Code, ' 36.01) (Ord. passed 4-7-1975)

' 36.02 DUE DATE; PAYMENT.

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due on September 1 of each year.

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

(1987 Code, ' 36.02) (Ord. passed 4-7-1975)

' 36.03 DELINQUENCY.

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

(B) Any taxes not paid by the date when they become delinquent shall be subject to a penalty of 10% per annum until paid. In addition, interest in the amount of 10% of the tax due shall be added to the bill for every month or fraction thereof from January 1 until the date of payment.

(C) Delinquent taxes shall be collectable under the provisions of the state law relating to the collection of delinquent taxes by cities of the fifth class.
(1987 Code, ' 36.03) (Ord. passed 4-7-1975)

' 36.04 AD VALOREM TAXES ON MOTOR VEHICLES.

(A) All ad valorem taxes on motor vehicles shall be collected by the Hardin 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 taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.
(1987 Code, ' 36.04)

' 36.05 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Council.
(1987 Code, ' 36.05)

CHAPTER 37: PERSONNEL POLICIES

Section

General Provisions

- 37.001 Definitions
- 37.002 Fair employment
- 37.003 Which employees eligible
- 37.004 Amendment and revision of rules
- 37.005 Violation of rules
- 37.006 Applications and applicants
- 37.007 Classification plan
- 37.008 Method of filling vacancies
- 37.009 Probationary period
- 37.010 Training of employees
- 37.011 Reports and records
- 37.012 Disciplinary actions

Conditions of Employment

- 37.025 Political activity

Compensation; Salaries

- 37.040 Pay plan
- 37.041 Pay adjustments
- 37.042 Overtime
- 37.043 Salary scale; grades

Attendance and Leaves

- 37.055 Attendance; records
- 37.056 Annual vacation leave
- 37.057 Sick leave
- 37.058 Disability leave
- 37.059 Maternity leave
- 37.060 Military leave
- 37.061 Leave of absence without pay
- 37.062 Jury leave

- 37.063 Subpoena leave
- 37.064 Holidays

Insurance

- 37.075 Hospitalization
- 37.076 Worker's Compensation

Transfer, Promotion, Demotion, Suspension, and Reinstatement

- 37.090 Transfers
- 37.091 Promotions
- 37.092 Demotions
- 37.093 Suspensions
- 37.094 Reinstatement
- 37.095 Separation from service; dismissal, suspension, or reduction

Grievance Procedures

- 37.105 Matters subject to grievance procedure
- 37.106 Informal grievance procedure
- 37.107 Formal grievance procedure

Rules of Appeal

- 37.120 Right of appeal
- 37.121 Method of appeal
- 37.122 Notice
- 37.123 Hearings
- 37.124 Findings and recommendations
- 37.125 Actions by City Council

Personnel Board

- 37.135 Organization; terms; appointment
- 37.136 Meetings
- 37.137 Duties
- 37.138 Hearings
- Appendix: Position descriptions

GENERAL PROVISIONS

' 37.001 DEFINITIONS.

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

ALLOCATION. The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.

ANNIVERSARYDATE. The date upon which a step advance in salary or performance evaluation becomes effective or takes place under the provisions of this chapter.

APPOINTMENT. The offer to a person, and the acceptance of a position authorized by the appointing powers.

BOARD. The Personnel Board, established as provided by this chapter.

CLASS. All positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion, and compensation.

CLASSIFIED SERVICE. All positions of employment in the service of the city except those specifically excluded by Council action.

COMPENSATORY TIME. Time off given in lieu of overtime payment (money).

DEMOTION. The movement of an employee from a position in 1 class to a position in another class having a lower maximum rate of pay.

DEPARTMENT HEAD. Those officers or employees who are appointed or employed as the principal employee of a department for the discharge of duties provided by law or of particular delegated functions.

ELIGIBLE. A person whose name is on an employment, reinstatement, promotional, or layoff list.

EMPLOYEE. Any person employed by the city except those excluded by ' 37.003.

MERIT INCREASE. A salary increase granted on the basis of meritorious service within the limits of a pay range established for a class.

OVERTIME WORK. Those hours of work in excess of 40 hours per week for those employees who normally work 40 hours per week.

PART-TIME EMPLOYEES. An employee hired on the basis of less than 100 hours per month.

PERFORMANCE REPORT. The periodic evaluation of an employee's work reflected on forms prescribed by the Personnel Officer.

PERMANENT EMPLOYEE. An employee who has successfully completed the probationary period and has been retained as hereafter provided in this chapter.

PERSONNEL OFFICER. The Mayor shall be responsible for the administration of the merit system. This includes, but is not limited to, interpreting personnel rules and regulations; possessing authority in hiring, firing, transferring, promoting, demoting, suspending, and reinstating employees; and maintaining employee records.

POSITION. An aggregation of tasks and responsibilities requiring the services of 1 person.

PROBATIONARY PERIOD. A working test period during which employees are required to demonstrate their fitness for the duties to which they are appointed by actual performance of the duties of the position.

PROMOTION. The movement of an employee from a position in 1 class to a position in another class having a higher maximum rate of pay.

PROVISIONAL APPOINTMENT. An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class subject to successful completion of the probationary period.

REINSTATEMENT. The reemployment of a former permanent or probationary employee.

SALARY ADVANCEMENT. A salary increase, based upon satisfactory performance recommended to the Council by the Personnel Officer.

SICK LEAVE. Time off with pay granted by the city to permanent and probationary employees in the event of illness.

SUSPENSION. The temporary separation from the service of an employee without pay for disciplinary purposes.

TERMINATION. The separation of an employee from the city service by any means other than lay-off or retirement whether it be voluntary or involuntary.

TRANSFER. A change of an employee from 1 position to another position in the same class or in a comparable class.

VACATION. Time off with pay granted to the employee at the convenience of the city in recognition of service and of the employee's need for an annual period of rest and recreation.
(1987 Code, ' 37.001) (Ord. passed - -1985)

' 37.002 FAIR EMPLOYMENT.

No person shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations; nor shall there be any discrimination in favor of, or against any applicant or employee because of age, race, color, sex, physical handicap, or national origin.
(1987 Code, ' 37.002) (Ord. passed - -1985) Penalty, see ' 10.99

' 37.003 WHICH EMPLOYEES ELIGIBLE.

The rules and regulations of this merit system shall apply to all employees of the city, except elected officials, members of boards and commissions, persons engaged under contract to supply professional or technical services, temporary employees, and volunteer personnel who receive no regular compensation from the city, and any other employees as the City Council may designate. Where these rules conflict with Police Department rules and regulations, Police Department rules and regulations shall supersede.
(1987 Code, ' 37.003) (Ord. passed - -1985)

' 37.004 AMENDMENT AND REVISION OF RULES.

Proposed amendments and revisions to this chapter may be suggested to the City Council through the Personnel Officer by an interested person. The Council may, by resolution, change or modify this chapter as may, from time to time, be necessary. Amendments and revisions to this chapter shall become effective upon adoption of an appropriate ordinance by the City Council.
(1987 Code, ' 37.004) (Ord. passed - -1985)

' 37.005 VIOLATION OF RULES.

Violation of the provisions of this chapter shall be grounds for rejection, suspension, demotion, or dismissal.
(1987 Code, ' 37.005) (Ord. passed - -1985)

' 37.006 APPLICATIONS AND APPLICANTS.

(A) Announcement. All positions available in the classified service shall be publicized by publishing an advertisement in a newspaper of local circulation, and by posting announcements in the city hall on official

bulletin boards and by any other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class, the nature of the work to be performed, preparation desirable for the performance of the work of the class, the manner of making applications, and other pertinent information.

(B) Application forms. Application shall be made as prescribed on the position announcements. Application forms shall require information covering training experience and other pertinent information, and may include certificates of 1 or more examining physicians, references, and fingerprinting. All applications must be signed by the person submitting the application.

