

# WEST POINT, KENTUCKY

## CODE OF ORDINANCES

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## TITLE I: GENERAL PROVISIONS

Chapter

### 10. RULES OF CONSTRUCTION; GENERAL PENALTY

## CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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### § 10.01 SHORT TITLES.

(A) All ordinances of a permanent and general nature of the city as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the "West Point Code," for which designation "codified ordinances" or "code" may be substituted. Title heads, chapter heads and section and division heads or titles, and explanatory notes and cross-references, do not constitute any part of the law as contained in the code.

(KRS 446.140)

(B) All references to codes, titles, chapters and sections are to those components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "traffic code." Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01." Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

## § 10.02 DEFINITIONS.

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

**ACTION.** Includes all proceedings in any court of this state.

(KRS 446.010(1))

**AND.** May be read **OR**, and **OR** may be read **AND**, if the sense requires it.

**ANIMAL.** Includes every warm-blooded living creature except a human being.

(KRS 446.010(2))

**AVIS.** The automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards.

(KRS 446.010(55))

**CITY, MUNICIPAL CORPORATION or MUNICIPALITY.** When used in this code shall denote the City of West Point, irrespective of its population or legal classification.

**COMPANY.** May extend and be applied to any corporation, company, person, partnership, joint stock company or association.

(KRS 446.010(9))

**CORPORATION.** May extend and be applied to any corporation, company, partnership, joint stock company or association.

(KRS 446.010(10))

**COUNCIL.** The city legislative body.

(KRS 83A.010(5))

**COUNTY.** Hardin County, Kentucky.

**CRUELTY.** As applied to animals, includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted.

(KRS 446.010(12))

**DIRECTORS.** When applied to corporations, includes managers or trustees.

(KRS 446.010(13))

**DOMESTIC.** When applied to a corporation, partnership, business trust or limited liability company, means all those incorporated or formed by authority of this state.

(KRS 446.010(14))

**DOMESTIC ANIMAL.** Any animal converted to domestic habitat.

(KRS 446.010(15))

**EXECUTIVE AUTHORITY.** The Mayor.

(KRS 83A.010(6), KRS 91A.010(4))

**FEDERAL.** Refers to the United States.

(KRS 446.010(17))

**FOREIGN.** When applied to a corporation, partnership, business trust or limited liability company, includes all those incorporated or formed by authority of any other state.

(KRS 446.010(18))

**KEEPER or PROPRIETOR.** Includes all persons, whether acting by themselves or as a servant, agent or employee.

**KRS.** Kentucky Revised Statutes.

**LAND or REAL ESTATE.** Includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest.

(KRS 446.010(23))

**LEGISLATIVE BODY.** The City Council.

(KRS 91A.010(8))

**LEGISLATIVE BODY MEMBER.** A City Council member.

(KRS 83A.010(8))

**LIVESTOCK.** Cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes or any other animals of the bovine, ovine, porcine, caprine, equine or camelid species.

(KRS 446.010(25))

**MAY.** The act referred to is permissive.

(KRS 446.010(26))

**MONTH.** Calendar month.

(KRS 446.010(27))

**MUNICIPALITY.** The City of West Point, Kentucky.

**OATH.** Includes affirmation, in all cases in which an affirmation may be substituted for an **OATH**. (KRS 446.010(28))

**PARTNERSHIP.** Includes both general and limited **PARTNERSHIPS**.

(KRS 446.010(30))

**PEACE OFFICER.** Includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, police officers and other persons with similar authority to make arrests.

(KRS 446.010(31))

**PERSON.** May extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies and limited liability companies.

(KRS 446.010(33))

**PERSONAL PROPERTY.** Includes all property except real.

**PREMISES.** As applied to property, includes land and buildings.

**PROPERTY.** Includes real, personal, mixed estates and interests.

**PUBLIC AUTHORITY.** Includes boards of education; the municipal, county, state or federal government, its officers or an agency thereof; or any duly authorized public official.

**PUBLIC PLACE.** Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.

**REAL PROPERTY.** Includes lands, tenements and hereditaments.

**REGULAR ELECTION.** The election in even-numbered years at which members of Congress are elected, and the election in odd-numbered years at which state officers are elected.

(KRS 446.010(37))

**SHALL.** The act referred to is mandatory.

(KRS 446.010(39))

**SIDEWALK.** The portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

**STATE.** The Commonwealth of Kentucky.

**STREET.** Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the city.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**SWORN.** Includes affirmed in all cases in which an affirmation may be substituted for an oath.

(KRS 446.010(43))

**TENANT** or **OCCUPANT.** As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of the premises, alone or with others.

**VACANCY IN OFFICE.** Exists when there is an unexpired part of a term of office without a lawful incumbent therein, when the person elected or appointed to an office fails to qualify according to law or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, city, district or otherwise.

(KRS 446.010(46))

**VIOLATE.** Includes failure to comply with.

(KRS 446.010(47))

**YEAR.** Calendar year.

(KRS 446.010(49))

### **§ 10.03 RULES OF CONSTRUCTION.**

(A) *Singular includes plural.* A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

(KRS 446.020(1))

(B) *Masculine includes feminine.* A word importing the masculine gender only may extend and be applied to females as well as males.