(C) Disqualification. The Personnel Officer may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected if the applicant is physically unfit for the performance of duties of the position to which the applicant seeks appointment, is addicted to the habitual excessive use of drugs or intoxicating liquor; has been convicted of a crime involving moral turpitude; has made any false statement of any material fact, or practiced any deception or fraud in the applicant's application. When an application is rejected for cause, notice of the rejection with statement of reason shall be mailed to the applicant by the Personnel Officer. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

(1987 Code, ' 37.006) (Ord. passed - -1985)

' 37.007 CLASSIFICATION PLAN.

(A) Preparation of plan. The Personnel Officer or a person or agency employed for that purpose shall ascertain and record the duties and responsibilities of all positions in the classified service and shall recommend a classification plan for those positions. The classification plan shall consist of classes of positions in the classified service defined by class specifications, including job titles. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

(B) Adoption, amendment, and revision of plan. The classification plan shall be adopted and may be amended from time to time by ordinance of the City Council.

(C) Allocation of positions. Following the adoption of the classification plan, the Personnel Officer, with the advice of the department heads concerned, shall allocate every position in the classified service to 1 of the classes established by the plan.

(D) New positions. When a new position is created, the classification plan shall be amended to provide therefor, and an appropriate employment list shall be established for that position.

(E) Reclassification. Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the City Council with the advice of the Personnel Officer and

department heads concerned, to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

(1987 Code, ' 37.007) (Ord. passed - -1985)

' 37.008 METHOD OF FILLING VACANCIES.

(A) Types of appointment. All vacancies in the classified service shall be filled by transfer, promotion, demotion, reemployment, or reinstatement. In the absence of persons eligible for appointment in these ways provisional appointments may be made.

(B) Provisional appointment. In the absence of there being an individual on appropriate employment lists who is willing to accept appointment, a provisional appointment may be made by the Personnel Officer of a person meeting the minimum training and experience qualifications for the position. Upon satisfactory completion of probation, the provisional appointee shall become a permanent employee.

(1987 Code, ' 37.008) (Ord. passed - -1985)

' 37.009 PROBATIONARY PERIOD.

(A) Regular appointment following probationary period. All original appointments shall be tentative and subject to a probationary period of not less than 3 months actual service. The Personnel Officer may establish a longer probationary period for specified classes.

(B) Objective of probationary period. The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to the position.

(C) Rejection of probationer. During the probationary period, an employee may be rejected at any time by the Personnel Officer, without cause and without the right of appeal. Notification of rejection in writing shall be forwarded to the probationer and a copy filed with the probationer's file.

(1987 Code, ' 37.009) (Ord. passed - -1985)

' 37.010 TRAINING OF EMPLOYEES.

(A) Responsibility for training. The City Council encourages the training of employees. Responsibility for developing training programs for employees shall be assumed jointly by the Personnel Officer and department heads. These training programs may include lecture courses, demonstrations, assignment of reading matter, or any other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

(B) Credit for training. Participation in and successful completion of special training courses including college extension or correspondence courses may be considered in making advancements and promotions.

Evidence of this activity shall be filed by the employee with the Personnel Officer.
(1987 Code, ' 37.010) (Ord. passed - -1985)

' 37.011 REPORTS AND RECORDS.

(A) Roster cards. The Personnel Officer shall maintain a service or roster card for each employee in the service of the city showing the name, title of position held, the department to which assigned, salary, changes in employment status, and any other information as may be considered pertinent. If the employee moves or changes marital status, number of dependents, telephone number, or name, the employee should contact immediate supervisor or the Personnel Officer at once.

(B) Performance evaluation. All employees of the city in classified service, shall be subject to performance evaluations, on forms prepared by the Personnel Officer, upon each anniversary date of their employment with the city. The department heads shall evaluate all their employees and all department heads shall be evaluated by the Personnel Officer. Probationary employees shall be evaluated after the first 90 days of employment and before the end of the 6 months probationary period. Each employee performance evaluation report shall be reviewed with the employee and filed with the Personnel Officer not later than 5 days after each anniversary date. Employees shall be allowed to submit a written response to their performance evaluation report. These reports shall remain a part of each employee's personnel record for a period not to exceed 5 years and may be used in consideration for determining transfers, promotions, demotions, dismissals, or lay-offs.

(C) Employee records. It is the policy of the city to keep employee personnel records confidential in the best interest of each employee. Employee records that are considered to be public records are available to anyone with appropriate appointment and request. These records include that information as an employee's name, date of hire, classification, grade, present rate of pay, and duties performed. Information obtained for business use and contained in the personnel files is not a matter of public record and should not be generally accessible to everyone.
(1987 Code, ' 37.011) (Ord. passed - -1985)

' 37.012 DISCIPLINARY ACTIONS.

(A) Disciplinary actions include: reprimands, admonishments, suspensions, demotions, and dismissals.

(B) Grounds for these actions include, but are not necessarily limited to the following:

- (1) Falsification of application for employment.
- (2) Chronic absenteeism.
- (3) Chronic tardiness.
- (4) Malingering.

- (5) Insubordination.
- (6) Conviction of a crime involving moral turpitude.
- (7) Incompetence in the performance of assigned duties.
- (8) Prohibited political activities.
- (9) Favoritism on the part of a supervisory employee.

(10) Discrimination on the part of a supervisory employee against any employee on the basis of race, color, sex, age, physical handicap, place of national origin, political or religious affiliation, or personal dislike.

(11) Any action, on or off the job, tending to bring discredit on the city service.

(12) Alcohol or drugs.

(13) Violation of any section of this chapter.
(1987 Code, ' 37.012) (Ord. passed - -1985)

CONDITIONS OF EMPLOYMENT

' 37.025 POLITICAL ACTIVITY.

An employee of the city:

- (A) May be a candidate for public office in a nonpartisan election.
- (B) May campaign for and hold elective office in political clubs and organizations.
- (C) May actively campaign for candidates for public office in partisan and nonpartisan elections.
- (D) May contribute money to political organizations or attend political fundraising functions.
- (E) May participate in any activity not specifically prohibited by law or regulation.

(F) May not be a candidate for public office in a partisan election.

(G) May not use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.

(H) May not directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

(I) May not hold a public office in city government and be a paid city employee.
(1987 Code, ' 37.027) (Ord. passed - -1985)

COMPENSATION; SALARIES

' 37.040 PAY PLAN.

(A) Preparation of plan.

(1) The Personnel Officer or the person or agency employed for that purpose, shall prepare a pay plan covering all classes or positions in the classified service.

(2) In arriving at salary rates or ranges, consideration shall be given to prevailing rates of pay and consideration of working conditions for comparable work in other public and in private employment, to current costs of living, to suggestions of department heads, to the city's financial condition and policies, and to other relevant factors. The Personnel Officer, or the person or agency employed for that purpose, shall thereafter make further studies of the pay plan as may be requested by the City Council.

(B) Adoption of plan. The pay plan shall be adopted and may be amended from time to time by action of the City Council.

(1987 Code, ' 37.040) (Ord. passed - -1985)

' 37.041 PAY ADJUSTMENTS.

(A) Application of rates. Employees occupying a position in the classified service shall be paid a salary or wage established for that position's class under the pay plan as provided by ' 37.007. The minimum rate for the class generally shall apply to employees upon original appointment. However, the Personnel officer, when circumstances warrant, may authorize original appointment or reinstatement at other than the minimum rate.

(B) Advancement. Subject to the availability of funds and the financial ability of the city, at least once each fiscal year the personnel officer shall, in conjunction with department heads, review the performance of each employee in the classified service for the purpose of providing deserving employees with individual merit salary adjustments. A merit salary adjustment shall be granted only to those regular full-time employees whose quality and tenure of service has been satisfactory. It shall be the intent of this plan, when it is financially feasible, each employee will be raised one pay step annually, based on performance evaluation, until the employee reaches the maximum rate for the classification in which he or she is

employed or until placed in another classification.
(1987 Code, ' 37.041) (Ord. passed - -1985)

' 37.042 OVERTIME.

(A) Policy. It is the city's policy to avoid the necessity for overtime whenever possible. Overtime work may sometimes be necessary to meet emergency situations, seasonal, or peak workload requirements, and department heads are responsible for the advance planning required to minimize the need for overtime. No officer or employee shall receive credit for any overtime unless authorized. Therefore, if in the judgment of a department head work beyond the normal work day or work week is required, the department head may authorize that work and the employee shall be credited with that overtime credit for each hour's work.

(B) Overtime accrual limitation. No overtime credit shall be given or allowed for any period of less than 1 hour unless at least 1 full hour of overtime has been worked. Fraction of overtime shall not be accumulated to total the first hour of overtime in a pay period. Credit may be given or allowed for increments of 30 minutes or half hours.

(C) Overtime compensation. Whenever any person employed by the city is required to render overtime service, that person shall be compensated, according to state and federal law.

(D) Personnel Officer responsibility. Pursuant to the requirements of this rule, it is the responsibility of the Personnel Officer to record all overtime and compensatory time accrued for the employees of the city and along with department heads to arrange work schedules to ensure that an employee is given full opportunity to take any accumulated compensatory time off.
(1987 Code, ' 37.042) (Ord. passed - -1985)

' 37.043 SALARY SCALE; GRADES.

The current salary scale is on file at the city hall.
(1987 Code, ' 37.043) (Ord. passed - -1985; Am. Ord. 2001-07, passed 9-17-2001)

ATTENDANCE AND LEAVES

' 37.055 ATTENDANCE; RECORDS.

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to the Personnel Officer in the form and on the dates the Personnel Officer shall specify. Failure on the part of an employee, absent without leave, to return to duty within 48 hours after written notice to return has been sent to the employee's last known address, shall be cause for immediate discharge, and that

employee automatically waives all appeal rights under this chapter.
(1987 Code, ' 37.055) (Ord. passed - -1985)

' 37.056 ANNUAL VACATION LEAVE.

All employees in the classified service shall be entitled to annual vacation leave with pay as follows:

(A) Upon completion of 1 full year of service, each eligible employee shall be credited 5 working days of vacation.

(B) Upon completion of 2 full years of service, each eligible employee shall be credited with a maximum of 10 working days of vacation per year.

(C) In the event 1 or more municipal holidays fall within an annual vacation leave, these holidays shall not be charged as vacation leave.

(D) Employees who satisfactorily complete probation and who terminate employment shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination. Employees who terminate prior to probation shall forfeit paid vacation leave.
(1987 Code, ' 37.056) (Ord. passed - -1985)

' 37.057 SICK LEAVE.

(A) Sick leave with pay shall be granted to all full-time employees of the city. Sick leave shall not be considered as a right which employees may use at their discretion, but shall be allowed only in case of necessity and actual personal sickness or disability.

(B) Employees who become ill or are injured are entitled to sick leave with full pay depending on the employee's eligible number of sick days available to that employee. Full-time employees accrue sick leave at the rate of 1/2-day per calendar month up to a maximum of 120 days. Sick leave is a privilege granted by the city so that an illness or injury will not impose a great financial hardship on employees. It is not a form of additional vacation leave, and will not be paid in cash upon separation. Misuse of sick leave is cause for disciplinary action as provided in ' 37.012.

(C) Employees who have exhausted their sick leave may substitute their accumulated vacation leave upon permission of the Personnel Officer.

(D) In order to receive compensation while absent on sick leave, employees shall notify their immediate supervisor or the Personnel Officer prior to or within 2 hours after the time set for beginning their daily duties. When absence is for more than 3 work days, the employee may be required to file a physician's certificate with the Personnel Officer stating the cause of the absence.

(E) Not more than 3 days off, not chargeable to sick leave may be taken in cases in which an employee's

presence is required elsewhere because of death to a member of the employee's immediate family. The immediate family shall consist of the spouse, children, parents, brothers, sisters, or other individuals whose relationship of the employee is that of a dependent or near dependent.

(1987 Code, ' 37.057) (Ord. passed - -1985)

' 37.058 DISABILITY LEAVE.

Disability leave is provided for employees who suffer job related or nonjob related illness or injuries, with specific limitations.

(A) In the case of worker's compensation claims, the following shall apply:

(1) Any job related injury or illness must be reported immediately to the supervisor.

(2) If the injury or illness justifies the payment of worker's compensation as determined by the insurance carrier, the employee shall retain the entire worker's compensation checks received. The city will supplement the pay of the disabled employee for a period not to exceed 6 months to the extent of the difference between what is received from worker's compensation and the net amount which the disabled would receive from the city if he were able to work. The employee will receive his or her normal pay for the interim between the date of injury or first day the employee is unable to work and the first day worker's compensation starts to pay provided the employee has accumulated sick leave or vacation leave to use for this purpose.

(3) The employee would continue to accumulate vacation and sick leave credit during the period of the authorized disability leave.

(B) In the event of nonjob related injuries or illness resulting in extended absence, an employee will receive no compensation other than accumulated sick and vacation leave, unless specified by the Council.

(C) In exceptional cases where the illness or injury has been accompanied by personal heroism or unusual service in the protection and saving of life and property, the Council may authorize disability leave at full or half pay in excess of the limitations prescribed herein.

(D) The Council shall have the right at any time, and for cause deemed sufficient, by the majority vote of the members, to terminate the extended disability leave status of any employee placed upon that status. (1987 Code, ' 37.058) (Ord. passed - -1985)

' 37.059 MATERNITY LEAVE.

Maternity leave shall be granted for maternity purposes to female employees on the following basis:

(A) An employee who applies for maternity leave must submit her request in writing indicating whether or not she intends to return to duty after delivery. She should attach thereto her physician's written

certificate stating the approximate date on which she will be incapacitated for the full performance of her duties because of pregnancy, and stating the expected delivery date.

(B) An employee will be expected to work before delivery until she cannot adequately perform the duties of her job, or it is no longer safe for her to do so as certified by her attending physician. An employee who intends to return to duty after delivery will be expected to do so as soon as she is physically fit as certified by her physician with a 6 weeks maximum leave.

(C) The use of paid sick leave for maternity shall be only for the period of time which the employee, herself, is physically disabled, and only to the extent that the employee has sick leave accumulated. Paid sick leave solely for the purpose of providing child care shall not be allowed.

(D) The employee shall be responsible for providing any physician's statements as required by the department to determine the commencement and termination period of physical disability.

(E) An employee who has indicated that she does not intend to return to duty after delivery will be granted the use of any sick leave to her credit during the periods before and immediately after the actual delivery which can be supported by her physician's certificate. She will submit her resignation at the time she begins her maternity leave. When she has used the sick leave approved, she will be separated from the rolls.

(1987 Code, ' 37.059) (Ord. passed - -1985)

' 37.060 MILITARY LEAVE.

Military leave shall be granted in accordance with the provisions of state law.

(1987 Code, ' 37.060) (Ord. passed - -1985)

' 37.061 LEAVE OF ABSENCE WITHOUT PAY.

The Personnel Officer may grant a permanent or probationary employee a leave of absence without pay for not more than 3 months. No leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. Upon expiration of a regularly approved leave or within 10 calendar days after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report upon expiration of the leave, or within 10 calendar days after notice to return to duty, shall be cause for discharge.

(1987 Code, ' 37.061) (Ord. passed - -1985)

' 37.062 JURY LEAVE.