(KRS 446.020(2))

(C) *Liberal construction.* All sections of this code shall be liberally construed with a view to promote their objects and carry out the intent of Council.

(KRS 446.080(1))

(D) *Retroactivity.* No ordinance shall be construed to be retroactive, unless expressly so declared.

(KRS 446.080(3))

(E) *Technical terms.* All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to that meaning.

(KRS 446.080(4))

### **§ 10.04 COMPUTATION OF TIME.**

(A) In computing any period of time prescribed or allowed by order of court, or by any applicable ordinance or regulation, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday or a day on which the public office in which a document is required to be filed is actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(B) When an ordinance, regulation or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(C) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place or the act shall be done, on the next day that is not a legal holiday.

(KRS 446.030)

(D) In all cases where the law requires any act to be done in a reasonable time or reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall mean the time only as may be necessary for the prompt performance of the duty or compliance with the notice.

### **§ 10.05 MAJORITY MAY ACT FOR ALL; AUTHORIZED AGENT.**

(A) Words giving authority to three or more public officers or other persons shall be construed as giving the authority to a

majority of the officers or other persons.

(KRS 446.050)

(B) When the law requires an act to be done which may by law as well be done by an agent as by the principal, the requirement shall be construed to include those acts when done by an authorized agent.

#### **§ 10.06 WRITINGS AND SIGNATURES.**

(A) When this code requires any writing to be signed by a party thereto, it shall not be deemed to be signed unless the signature is subscribed at the end or close of the writing.

(B) Every writing contemplated by this code shall be in the English language.

(KRS 446.060)

#### **§ 10.07 SEVERABILITY.**

It shall be considered that it is the intent of Council in enacting any ordinance, that if any part of the ordinance be held unconstitutional the remaining parts shall remain in force, unless the ordinance provides otherwise, or unless the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that Council would not have enacted the remaining parts without the unconstitutional part; or unless the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the intent of Council.

(KRS 446.090)

#### **§ 10.08 REVIVOR.**

(A) A repealed ordinance without a delayed effective date is revived when the ordinance that repealed it is repealed by another ordinance enacted at the same meeting of Council.

(B) A repealed ordinance with a delayed effective date is revived by the enactment of a repealer of the ordinance that repealed it at the same or any subsequent meeting of Council as long as it takes effect prior to the effective date of the original repealer.

(C) An amended ordinance without a delayed effective date remains unchanged with respect to an amendment which is repealed at the same meeting of Council which enacted the amendment.

(D) An amended ordinance with a delayed effective date remains unchanged with respect to that amendment if the ordinance making the amendment is repealed at the same or at a subsequent meeting of Council, as long as the repealing ordinance takes effect prior to the effective date of the original amendment.

(E) No other action of Council repealing a repealer or an amendment shall have the effect of reviving the original language of the repealer or amendment, as the case may be.

(KRS 446.100)

#### **§ 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.**

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against a former ordinance, nor as to any act done or penalty, forfeiture or punishment incurred or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising before the new ordinance takes effect, except that the proceedings thereafter had shall conform, so far as practicable, to the laws in force at the time of the proceedings. If any penalty, forfeiture or punishment is mitigated by any provision of the new ordinance, the provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(KRS 446.110)

#### **§ 10.10 CONSTRUCTION OF SECTION REFERENCES.**

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, the reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

#### **§ 10.11 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

## **§ 10.12 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature, and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

## **§ 10.13 ORDINANCES SAVED.**

Whenever an ordinance by its nature either authorizes or enables the Council, or a certain city officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinance, all ordinances and regulations of a similar nature serving the purpose effected prior to the codification and not inconsistent thereto shall remain in effect and are saved.

## **§ 10.14 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.**

(A) Any chapter, section or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of the subsequent ordinances until Council shall adopt a new code of ordinances.

(B) The method of amendment set forth in §32.32 should be used by the city to amend, add or repeal a chapter, section or division of this code of ordinances.

## **§ 10.15 CONFLICTING PROVISIONS.**

If the provisions of different codes, chapters or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

## **§ 10.16 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

## **§ 10.17 ERRORS AND OMISSIONS.**

If a manifest error be discovered, consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

## **§ 10.18 HISTORICAL AND STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) If a KRS cite is included in the history, this indicates that the text of the section reads either verbatim or substantially the same as the statute. Example:

(KRS 83A.090)

(C) If a KRS cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

### **§ 39.01 PUBLIC RECORDS AVAILABLE.**

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

#### ***Statutory reference:***

*Inspection of public records, see KRS 61.870 et seq.*

## **§ 10.99 GENERAL PENALTY.**

Where an act or omission is prohibited or declared unlawful in this code of ordinances, and no penalty is otherwise provided, the offense shall be deemed a violation, and the offender shall be fined not more than \$250 for each offense.

**Statutory references:**

Enforcement of ordinances, see KRS 83A.065

Maximum fine for violations, see KRS 534.040(2)(c)

## TITLE III: ADMINISTRATION

Chapter

- 30. MAYOR-COUNCIL PLAN
- 31. CITY OFFICIALS
- 32. CITY COUNCIL
- 33. FINANCE AND REVENUE
- 34. PUBLIC RECORDS
- 35. ORGANIZATIONS
- 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)) (Prior 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 six members.