(A) In the event an employee is requested to serve on a jury, he shall be compensated at the normal rate of pay while serving on jury duty. Compensation received as a juror shall be reimbursed to the city.

(B) In the case of police officers who must testify, or appear in court as part of their duties, they will receive no pay other than their salary for court leave while on duty. In case of their required presence in court during off-duty hours, compensatory time off or overtime pay will be given.
(1987 Code, ' 37.062) (Ord. passed - -1985)

' 37.063 SUBPOENA LEAVE.

All classified employees of the city shall be entitled to be exempt from their duties with the city when required to appear in court as a witness under a subpoena. If the court appearance is on city business, the employee will be reimbursed at full salary for work hours missed.
(1987 Code, ' 37.063) (Ord. passed - -1985)

' 37.064 HOLIDAYS.

The holidays for nonemergency personnel to be observed are as follows:

- (A) New Year's Day.
- (B) Martin Luther King, Jr. Day.
- (C) Memorial Day.
- (D) Independence Day.
- (E) Christmas Eve (2 day).
- (F) Christmas Day.
- (G) Labor Day.
- (H) Thanksgiving Day.
- (I) Day after Thanksgiving.
- (J) New Year=s Eve (2 day).

(1987 Code, ' 37.064) (Ord. passed - -1985)

INSURANCE

‡ 37.075 HOSPITALIZATION.

Full-time employees are covered under the city's group insurance program at no cost to the employee. The plan provides health and accident coverage. The employee may elect to cover dependents under this program at the employee's own expense. If husband and wife are employed by the city and 1 elects to not use the single plan medical insurance, then that amount will be applied to the cost of the family plan coverage.

(1987 Code, ‡ 37.075) (Ord. passed - -1985)

‡ 37.076 WORKER'S COMPENSATION.

Worker's compensation provides medical and hospitalization expense benefits as well as partial payments in lieu of salary for workers injured on the job. All city employees are covered by this form of insurance at no cost to the employee. Employees qualifying for and receiving worker's compensation will continue to receive their normal rate of pay from the city, less the amount received from worker's compensation payments, for a period of 6 months unless extended by the City Council.

(1987 Code, ‡ 37.076) (Ord. passed - -1985)

TRANSFER, PROMOTION, DEMOTION, SUSPENSION, AND REINSTATEMENT**‡ 37.090 TRANSFERS.**

No person shall be transferred to a position for which the person does not possess the minimum qualifications. If the transfer involves a change from one department to another, both department heads must consent thereto unless the Personnel Officer orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in this chapter.

(1987 Code, ‡ 37.090) (Ord. passed - -1985)

‡ 37.091 PROMOTIONS.

Insofar as consistent with the best interests of the service, vacancies shall be filled by promotion from within the classified service. If, in the opinion of the Personnel Officer, a vacancy in the position could be filled better by an open recruitment instead of promotion, then the Personnel Officer shall arrange for recruitment.

(1987 Code, ‡ 37.091) (Ord. passed - -1985)

‡ 37.092 DEMOTIONS.

The Personnel Officer may demote an employee whose ability to perform required duties falls below standard, or for disciplinary purposes. Written notice of the demotion shall be given the employee within 3 days before the effective date of the demotion.

(1987 Code, ' 37.092) (Ord. passed - -1985)

' 37.093 SUSPENSIONS.

The Personnel Officer may suspend an employee from any position at any time for a disciplinary purpose. Suspension without pay shall not exceed 30 calendar days, nor shall any employee be penalized by suspension for more than 30 calendar days in any fiscal year.

(1987 Code, ' 37.093) (Ord. passed - -1985)

' 37.094 REINSTATEMENT.

With the approval of the Personnel Officer and the department head concerned, a permanent or probationary employee who has resigned with a good record may be reinstated within 2 years of the effective date of resignation to a vacant position in the same or comparable class. Upon reinstatement, the employee, for all purposes, shall be considered as though he or she had received an original appointment.

(1987 Code, ' 37.094) (Ord. passed - -1985)

' 37.095 SEPARATION FROM SERVICE; DISMISSAL, SUSPENSION, OR REDUCTION.

(A) No employee in the classified service of the city shall be dismissed, suspended, or reduced in grade or pay, for any reason except inefficiency, misconduct, insubordination, violation of law involving moral turpitude, or any rule adopted by the City Council.

(B) Any person may prefer charges against any employee by filing in writing with the Mayor or other appointing authority. The charges must be signed by the person making them and must set out clearly each charge.

(C) The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom they believe guilty of conduct specified under division (A) of this section.

(D) In cases where the head of a department or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying their removal or punishment, they shall immediately suspend that employee from duty or from both pay and duty and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard.

(E) The appointing authority shall punish any employee they find guilty by reprimand or a suspension for any length of time not to exceed six months, or by reducing the grade, if the employee's classification warrants, or by combining any two or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended, or dismissed except as provided in this section.

(F) Any employee who has been disciplined shall be furnished with a written statement of the reasons for those actions and shall be entitled to a hearing if the employee so requests as provided in this chapter. (1987 Code, ' 37.095) (Ord. passed - -1985)

GRIEVANCE PROCEDURES

' 37.105 MATTERS SUBJECT TO GRIEVANCE PROCEDURE.

Employees in the classified service shall have the right to appeal, under the provisions of this subchapter, a decision affecting their employment over which the Personnel Officer has partial or complete jurisdiction, with the exception of suspensions, demotions, or dismissals, which shall be appealed directly to the Personnel Board as provided in ' ' 37.135 through 37.138. (1987 Code, ' 37.105) (Ord. passed - -1985)

' 37.106 INFORMAL GRIEVANCE PROCEDURE.

An employee who has a problem or complaint should first try to get it settled through discussion with the employee's immediate supervisor without undue delay. If, after this discussion, the employee does not believe the problem has been satisfactorily resolved, the employee shall have the right to discuss it with the employee's supervisor's immediate supervisor, if any, or the Personnel Officer. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. (1987 Code, ' 37.106) (Ord. passed - -1985)

' 37.107 FORMAL GRIEVANCE PROCEDURE.

Levels of review through the chain of command are listed below:

(A) First level of review. The appeal shall be presented in writing to the employee's immediate supervisor, within 10 calendar days of the alleged incident, who shall render a decision and comments in writing and return them to the employee within 15 calendar days after receiving the appeal. If the employee does not agree with the supervisor's decision, or if no answer has been received within 15 calendar days, the employee may present the appeal in writing to the supervisor's immediate supervisor. Failure of the employee to take further action within 10 calendar days after receipt of the written decision from the supervisor, or within a total of 25 calendar days of the first submission, if no decision is rendered, will

constitute a dropping of the appeal.

(B) Further levels of review as appropriate. The second level supervisor receiving the appeal shall review it, render a decision and comments in writing, and return them to the employee within 15 calendar days after receiving the appeal. If the employee does not agree with the decision, or if no answer has been received within 15 calendar days, the employee may present the appeal in writing to the Personnel Officer. Failure of the employee to take further action within ten calendar days after receipt of the decision, or within a total of 25 calendar days of referral to the supervisor's supervisor if no decision is rendered, will constitute a dropping of the appeal.

(C) Personnel Officer. Upon receiving the appeal, the Personnel Officer or a designated representative should discuss the grievance with the employee, the employee's representative, if any, and with other appropriate persons. The Personnel Officer may designate a fact-finding committee or an officer not in the normal line of supervision to advise the Personnel Officer concerning the appeal. The Personnel Officer shall render a decision in writing to the employee within 20 calendar days after receiving the appeal. The decision may be appealed to the Personnel Board as provided in ' ' 37.135 through 37.138.
(1987 Code, ' 37.107) (Ord. passed - -1985)

RULES OF APPEAL

' 37.120 RIGHT OF APPEAL.

Any employee in the classified service shall have the right to appeal to the Personnel Board any disciplinary action, interpretation, or alleged violation of these rules, except in instances where the right of appeal is specifically prohibited by this chapter.
(1987 Code, ' 37.120) (Ord. passed - -1985)

' 37.121 METHOD OF APPEAL.

Appeals shall be in writing, subscribed by the appealing employee, and filed with the Personnel Officer, who shall within 10 days after receipt of the appeal, inform each member of the Personnel Board, the City Council, and any other persons or officers named or affected by the appeal, of the filing of the appeal. The appeal shall be a written statement, addressed to the Personnel Board, explaining the matter appealed and setting forth therein a statement of the action desired by the appealing employee, with the reasons therefor. Appeals must be filed within 10 working days of the date of the action to be appealed. The formality of a legal pleading is not required.
(1987 Code, ' 37.121) (Ord. passed - -1985)

' 37.122 NOTICE.

Upon the filing of an appeal, the Personnel Board shall set a date for a hearing on the appeal not less than ten days, nor more than 30 days from the date of filing. The Personnel Officer shall notify all interested parties of the date, time, and place of the hearing at those places as the Personnel Board shall describe. (1987 Code, ' 37.122) (Ord. passed - -1985)

' 37.123 HEARINGS.

The appealing employee shall appear personally, unless physically unable to do so, before the Personnel Board at the time and place of the hearing. The appealing employee may be represented by any person (other than a Board member) or attorney as the appealing employee may select, and may at the hearing produce on behalf of the appealing employee relevant oral or documentary evidence. The appealing employee shall state his case first and, at the conclusion, opposition matter may then be presented. Rebuttal matter not repetitive may be allowed at the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Personnel Board by its Chairperson, with due regard to the rights and privileges of the parties appearing before it. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be closed unless the appealing employee, in writing, requests an open public hearing. (1987 Code, ' 37.123) (Ord. passed - -1985)

' 37.124 FINDINGS AND RECOMMENDATIONS.

The Personnel Board shall, within 10 days after the conclusion of the hearing, certify its findings and recommendations which shall be advisory to the City Council, in writing to the appealing employee and to the City Council. Any member of the Personnel Board may submit a minority or supplemental finding recommendation. (1987 Code, ' 37.124) (Ord. passed - -1985)

' 37.125 ACTIONS BY CITY COUNCIL.

The City Council shall review the findings and recommendations of the Personnel Board and may then affirm, revoke, or modify the action recommended as, in their judgment, deems warranted. These actions may include, but not be limited to, the firing, suspension, or reinstatement of employee, with or without back pay. The actions taken by the City Council shall be final. (1987 Code, ' 37.125) (Ord. passed - -1985)

PERSONNEL BOARD

' 37.135 ORGANIZATION; TERMS; APPOINTMENT.

(A) The Mayor, subject to the approval of City Council, shall appoint 3 persons who shall constitute the Personnel Board of the city. Each appointee shall be at least 30 years of age and not be related by either blood or marriage to the Mayor or any member of the City Council. The appointees shall originally be appointed 1 for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years, respectively. The successors to these appointments shall be appointed in like manner, each for a period of 3 years and until his or her successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, not more than 2 members shall be adherents of the same political party. The appointee originally appointed for the term of 3 years shall be Chairperson. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the Board may be fixed by the City Council.

(B) If the Mayor fails to appoint a Personnel Board within 30 days after he or she has the power to so appoint or after a vacancy exists, the Mayor Pro Tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his or her successor is appointed and qualified.
(1987 Code, ' 37.135) (Ord. passed - -1985)

' 37.136 MEETINGS.

The Personnel Board shall hold regular meetings or at least annually at a time and place within the city as shall be designated by the Chairperson of the Board. In addition, the Board may hold special meetings upon the call of the Chairperson or a majority of the members of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business. Meetings shall be conducted informally in accordance with those rules and procedures as may be adopted by the Personnel Board.
(1987 Code, ' 37.136) (Ord. passed - -1985)

' 37.137 DUTIES.

The duties of the Personnel Board shall consist solely of the conduct of hearings relating to, and the rendering of advisory opinions on matters properly brought before the Board under the grievance procedures established in ' ' 37.105 through 37.107. The Board shall meet at least once annually to review its own procedures and organization.
(1987 Code, ' 37.137) (Ord. passed - -1985)

' 37.138 HEARINGS.

Hearings conducted by the Personnel Board shall be conducted in private unless the complaining employee requests a public hearing. The Board also shall exclude from any meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Board. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Minutes must be taken and maintained of all hearings.

(1987 Code, ' 37.138) (Ord. passed - -1985)

APPENDIX: POSITION DESCRIPTIONS

Section

1. City Clerk/Treasurer
2. Assistant City Clerk
3. Police Chief
4. Police officer
5. Police dispatcher
6. Water and Sewer Superintendent
7. Water plant operator
8. Utilities serviceperson

1 CITY CLERK/TREASURER.

(A) Class Title. The class title for this position shall be the City Clerk/Treasurer.

(B) Characteristics of the Class. This is a responsible administrative position serving as the Clerk of the Council and City Treasurer.

(C) Examples of Duties. The following duties shall be: Types minutes, ordinances, resolutions, and bills in official minute book; answers telephone and serves as receptionist; prepares and maintains files for worker's compensation program; figures payroll for city employees and writes payroll checks; computes monthly, quarterly, and yearly payroll tax deductions; prepares employees' W-2s; pays all bills accrued by the city subject to approval and charges various departmental accounts; maintains books in accordance with proper accounting procedures; prepares water, sewer, and garbage billings and collection and posting of same; balances deposits; assists in the preparation of the agenda and attends regular and special meetings of the City Council; maintains minutes of Council proceedings and recording in a journal; prepares copies, for each Councilmember, of all reports from the various departments and other correspondence relative to items on the agenda for Council consideration; acts as custodian of the seal of the city, and of all records and papers not properly belonging to some other officer; advertises ordinances; serves as immediate supervisor of clerical personnel; issues purchase orders; supervises and participates in the collection of taxes, assessments, building permits, license fees, and other receipts; balances cash and prepares bank deposits; orders supplies and maintains office equipment; prepares cash reports and maintains records relating to same; answers complaints and assists in their resolution; serves as police dispatcher; assumes responsibility for official city correspondence; and performs related work as required.

(D) Desirable Qualifications.

(1) Training and Experience. Courses in accounting or business supplemented by 2 years of responsible experience in finance or accounting shall be required.

(2) Special Knowledge, Skills, and Abilities. Thorough knowledge of the procedures and

processes governing the receipt, custody, and expenditures of municipal funds; thorough knowledge of modern office practices, procedures, and equipment; and ability to establish and maintain effective working relationships with subordinates, other employees, city officials, and the public shall be required.

(1987 Code, Ch. 37, App., ' 1) (Ord. passed - -1985)

' 2 ASSISTANT CITY CLERK.

(A) Class Title. The class title for this position shall be the Assistant City Clerk.

(B) Characteristics of the Class.

(1) This is a responsible position involving the performance of varied clerical and account-keeping duties or related tasks within clearly defined limits.

(2) General supervision is received from the City Clerk-Treasurer. Most of the assignments and duties are recurring in nature, but the employee is expected to exercise a certain amount of judgment and resourcefulness in dealing with emergencies.

(C) Examples of Duties. The following duties shall be: Prepares water bills and tax bills; files and prepares correspondence; answers the telephone; general clerical work; and related duties as required. The Assistant City Clerk shall serve as the dispatcher; and perform related work as required.

(D) Desirable Qualifications.

(1) Training and Experience. Considerable experience in the performance of moderately difficult clerical tasks and graduation from a standard high school course, preferably supplemented by business school courses, or any equivalent combination of experience and training which provides the required knowledge, skills, and abilities shall be required.