(KRS 83A.030(1))

(Prior 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***

31.15 Election procedure

31.16 Mayor

31.17 City Council members

### **Nonelected City Officials**

31.30 Establishment of nonelected city offices

31.31 City Clerk/Treasurer

31.32 Citation Officer

31.33 City Engineer

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

*Alcoholic Beverage Administrator, see § 119.32*

*Alcoholic Beverage Control Administrator, see § 119.06*

*Authority for enforcement of traffic code, see § 70.04*

*Director of Finance, see § 110.05*

## **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: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of this Commonwealth and the Constitution of the United States, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of \_\_\_\_\_, according to law; and I do further solemnly swear (or affirm) that, since the adoption of the present Constitution, I being a citizen of this United States, have not fought a duel with deadly weapons within this state, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a challenge, nor aided or assisted any person thus offending, so help me God," as established by Ky. Const. § 228.

(Prior Code, § 31.01)

### **§ 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 City Council members with the purchasing power of the dollar, the state's 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 City Council members 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's 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.

(Prior 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.*

(1) 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.

(2) No elected officer shall be removed without having been given the right to a full public hearing.

(3) The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record.

(4) 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.

(Prior Code, § 31.03)

**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.

(B) (1) 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.

(2) 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.

(3) 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) above.

(KRS 65.067) (Prior Code, § 31.04)

## ELECTED OFFICIALS

### § 31.15 ELECTION PROCEDURE.

(A) Election of city officers is governed by general election laws as provided in KRS Chapters 116 through 121 unless the 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 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) above by ordinance, except that no change shall be made earlier than five years from the last change.

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

(D) Each appointed and elected city office existing on July 15, 1980, shall continue until abolished by ordinance, except that the offices of Mayor and City Council members 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.

(Prior Code, § 31.20)

**Statutory reference:**

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

*Election of city officers, see KRS 83A.050*

## **§ 31.16 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 four 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, the City 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's 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/Treasurer 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 City 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 City Council he or she finds in the public interest. (KRS 83A.130(3))

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

(KRS 83A.130(4))

(5) Any delegation of the Mayor's power, duties or responsibilities to subordinate officers and employees and any expression of his 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 City Council.

(KRS 83A.130(9))

(8) (a) 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 City Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer.

(b) With approval of the City 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 City Council and the provisions of division (C) above shall apply.

(KRS 83A.130(10))

(E) *Compensation.* The compensation of the Mayor shall be set at \$5,000 annually.

(Prior Code, § 31.21) (Ord. 2014-01, passed 4-16-2014)

### **§ 31.17 CITY COUNCIL MEMBERS.**

For provisions concerning City Council, see Chapter 32 of this code.

(Prior Code, § 31.22)

## **NONELECTED CITY OFFICIALS**

### **§ 31.30 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 the 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 the 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:

- (1) City Clerk/Treasurer;
- (2) Building Inspector;
- (3) City Engineer; and
- (4) Flood Coordinator.

(Prior Code, § 31.35)

#### **Statutory reference:**

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

### **§ 31.31 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 §1.02 of this code.

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

(Prior Code, § 31.36)

### **§ 31.32 CITATION OFFICERS.**

(A) *Building Inspector.*

(1) *Qualifications.* The Building Inspector shall be 21 years or older and have been certified by the state's Department of Building and Housing as a Certified Building Inspector.

(2) *Duties.*

(a) *Applications and permits.* The Building Inspector shall receive applications, review construction documents and issue permits for the erection, alteration and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

(b) *Department record.* The Building Inspector shall confirm the keeping of official records of applications received, permits and certificates issued, fees collected, reports of inspections and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records as promulgated by the state's Department of Libraries and Archives pursuant to KRS 171.450.

(c) *Modifications.* Wherever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the city.

(d) *General.* Enforce all tenets of the more current version of the state's Building Code.

(B) *Code Enforcement Officer.*

(1) *Qualifications.* The Code Enforcement Officer must be 21 years of age and have a minimum of three years of experience as a Code Enforcement Officer, been certified by the state's Department of Building and Housing as certified Building Inspector or has 90 days similar experience in the real estate or building industry.

(2) *Duties.* The Code Enforcement Officer shall be to discover, report and issue citations for violations of Chapter 96 of this code, to include the amendment 2001-3 as directed and advise local authority when necessary to file liens or take civil action to enforce such ordinance.

(Ord. 2021-01, passed 1-11-2021; Ord. 2021-02, passed 1-11-2021)

### **§ 31.33 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 he or she 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 the City Council, with corporate surety authorized to transact business in the state and conditioned upon the performance of the duties specified herein.

(D) The City Engineer shall advise the Mayor and the 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 the City Council by ordinance.

(Prior Code, § 31.38)

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## **CHAPTER 32: CITY COUNCIL**

Section

*General Provisions*

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

#### **Rules of Procedure**

- 32.15 Mayor as presiding officer
- 32.16 Meetings
- 32.17 Quorum

#### **Ordinances**

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

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

*Board of Ethics, see §§ 38.065 through 38.073*

*Code Enforcement Board, see §§ 35.055 through 35.069*

*Council members as elected officials, see § 31.17*

*Planning Commission, see §§ 35.001 through 35.011*

### **GENERAL PROVISIONS**

#### **§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.**

(A) *Election; term of office.* Each City Council member shall be elected at-large by the voters of the city at a regular election. Terms of office begin on January 1 following the election and shall be for two years.