(2) Special Knowledge, Skills, and Abilities. Good knowledge of clerical methods used in keeping records and accounts and of office terminology, procedures, routines, and equipment; ability to understand and carry out oral and written directions; ability to get along well with others; clerical aptitude; mental alertness; good judgment; accuracy; and good physical condition shall be required.

(1987 Code, Ch. 37, App., ' 2) (Ord. passed - -1985)

' 3 POLICE CHIEF.

(A) Class Title. The class title for this position shall be Police Chief.

(B) Characteristics of the Class. Under general administrative direction of the Mayor, the Police Chief shall plan, organize, direct, and coordinate the activities of the Police Department in the enforcement of laws and ordinances, the prevention of crime, and the protection of life and property; and shall also do related work as required.

(C) Examples of Work. The following duties shall be: Plans, directs, and exercises general supervision over the work of the Department; formulates and enforces rules and regulations and work methods and procedures; reviews activities and reports of officers; ascertains that officers receive adequate training in modern police methods and procedures; prepares budget requests and controls the expenditure of all departmental funds; prepares correspondence and recommends purchase of necessary equipment; and attends police conferences and meets the various commissions and citizen groups.

(D) Desirable Qualifications.

(1) Training and Experience. Graduation from high school supplemented by completion of college level training courses in police methods and administration, plus 4 years' progressively responsible police experience shall be required.

(2) Special Knowledge, Skills, and Abilities. Extensive knowledge of the principles and procedures of modern police administration and practices; extensive and broad knowledge of methods of crime detection and criminal identification; extensive knowledge of applicable federal, state, and local laws and ordinances, and of departmental rules and regulations; skill in the use of firearms; ability to analyze complex police problems and to adopt quick, effective, and reasonable courses of action with due regard to surrounding hazards and circumstances; ability to supervise the maintenance of adequate police records and to prepare clear and definitive reports of departmental activities; and the ability to deal with the public courteously and firmly and to effect and maintain satisfactory public relations shall be required.

(1987 Code, Ch. 37, App., ' 3) (Ord. passed - -1985)

' 4 POLICE OFFICER.

(A) Class Title. The class title for this position shall be police officer.

(B) Characteristics of the Class. A police officer shall perform general duty police work in the protection of life and property through the enforcement of laws and ordinances; and shall do related work as required. A police officer is responsible for the protection of life and property, prevention of crimes, apprehension of criminals, direction of vehicular and pedestrian traffic, and the general enforcement of laws and ordinances. Work is performed in accordance with departmental rules and regulations and normally consists of routine patrol, preliminary investigations, and traffic regulation duties. This work involves an element of personal danger and employees must be able to act without direct supervision and to exercise independent discretion in meeting emergencies. Assignments and general and special instructions are received from superior officer who reviews work methods and results through personal inspections, reports, and discussions.

(C) Examples of work. The following duties shall be: Patrols the city to preserve law and order, to prevent and discover the commission of crime, to direct traffic, and to enforce motor vehicle operation and parking regulations; answers calls and complaints involving automobile accidents and robberies, and other misdemeanors and felonies; at the scene of the crime, conducts preliminary investigations, gathers evidence, obtains witnesses, and makes arrests and takes prisoners to jail, and testifies as a witness in court; at the

scene of automobile accidents, interviews witnesses and gathers information and prepares reports; interviews persons with complaints and inquiries and attempts to make proper disposition or directs them to proper authorities; gives advice on laws and ordinances and general information to the public; participates in training activities; and performs related work as required.

(D) Desirable Qualifications.

(1) Training and Experience. Graduation from an accredited high school, preferably supplemented by courses in law enforcement, shall be required, plus statutory requirements of the Kentucky Revised Statutes.

(2) Special Knowledge, Skills, and Abilities. Thorough knowledge of modern principles, practices, and procedures of police work; thorough knowledge of state laws and city ordinances; thorough knowledge of the geography of the city and the location of important buildings; ability to understand and carry out oral and written instructions; ability to develop skill in the use of firearms; ability to deal courteously but firmly with the general public; ability to react quickly and calmly in emergency conditions; physical strength and agility; and to successfully pass a qualifying physical examination.
(1987 Code, Ch. 37, App., ' 4) (Ord. passed - -1985)

' 5 POLICE DISPATCHER.

(A) Class Title. The class title for this position shall be police dispatcher.

(B) Characteristics of the Class. This is specialized work in receiving and dispatching messages during an assigned shift. The work involves responsibility for operation of telephone and radio communications equipment and the performance of related duties. All work is performed within Police Department regulations and is reviewed by superiors through observation and reports.

(C) Examples of Duties. The following duties shall be: answers incoming radio and telephone calls for police, fire, and ambulance; dispatches units to emergencies; maintains radio dispatch log daily; acts as receptionist for Police Department; performs related work as required; and assumes responsibility for general housekeeping in the Police Department area.

(D) Desirable Qualifications.

(1) Training and Experience. Completion of a standard high school course or G.E.D. shall be required.

(2) Special Knowledge, Skills, and Abilities. Knowledge of federal and state regulations governing transmission by radio; knowledge of the geography of highway and street systems of the city and surrounding areas; some knowledge of police operations and organization; ability to act calmly and with accuracy in an emergency; ability to speak clearly and concisely; and ability to establish and maintain effective working relationships with the public and other employees shall be required.
(1987 Code, Ch. 37, App., ' 5) (Ord. passed - -1985)

' 6 WATER AND SEWER SUPERINTENDENT.

(A) Class Title. The class title for this position shall be the Water and Sewer Superintendent.

(B) Characteristics of the Class. This is responsible administrative and supervisory work in directing the operations and maintenance of municipal water and wastewater treatment facilities. The work involves responsibility for the performance of administrative and technical duties involved in the safe and efficient operation and maintenance of city water and wastewater treatment facilities. Supervision is exercised directly or through subordinate supervisors over all employees. The work is performed with considerable independence within the framework of departmental policies and procedures, and is reviewed through conferences, reports, and results obtained.

(C) Examples of Duties. The following duties shall be: Plans, assigns, supervises, and participates in the work of subordinate employees in the operation and maintenance of water and wastewater treatment facilities and equipment; inspects plant conditions and the operating efficiency of equipment, machinery, and control apparatus; inspects and reviews recordings of operators on various processes and determines what changes may be necessary in operating routines; directs and participates in the conducting of chemical tests for both water and wastewater; confers with and advises subordinates on problems encountered in filtration and sewage plant operations; requisitions materials and supplies for plant and laboratory operations as required; prepares and maintains necessary records and reports; performs related work as required; and assumes responsibility for general maintenance of the city.

(D) Desirable Qualifications.

(1) Training and Experience. Graduation from high school, supplemented by completion of courses in water and wastewater treatment operations; and thorough experience in water and wastewater treatment operations, including supervisory experience, and license requirements as established by the state shall be required.

(2) Special Knowledge, Skills, and Abilities. Extensive knowledge of the principles and practices applied in the operation and maintenance of water and wastewater treatment equipment and machinery; extensive knowledge of the principles and techniques involved in the filtration and purification of water, and of the methods used in the chemical analysis of potable water; extensive knowledge of the principles involved in the processing of wastewater, and of the methods used in the chemical and physical analysis of wastewater; ability to establish and maintain adequate records and reports on water and wastewater plant operations; ability to plan and supervise the work of a moderate-sized staff of subordinates; ability to establish and maintain effective working relationships with superiors, subordinates, and the public; and the ability to express ideas effectively, orally and in writing.

(1987 Code, Ch. 37, App., ' 6) (Ord. passed - -1985)

' 7 WATER PLANT OPERATOR.

West Point - Administration

(A) Class Title. The class title for this position shall be water plant operator.

(B) Characteristics of the Class. Under general administrative direction, the water plant operator plans, organizes, and coordinates the operation of the water plant; and does related work as required.