(B) *Qualifications.* A City Council 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 of this code.

(Prior Code, § 32.01)

#### **§ 32.02 VACANCIES.**

(A) *Vacancies.* If one or more vacancies on the City Council occur in a way that one or more members remain seated, the remaining members shall within 30 days fill the vacancies one at a time, giving each new appointee reasonable notice of his 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's 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/Treasurer and the Secretary of State of the vacancy.

(KRS 83A.040(8))

(B) *Failure to fill vacancies.* If for any reason, any vacancy on the City 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))

(Prior 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 City Council. The City Council may not perform any executive functions except those functions assigned to it by statute.

(KRS 83A.130(11))

(B) The City 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 City 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) (1) The City Council may investigate all activities of city government.

(2) The City 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.

(3) Any statement required by the City Council to be submitted or any investigation undertaken by the City 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 City Council's action is given to the Mayor.

(4) The Mayor may review any statement before submission to the City 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))

(Prior Code, § 32.03)

**RULES OF PROCEDURE**

**§ 32.15 MAYOR AS PRESIDING OFFICER.**

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

(B) The Mayor may participate in City 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)) (Prior Code, § 32.20)

**Cross-reference:**

City Council's responsibility to select one of its own members to preside when there is vacancy in the office of Mayor, see § 31.16

**§ 32.16 MEETINGS.**

(A) Regular meetings of the City Council shall be held on the second Monday of every month at 7:00 p.m. at the West Point School Building, 209 North 13th Street.

(B) (1) Special meetings of the City Council may be called by the Mayor or upon written request of a majority of the City



Council.

(2) In the call, the Mayor or City Council shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of City 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 § 31.31 of this code and by the officer presiding at the meeting.

(KRS 83A.130(11)) (Prior Code, § 32.21) (Ord. 32.21, passed 4-2-1999; Ord. 2022-05, passed 8-30-2022)

### **§ 32.17 QUORUM.**

Unless otherwise provided by statute, a majority of the City Council constitutes a quorum and a vote of a majority of a quorum is sufficient to take action.

(KRS 83A.060(6)) (Prior Code, § 32.22)

## **ORDINANCES**

### **§ 32.30 ONE SUBJECT; TITLE.**

Each ordinance shall embrace only one subject and shall have a title that clearly states the subject.

(KRS 83A.060(1)) (Prior Code, § 32.35)

### **§ 32.31 INTRODUCTION; ENACTING CLAUSE.**

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

(KRS 83A.060(2)) (Prior Code, § 32.36)

### **§ 32.32 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)) (Prior Code, § 32.37)

### **§ 32.33 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.**

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

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the City 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 § 32.38 of this code shall be complied with within ten days of the enactment of the emergency ordinance.

(KRS 83A.060(4), (7)) (Prior Code, § 32.38)

### **§ 32.34 APPROVAL, DISAPPROVAL BY MAYOR.**

(A) All ordinances adopted by the City Council shall be submitted to the Mayor who, within ten days after submission, shall either approve the ordinance by affixing his or her signature or disapprove it by returning it to the City 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 ten days after receiving it or unless the City Council votes to override the Mayor's veto, upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one more than a majority of the membership.

(KRS 83A.130(6)) (Prior Code, § 32.39)

### **§ 32.35 ADOPTION OF STANDARD CODES BY REFERENCE.**

The City 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)) (Prior Code, § 32.40)

### **§ 32.36 OFFICIAL CITY RECORDS.**

(A) Every action of the City 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 City Council shall be entered on the official record of the meeting.

(B) The City Council has provided, under the provisions of §§31.31(B) and 32.37 of this code, 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)) (Prior Code, § 32.41)

### **§ 32.37 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)) (Prior Code, § 32.42)

### **§ 32.38 PUBLICATION REQUIREMENTS.**

(A) Except as provided in §32.33(B) of this code, 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 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)) (Prior Code, § 32.43)

### **§ 32.39 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)) (Prior Code, § 32.44)

### **§ 32.40 PERIODIC REVIEW REQUIRED.**

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

(KRS 83A.060(11)) (Prior Code, § 32.45)

### **§ 32.41 MUNICIPAL ORDERS.**

(A) (1) The City Council may adopt municipal orders. All municipal orders shall be in writing and shall be adopted only at an official meeting.

(2) 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 City Council has control.

(KRS 83A.060(12), (13)) (Prior Code, § 32.46)

### **§ 32.42 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)) (Prior Code, § 32.47)

### § 32.43 LEGISLATIVE IMMUNITY.

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

(KRS 83A.060(15)) (Prior Code, § 32.48)

#### **Statutory reference:**

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

## CHAPTER 33: FINANCE AND REVENUE

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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**

- 33.20 Definitions
- 33.21 Financing of improvements
- 33.22 Apportionment of cost
- 33.23 Comprehensive report required
- 33.24 Public hearing required
- 33.25 Adoption of ordinance; notice to affected owners
- 33.26 Affected owner may contest
- 33.27 When city may proceed; assessment constitutes lien
- 33.28 Effect of additional property or change in financing

- 33.99 Penalty

## **FINANCIAL ADMINISTRATION**

### § 33.01 DEFINITIONS.

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

**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.** The standards and procedures promulgated and recognized by the Governmental Accounting Standards Board.

(KRS 91A.010) (Prior 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) (Prior 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 one fiscal year.

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

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

(G) The budget proposal together with a budget message shall be submitted to the City Council not later than 30 days prior to the beginning of the fiscal year it covers. The budget message shall:

(1) 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;

(2) Set forth the reasons for stated changes from the previous year in program goals, programs and appropriation levels; and

(3) Explain any major changes in fiscal policy.

(H) (1) The City 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 the City Council finds most efficient in enabling it to make the necessary fiscal policy decisions.

(2) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one fiscal year in violation of 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) The City 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 the City Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. The reports shall be submitted not less than once every three 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 of this code.

(M) (1) 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.

(2) 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) (Prior Code, § 33.03) Penalty, see § 33.99

### **§ 33.04 ANNUAL AUDIT OF CITY FUNDS.**

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public

accounts or a certified public accountant. The audits shall be completed by February 1, immediately following the fiscal year being audited. Within ten days of the completion of the audit and its presentation to the city legislative body, pursuant to division (B)(6) below, the city shall forward three copies of the audit report to the state's Department for Local Government for information purposes. The Department shall forward one copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 through 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 through 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 the City 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 through 6.975.

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

(E) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the City Council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at City Hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from City Hall a copy of the complete auditor's report, including financial statements and supplemental information, for his 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 \$0.25 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.

(Prior Code, § 33.04) Penalty, see § 33.99

### **§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.**

(A) The Mayor shall designate as the city's official depositories one or more banks, federally insured savings and loan companies or trust companies within the commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance or surety bonds.

(B) (1) 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.

(2) 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) (Prior Code, § 33.05)

## **IMPROVEMENTS**

### **§ 33.20 DEFINITIONS.**

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

**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 the City 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) (Prior Code, § 33.10)

### **§ 33.21 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)

(Prior Code, § 33.11)

#### **Statutory reference:**

*Improvements; alternate methods, see KRS Chapter 107*

### **§ 33.22 APPORTIONMENT OF COST.**

(A) 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.

(B) The City 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) (Prior Code, § 33.12)

### **§ 33.23 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) (Prior Code, § 33.13)

### **§ 33.24 PUBLIC HEARING REQUIRED.**

(A) After preparation of the report required by §33.23 of this code, the city shall hold at least one public hearing on the proposed improvement at which all interested persons shall be heard.

(B) 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:

- (1) The nature of the improvement;
- (2) Description of area of the improvement;
- (3) 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;
- (4) Time and place the report may be examined; and
- (5) Time and place of the hearing.

(KRS 91A.250) (Prior Code, § 33.14)

### **§ 33.25 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.**

(A) 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 § 33.23 of this code and a description of all properties.

(B) 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) (Prior Code, § 33.15)

### **§ 33.26 AFFECTED OWNER MAY CONTEST.**

(A) Within 30 days of the mailing of the notice provided for in §33.25 of this code, 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) (Prior Code, § 33.16)

### **§ 33.27 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.**

(A) After the passage of time for the action provided for in §33.26 of this code, 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) (1) 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.

(2) 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.

(3) No error in the proceedings of the City 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) (Prior Code, § 33.17)

### **§ 33.28 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 §§ 33.23 through 33.27 of this code 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) (Prior Code, § 33.18)

### **§ 33.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates any provision of §33.04 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 § 33.04 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) (Prior Code, § 33.04)

#### **Statutory reference:**

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

## **CHAPTER 34: PUBLIC RECORDS**

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### Section

#### ***General Provisions***

34.01 Definitions

#### ***Procedures for Requesting Public Records***

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34.16 Referral to proper custodian

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## GENERAL PROVISIONS

### § 34.01 DEFINITIONS.

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

**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, 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 the 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 § 34.26 of this code.

**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) (Prior Code, § 34.01)

## PROCEDURES FOR REQUESTING PUBLIC RECORDS

### § 34.15 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 one is available.

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

(C) If the public records are to be inspected at the offices of the city, suitable facilities shall be made available in the

office of the City Clerk/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.

(Prior Code, § 34.05)

#### **§ 34.16 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)) (Prior Code, § 34.06)

#### **§ 34.17 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 five 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)) (Prior Code, § 34.07)

#### **§ 34.18 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)) (Prior Code, § 34.08)

#### **§ 34.19 TIME LIMITATION; DENIAL OF INSPECTION.**

The official custodian, upon any request for records made under this chapter, shall determine within three days (excepting Saturdays, Sundays and legal holidays) after the receipt of any request whether to comply with the request and shall notify in writing the person making the request within the five-day period of his or her 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) (Prior Code, § 34.09)

#### **§ 34.20 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.

(Prior Code, § 34.10)

#### **§ 34.21 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 § 34.26 of this code.

(KRS 61.884) (Prior Code, § 34.11)

#### **§ 34.22 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 § 34.26 of this code. 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 eight and one-half inches by 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and the format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1), (2)) (Prior Code, § 34.12)

### **§ 34.23 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) above may be based on one or both of the following:

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

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

(KRS 61.874(3), (4)) (Prior Code, § 34.13)

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

Fees for online access to public records, see § 34.25

### **§ 34.24 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 § 34.23 of this code;

(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)) (Prior Code, § 34.14) Penalty, see § 10.99

### **§ 34.25 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 § 34.23 of this code.

(KRS 61.874(6)) (Prior Code, § 34.15)

## § 34.26 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 (A)(3)(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 division (A)(8) shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this subchapter;

(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; and

(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 non-excepted material available for examination, subject to the possible applicability of § 34.18 of this code.