(C) Examples of Duties. The following duties shall be: Participates in the day-to-day operation and maintenance of the water treatment plant; makes regular inspections and repairs on all instruments and controls; responsible for laboratory tests; keeps records and makes regular reports to the State Health Department and to the Water and Sewer Superintendent; may assist in the operation and maintenance of the water distribution system; performs general maintenance of the city; and performs related work as required.

(D) Minimum Requirements.

(1) Training and Experience. The water plant operator shall be a high school graduate; and possess a required applicable water plant operator's license (Class II) and water distribution (Class II).

(2) Special Knowledge, Skills, and Abilities. Thorough knowledge of water plant operation; resourcefulness and sound judgment; and the ability to get along with employers and other departmental personnel shall be required.

(1987 Code, Ch. 37, App., ' 7) (Ord. passed - -1985)

' 8 UTILITIES SERVICEPERSON.

(A) Class Title. The class title for this position shall be utilities serviceperson.

(B) Characteristics of the Class. The utilities serviceperson shall perform routine tasks in the operation of a water treatment plant on an assigned shift and other related work as required. An employee in this class is responsible for the continuous operation and maintenance of the plant on an assigned shift. The work is performed in accordance with procedures outlined by supervisor to whom unusual or emergency problems are referred. Position also involves maintaining water and sewer lines.

(C) Examples of Duties. The following duties shall be: Makes regular inspections of plant and equipment to ascertain that it is in proper operation at all times; starts and stops and makes minor repairs to pumps, motors, and equipment; reads meters, gauges, and dials and keeps logs of readings; reports needs for major equipment repairs; washes filter and keeps chemical feeders filled; responds to trouble calls at any time; keeps records and makes reports; oils and greases pumps; performs general maintenance of the city; performs related work as required; installs water meters; maintains water and sewer lines and related facilities; operates truck; and repairs sewer lines.

(D) Desirable Qualifications.

(1) Training and Experience. Some mechanical experience and completion of a standard high school course; or any equivalent combination of experience and training which provides the required knowledge, skills, and abilities shall be required.

(2) **Special Knowledge, Skills, and Abilities.** Mechanical ability; ability to keep records and make reports; dependability; good physical condition; knowledge of the methods involved in water and sewer maintenance and repair shall be required.

(1987 Code, Ch. 37, App., ' 1) (Ord. passed - -1985)

CHAPTER 38: CODE OF ETHICS

Section

General Provisions

- 38.01 Title
- 38.02 Finding
- 38.03 Purpose and authority
- 38.04 Definitions

Standard of Conduct

- 38.15 Conflicts of interest in general
- 38.16 Conflict of interest in contracts
- 38.17 Receipt of gifts
- 38.18 Use of city or county property, equipment and personnel
- 38.19 Misuse of confidential information
- 38.20 Honoraria

Financial Disclosure

- 38.35 Who must file
- 38.36 When to file statement
- 38.37 Control and maintenance of statements of financial interests
- 38.38 Financial interests statement in general

Nepotism

- 38.55 Nepotism

Enforcement

- 38.65 Board of Ethics created
- 38.66 Facilities and staff
- 38.67 Power and duties of Hardin County Board of Ethics
- 38.68 Filing and investigation of complaints
- 38.69 Notice of hearings
- 38.70 Hearing procedure
- 38.71 Appeals

- 38.72 Limitations of actions
- 38.73 Advisory opinions
- 38.74 Reprisals against persons disclosing violations prohibited

GENERAL PROVISIONS

' 38.01 TITLE.

This chapter shall be known and may be cited as the AHardin County Code of Ethics.@
(Ord. 1994-18, passed 11-7-1994)

' 38.02 FINDING.

The legislative body finds and declares that:

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

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

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

(Ord. 1994-18, passed 11-7-1994)

' 38.03 PURPOSE AND AUTHORITY.

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

(B) It is the further purpose of this chapter to meet the requirements of KRS 65.230, as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the city and county by KRS 82.082 and pursuant to requirements of KRS 65.230.

(Ord. 1994-18, passed 11-7-1994)

38.04 DEFINITIONS.

As used in this chapter, unless the context otherwise requires, the following definitions shall apply.

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

BOARD OF ETHICS. The Hardin County Board of Ethics which is created and vested by this chapter with responsibility of enforcing the requirements of the city's and county's Code of Ethics.

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

CITY. West Point, Kentucky.

COUNTY. Hardin County, Kentucky.

CITY or COUNTY AGENCY. Any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by the city or county.

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

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

OFFICER. Any person, whether full-time or part-time, and whether paid or unpaid, who is 1 of the following:

- (1) The Mayor.
- (2) The legislative body member.
- (3) County Clerk.

(4) Circuit Court Clerk.

(5) County Attorney.

(6) Jailer.

(7) Coroner.

(8) Surveyor.

(9) Constable.

(10) Sheriff.

(11) County Judge Executive.

(12) Any person who occupies a non-elected office created under KRS 83A.080.

(13) Property Valuation Administrator

(Ord. 1994-18, passed 11-7-1994)

STANDARD OF CONDUCT

38.15 CONFLICTS OF INTEREST IN GENERAL.

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

(A) No officer, employee, board or commission member, nor any immediate family member of any officer, employee, or board or commission member, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's, employee's, board or commission member's public duties.

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

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

(D) No city or county government officer, employee, board or commission member shall undertake any

employment or service, compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.

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

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

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

(H) No city or county government officer shall be prohibited from accepting a gratuity for solemnizing a marriage.

(I) No city or county government officer, employee, board or commission member, or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he or she serves.

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

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

(L) Nothing shall prohibit any city or county government officer, employee, board or commission member or members of his or her immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his or their own interests.

(M) No officer, employee, board or commission member shall be deemed in violation of any provision in this section if, by reason of the officer's, employee's, board or commission member's participation, vote, decision, action or inaction, no financial benefit accrues to the officer, employee, board or commission member, a family member, an outside employer, or a business in which the officer, employee, board or commission member, or any family member has a financial interest, or any business with which the officer, employee, board or commission member, or any family member is negotiating or seeking prospective employment, or other business or professional relationship, 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.

(Ord. 1994-18, passed 11-7-1994)

38.16 CONFLICT OF INTEREST IN CONTRACTS.

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

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

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

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

(a) The specific nature of the contract transaction and the nature of the officer's, employee's, board or commission member's interest in the contract are publicly disclosed at a meeting of the governing body of the city or county, or city or county agency and refrain from participating in voting.

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

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

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

(B) Any violation of this section shall result in a civil fine payable to the Commission not to exceed \$500. Additionally, a violation of this section shall be grounds for removal from office or employment with the city or county in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city or county.

(Ord. 1994-18, passed 11-7-1994)

38.17 RECEIPT OF GIFTS.

No officer, employee, board or commission member of the city or county, or any city or county agency shall directly or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than \$100, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, employee, board or commission member in the performance of his or her public duties.

(Ord. 1994-18, passed 11-7-1994)

38.18 USE OF CITY OR COUNTY PROPERTY, EQUIPMENT, AND PERSONNEL.

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

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

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

(Ord. 1994-18, passed 11-7-1994)

38.19 MISUSE OF CONFIDENTIAL INFORMATION.

No officer, employee, board or commission member of the city or county or any city or county agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the

primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.
(Ord. 1994-18, passed 11-7-1994)

▸ **38.20 HONORARIA.**

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

(B) Nothing in this section shall prohibit an officer, employee, board or commission member of the city or county from receiving and retaining from the city or county or on behalf of the city or county actual and reasonable out-of-pocket expenses incurred by the officer, employee, board or commission member in connection with an appearance, speech or article, provided that the officer, employee, board or commission member can show by clear and convincing evidence that the expenses were incurred or received on behalf of the city or county or city or county agency and primarily for the benefit of the city or county and not primarily for the benefit of the officer, employee, board or commission member or any other person.
(Ord. 1994-18, passed 11-7-1994)

FINANCIAL DISCLOSURE

▸ **38.35 WHO MUST FILE.**

The following classes of officers, employees, board or commission members of the city and county or city and county agencies shall file an annual statement of financial interests with the Hardin County Board of Ethics:

(A) Elected city and county officials.