(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 or her. 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) (Prior Code, § 34.16)

#### **§ 34.27 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 through 61.884.

(Prior Code, § 34.17)

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## **CHAPTER 35: ORGANIZATIONS**

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Section

### ***Planning Commission***

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- 35.002 Establishment
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- 35.005 Officers
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**West Point Revitalization Committee**

- 35.080 The West Point Revitalization Committee established

**Fort Duffield Heritage Committee**

- 35.095 The Fort Duffield Heritage Committee established

**Cross-reference:**

*Board of Zoning Adjustment, see § 152.097*

*Personnel Board, see §§ 37.145 through 37.148*

**PLANNING COMMISSION**

**§ 35.001 DEFINITIONS.**

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

**CHAIRPERSON.** The citizen member of the Planning Commission elected by the members of the Planning Commission to serve in the capacity of **CHAIRPERSON**.

**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 seven-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 state's Rules of Civil Procedure.

(Prior Code, § 35.01)

**§ 35.002 ESTABLISHMENT.**

The Planning Commission is hereby established and shall continue in full force and existence unless dissolved by further action of the City Council.

(Prior Code, § 35.02)

**§ 35.003 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.

(Prior Code, § 35.03)

**§ 35.004 MEMBERS.**

(A) The Planning Commission shall consist of seven members. Each member must be a resident of the city. One of the seven 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 four years, but the term of office of citizen members first appointed shall be staggered so that a proportionate number serve one, two, three and four 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 four years; the second member appointed shall serve a term of three years; the third member appointed shall serve a term of two years; the fourth member appointed shall serve a term of one year; the fifth member appointed shall serve a term of four years; the sixth member appointed shall serve a term of three years; the seventh member appointed shall serve a term of two 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.

(Prior Code, § 35.04)

#### **§ 35.005 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.

(Prior Code, § 35.05)

#### **§ 35.006 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 six 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 seven days prior to the meeting; which notice shall contain the date, time, place and the subjects which shall be discussed.

(Prior Code, § 35.06)

#### **§ 35.007 BYLAWS; TRANSCRIPT.**

(A) 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.

(B) All minutes and records shall immediately after adoption be filed in the office of the Planning Commission.

(C) 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.

(Prior Code, § 35.07)

#### **§ 35.008 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.

(Prior Code, § 35.08)

#### **§ 35.009 HEARING EXAMINER.**

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

(Prior Code, § 35.09)

#### **§ 35.010 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.

(Prior Code, § 35.10)

#### **§ 35.011 EXPENDITURES.**

(A) The City Council may appropriate out of general revenues for the expenses and accommodations necessary for the work of the Planning Commission.

(B) 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, including the United States Government, for the purpose of carrying out the provisions of this subchapter.

(C) All bylaws shall describe the method for administration of funds.

(D) 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.

(Prior Code, § 35.11)

### ***POLICE DEPARTMENT***

#### **§ 35.025 ESTABLISHMENT.**

There is hereby established a Police Department in the city.

(Prior Code, § 35.50)

#### **§ 35.026 POLICE CHIEF; POLICE OFFICERS.**

(A) The Police Department shall consist of a Chief of Police, 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 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 the City Council by ordinance in accordance with § 31.02 of this code.

(Prior Code, § 35.51)

#### **§ 35.027 ADOPT A STANDARD OPERATIONS PROCEDURES MANUAL.**

The City Council, by municipal order, adopts and orders the practices of the West Police standard operations procedures manual (SOP), so designated and on file with the Police Chief. The city's Police Department prepared this Policy and Procedure Manual.

(Mun. Ord. 2009-03, passed 7-13-2009)

### ***VOLUNTEER FIRE DEPARTMENT***

#### **§ 35.040 ESTABLISHMENT.**

A Fire Department is hereby established in the city, to be known as the "West Point Volunteer Fire Department."

(Prior Code, § 35.65)

#### **§ 35.041 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 the City Council.

(Prior Code, § 35.66)

#### **§ 35.042 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 cars and personnel and rehabilitation vehicles.

(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.

(Prior Code, § 35.67)

### **CODE ENFORCEMENT BOARD**

#### **§ 35.055 DEFINITIONS.**

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

**ABATEMENT COSTS.** A city's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve the public health, safety and welfare in accordance with any city ordinance.

**CODE ENFORCEMENT BOARD.** An administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, being KRS 65.8801 to 65.8839.

**CODE ENFORCEMENT OFFICER.** A city police officer, safety officer, citation officer or other public law enforcement officer with the authority to issue a citation.

**FINAL ORDER.** Any order:

(1) Issued by the Code Enforcement Board following a hearing in accordance with §35.063(E);

(2) Created because a violator neither paid nor contested the citation within seven days as provided in §35.062(F); or

(3) Created because a violator failed to appear at a hearing the violator requested to contest the citation as provided in § 35.063(C).

**IMMINENT DANGER.** A condition, which is likely to cause serious, or life-threatening injury or death at any time.

**ORDINANCE.** An official action of the local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance.

**OWNER.** A person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

**PREMISES.** A lot, plot or parcel of land, including any structures upon it.

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.056 CREATION AND MEMBERSHIP.**

There is hereby created within the city pursuant to KRS 65.8801 to KRS 65.8839, a Code Enforcement Board which shall

be composed of no fewer than three members and two alternates, all of whom shall be residents of the city for a period of at least one year prior to their appointment and shall reside there throughout the term in office.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.057 ENFORCEMENT POWERS.**

(A) The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing city ordinances when a violation of the ordinance has been classified as a civil offense.

(B) The Code Enforcement Board shall not have the authority to enforce any ordinance regulating conduct, which would also, under any provision of the state revised statutes, constitute a criminal offense or a moving motor vehicle offense.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.058 APPOINTMENT OF MEMBERS; TERM OF OFFICE; REMOVAL FROM OFFICE; OATH; COMPENSATION.**

(A) Members of the Code Enforcement Board shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

(B) The initial appointment to the Code Enforcement Board shall be as follows:

(1) One-third of the membership or one-third of the membership and one member of the Board shall be appointed for a term of one year;

(2) One-third of the membership or one-third of the membership and one member of the Board shall be appointed for a term of two years; and

(3) One-third of the membership or one-third of the membership and one member of the Board shall be appointed for a term of three years.

(C) (1) All subsequent appointments shall be for a term of three years.

(2) A member may be reappointed, subject to the approval of the legislative body.

(D) (1) Any vacancy on the Board shall be filled by the executive authority, subject to approval of the legislative body, within 60 days of the vacancy.

(2) If the vacancy is not filled within that time period, the remaining Code Enforcement Board members shall fill the vacancy.

(3) A vacancy shall be filled for the remainder of the unexpired term.

(E) (1) A Board member may be removed from office by the executive authority for misconduct, inefficiency or willful neglect of duty.

(2) The executive authority shall submit a written statement to the member and the legislative body setting forth the reasons for removal.

(3) The member so removed shall have the right of appeal to the Circuit Court.

(F) All members of the Code Enforcement Board shall, before entering upon the duties of their office, take the oath of office prescribed by Ky. Const. § 228.

(G) Members of the Code Enforcement Board shall be reimbursed for actual expenses.

(H) No member of the Code Enforcement Board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.059 ORGANIZATION OF BOARD; MEETINGS; QUORUM.**

(A) (1) The Code Enforcement Board shall annually elect a Chairperson from among its members.

(2) The Chairperson shall be the presiding officer and a full voting member of the Board.

(3) In the absence of the Chairperson, the remaining members of the Board shall select a member to preside in place of and exercise the powers of the Chairperson.

(B) (1) Regular meetings of the Code Enforcement Board shall be held on the third Monday of every month.

(2) Meetings other than those regularly scheduled shall be special meetings or emergency meetings held in accordance with the requirements of the state's Open Meetings Act.

(C) All meetings and hearings of the Code Enforcement Board shall be public meetings held in accordance with the requirements of KRS 65.8815(5) and the state's Open Meetings Act.

(D) The presence of at least a majority of the Board's entire membership shall constitute a quorum. The affirmative vote



of a majority of a quorum of the Board shall be necessary for any official action to be taken.

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

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.060 CONFLICT OF INTEREST.**

Any member of the Code Enforcement Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest, shall disqualify himself or herself from voting on the matter in which he or she has an interest, and shall not be counted for purposes of establishing a quorum.

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.061 POWERS OF THE CODE ENFORCEMENT BOARD.**

The city's Code Enforcement Board shall have the following powers and duties:

(A) To adopt rules and regulations to govern its operations and the conduct of its hearings consistent with this subchapter;

(B) To conduct hearings to determine if there has been a violation of an ordinance over which it has jurisdiction;

(C) To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the Code Enforcement Board may be served by any code enforcement officer;

(D) To take testimony under oath. The Chairperson shall have the authority to administer oaths for the purpose of taking testimony;

(E) To make findings of fact and issue orders necessary to remedy any violation of a city ordinance or code provision, which the Board is authorized to enforce; and

(F) To impose civil fines, as authorized, on any person found to have violated an ordinance over which the Board has jurisdiction.

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.062 ENFORCEMENT PROCEEDINGS.**

The following requirements shall govern all enforcement proceedings before the Code Enforcement Board.

(A) Enforcement proceedings shall only be initiated by the issuance of a citation by a code enforcement officer.

(B) Except when immediate action is necessary pursuant to §35.069, if a code enforcement officer believes, based on his or her personal observation or investigation, that a person has violated a city ordinance, he or she shall issue a notice of violation allowing the alleged violator a specified period of time to remedy the violation without incurring a fine. If the alleged violator fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.

(C) The code enforcement officer shall issue a citation by one of the following methods:

(1) Personal service to the alleged violator;

(2) Leaving a copy of the citation with any person 18 years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or

(3) Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first-class mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.