(B) Candidates for elected city and county office.

(Ord. 1994-18, passed 11-7-1994)

▸ **38.36 WHEN TO FILE STATEMENT.**

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Hardin County Board of Ethics, no later than 4:00 p.m. on April 15, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on April 15, each year, provided that:

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

(2) A candidate for city or county office shall file his or her initial statement no later than 30 days after the date on which the person becomes a candidate for elected city or county office. A write-in candidate shall file within 24 hours from the date of the filing of his or her affidavit for write-in candidacy.

(B) The Hardin County Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
(Ord. 1994-18, passed 11-7-1994)

38.37 CONTROL AND MAINTENANCE OF STATEMENTS OF FINANCIAL INTERESTS.

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

(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of 5 years after filing, provided that:

(1) Upon the expiration of 3 years after a person ceases to be an officer, employee, board or commission member of the city or county or city or county agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of 3 years after any election at which a candidate for elected city or county office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.
(Ord. 1994-18, passed 11-7-1994)

38.38 FINANCIAL INTERESTS STATEMENT IN GENERAL.

(A) The financial disclosure statement should be filed with the local ethics commission by all filers who are subject to the jurisdiction of the Commission. Failure to do so will result in a civil fine of \$500 payable to the Commission.

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

(C) Each statement shall be signed and dated by the individual filing the statement of financial interest.

Signing a fraudulent statement shall be a Class A misdemeanor.

(D) All financial disclosure statements shall be open records. Each individual or organization requesting to view financial disclosure statements shall complete a form giving full name, address, telephone number and organization/individual represented if other than individual making request. One copy of this form shall be attached to the statement so requested and shall become a part of the record.

(E) The financial disclosure statement should include the following information:

- (1) Name of filer.
- (2) Current business address, business telephone number and home address of filer.
- (3) Title of filer's public office or office sought.
- (4) Occupations of filer and spouse.

(5) Position held by the filer and any member of the filer's immediate family in any business organization or nonprofit entity from which the filer or any member of the filer's immediate family received compensation in excess of \$10,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity.

(6) Name, address and telephone number of each source of income from within the Commonwealth of Kentucky of both filer and spouse which exceeded \$10,000 during the preceding calendar year.

(7) Name, address and telephone number of each business organization located within the Commonwealth in which the filer or any member of the filer's immediate family had an interest of \$10,000 at fair market value or 5% ownership interest or more during the preceding calendar year;

(8) The location any type (commercial, residential, agricultural) of all real property within the county, other than the filer's primary residence, in which the filer or the filer's spouse had an interest of \$10,000 or more during the preceding calendar year;

(9) Offices or directorships held by the officer, candidate, nominee, employee, board or commission member, or members of his immediate family as of December 31 of the reporting year. Non-profit, charitable, and religious organizations shall be excluded from this disclosure.
(Ord. 1994-18, passed 11-7-1994)

NEPOTISM

38.55 NEPOTISM.

Nepotism is hereby prohibited and the city and county's personnel policies and procedures shall specifically define the rules and regulations concerning nepotism.

(A) No officer, employee, board or commission member 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.

(B) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to January 1, 1995.
(Ord. 1994-18, passed 11-7-1994)

ENFORCEMENT

38.65 BOARD OF ETHICS CREATED.

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

(B) The Hardin County Board of Ethics shall consist of 5 members who shall be appointed by the executive authority of the city or county, subject to the approval of the legislative body (if different from the executive authority). The Executive Authorities of the City of Elizabethtown, Radcliff, Vine Grove, and West Point, and the Judge Executive of Hardin County shall each appoint one of the 5 members of the Hardin County Board of Ethics as outlined in this section. The initial members of the Hardin County Board of Ethics shall be appointed within 60 days of the effective date of this chapter. No member of the Hardin County Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or county or any city or county agency. The members shall serve for a term of 3 years; except that with respect to the members initially appointed, 1 member shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 2 years, and 2 members shall be appointed for a term of 3 years. The length of the initial term of a member appointed by an Executive Authority shall be determined by a random draw. Thereafter, all appointments shall be for a term of 3 years. Each member of the Hardin County Board of Ethics shall have been a resident of the city or county for at least 1 year prior to the date of the appointment and shall reside in the city or county throughout the term in office. The members of the Hardin County Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Hardin County Board of Ethics may be removed by the executive authority appointing them, subject to the approval of the legislative body (if different from the executive authority) for

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

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

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

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

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

(H) The presence of 3 or more members shall constitute a quorum and the affirmative vote of 3 or more members shall be necessary for any official action to be taken. Any member of the Hardin County Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(I) Minutes shall be kept for all proceedings of the Hardin County Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.
(Ord. 1994-18, passed 11-7-1994)

' 38.66 FACILITIES AND STAFF.

Within the limits of the funds appropriated by the legislative body in the annual budget, the legislative bodies shall provide the Hardin County Board of Ethics, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.
(Ord. 1994-18, passed 11-7-1994)

' 38.67 POWER AND DUTIES OF HARDIN COUNTY BOARD OF ETHICS.

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

(A) To receive and investigate complaints, hold hearings, and make findings of fact and determinations

with regard to alleged violations of the provisions of this chapter.

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

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

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

(E) To render advisory opinions to the city or county and city or county agency officers, employees, board or commission members 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, employees, board or commission members of the city or county and city or county agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.

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

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

(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 11-7-1994)

38.68 FILING AND INVESTIGATION OF COMPLAINTS.

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Clerk's Office of the Legislative Body, or the administrative official designated by the Board of Ethics. The Clerk shall forward the complaint to the Board of Ethics within 10 working days from the date of receipt. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within 10 working days from the date of receipt. The Board shall forward within 10 working days to each officer, employee, board or commission member of the city or county or city or county agency who is the subject of the complaint, a copy of the complaint, and a general statement of the applicable

provisions of this chapter.

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

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

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

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

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

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish reasonable grounds to believe that a violation has occurred, the Board shall notify the officer, employee, board or commission member who is the subject of the complaint and may:

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

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

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer, employee, board or commission member of the city or county or any city or county agency shall be subject to a civil fine not to exceed \$500 payable to the Commission.

(Ord. 1994-18, passed 11-7-1994)

38.69 NOTICE OF HEARINGS.

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within 30 days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued. The alleged violator shall have at least 10 days notice of any hearing.
(Ord. 1994-18, passed 11-7-1994)

38.70 HEARING PROCEDURE.

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

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

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

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

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

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

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

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

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

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

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

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$500.

(5) Refer evidence of criminal violations of this ordinance or state law to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

(Ord. 1994-18, passed 11-7-1994)

▸ **38.71 APPEALS.**

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

(Ord. 1994-18, passed 11-7-1994)

▸ **38.72 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 1 year from the time the party complained about, leaves office, board, commission or employment.

(Ord. 1994-18, passed 11-7-1994)

▸ **38.73 ADVISORY OPINIONS.**

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

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

writing, by the requester.

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

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

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

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

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

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this chapter for actions taken in reliance on that opinion. (Ord. 1994-18, passed 11-7-1994)

' 38.74 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer, employee, board or commission member of the city or county or any city or county agency shall be subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city, county 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:

(1) Prohibiting disciplinary or punitive action if an officer, employee, board or commission member of the city or county or any city or county agency discloses information which he or she knows:

(a) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.

(c) Is confidential under any other provision of law.
(Ord. 1994-18, passed 11-7-1994)