(D) The citation issued by the code enforcement officer shall contain the following information:

(1) The date and time of issuance;

(2) The name and address of the person to whom the citation is issued; owner, occupant, agent or other;

(3) The physical address of the premises where the violation occurred;

(4) The date and time the offense was committed;

(5) The facts constituting the offense;

(6) The section of the code or the number of the ordinance violated;

(7) The name of the code enforcement officer;

(8) The civil fine that may be imposed for the violation;

(9) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(10) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation within the time allowed: the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation; the determination that the violation was committed shall be final; the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation; and the person shall be deemed to have waived the right to appeal the final order to District Court.

(E) After issuing a citation to an alleged violator, the code enforcement officer shall notify the Code Enforcement Board by delivering the citation to Chairperson.

(F) (1) The person to whom the citation is issued shall respond to the citation within seven days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing to contest the citation. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.

(2) Notice of a final order shall be provided to the cited violator by regular, first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.063 HEARING; NOTICE; AND FINAL ORDER.**

(A) When a hearing has been requested, the Code Enforcement Board or its administrative staff shall schedule a hearing.

(B) Not less than seven days before the date of the hearing, the Code Enforcement Board shall notify the requester of the date, time and place of the hearing. The notice may be given by regular, first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(C) Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation, and the determination that a violation was committed shall be final. In this event, the citation as issued shall be deemed a final order determining the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.

(D) Notice of a final order shall be provided to the cited violator by regular first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(E) All testimony at the hearing shall be taken under oath and recorded. Testimony shall be taken from the code enforcement officer, the alleged violator, and any witnesses to the violation offered by the code enforcement officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(F) The Code Enforcement Board shall, based on the evidence, determine whether a violation was committed. If it is determined that no violation was committed, an order dismissing the citation shall be entered. If it is determined that a violation was committed, an order may be issued upholding the citation. The Board may impose a fine up to the maximum authorized by ordinance or require the offender to remedy a continuing violation to avoid a fine, or both.

(G) Every final order following a hearing shall be reduced to writing, which shall include the findings and conclusions reached and the date the order was issued. A copy shall be furnished to the person named in the citation.

(H) If the person named in the citation is not present when the final order is issued, the order shall be delivered to the person by regular, first-class mail; certified mail, return receipt requested; personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.

(Ord. 2022-03, passed 4-25-2022) Penalty, see § 10.99

### **§ 35.064 PRESENTATION OF CASES.**

(A) Each case before the Code Enforcement Board shall be presented by an attorney selected by the city, a code enforcement officer for the city or by a member of the city's administrative staff.

(B) The City Attorney may either be counsel to the Code Enforcement Board or may present cases before the Code Enforcement Board but shall in no case serve in both capacities.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.065 APPEALS; FINAL JUDGMENT.**

(A) An appeal from a final order of a Code Enforcement Board following a hearing conducted pursuant to §35.063(E) may be made to the County District Court within 30 days of the date the order is issued. The appeal shall be initiated by the

filing of a complaint and a copy of the final order in the same manner as any civil action under the state's Rules of Civil Procedure.

(B) If no appeal from a final order of the Code Enforcement Board is filed within the time period set in division (A) above, the Code Enforcement Board's order shall be deemed final for all purposes.

(Ord. 2022-03, passed 4-25-2022)

### **§ 35.066 FINE SCHEDULE; LIEN; CHARGES AND FEES.**

(A) Violations of ordinances that are enforced by the city's Code Enforcement Board shall be subject to the following schedule of civil fines.

(1) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the penalties shall refer to § 96.99.

(2) If the citation is contested and a hearing before the Code Enforcement Board is required, maximum penalties will refer to the current maximum penalty section of the § 96.99.

(B) The city shall possess a lien on property owned by the person found by a non-appealable final order as defined in § 35.055, or by a final judgment of the court, to have committed a violation of a city ordinance. The lien shall be for all civil fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance, including abatement costs. An affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and regularity of the proceedings pursuant to KRS 65.8801 to 65.8839.

(C) The lien shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall continue for ten years following the date of the non-appealable final order or final court judgment.

(D) Subject to § 35.068, the lien shall take precedence over all other liens, except state, county, school board and city taxes, and may be enforced by judicial proceedings, including a foreclosure action.

(E) In addition to the remedy prescribed in division (B) above, the person found to have committed the violation shall be personally responsible for the amount of all civil fines assessed for the violation and for all charges, fees and abatement costs incurred by the city in connection with the enforcement of the ordinance. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(Ord. 2022-03, passed 4-25-2022) Penalty, see § 10.99

### **§ 35.067 LIENHOLDER NOTIFICATION SYSTEM.**

The city shall obtain and maintain priority over previously filed liens, as provided in §35.066, in accordance with the following provisions:

(A) Individuals and entities, including but not limited to lienholders, may register with the city to receive electronic notification of final orders entered pursuant to this subchapter.

(B) In order to receive the notification, the registrant shall submit the following information to the City Clerk/Treasurer:

- (1) Name;
- (2) Mailing address;
- (3) Phone number; and
- (4) Electronic mailing address.

(C) (1) A registrant may use the electronic form provided on the city's website to submit the information required by division (B) above. It shall be the responsibility of the registrant to maintain and update the required contact information with the city.

(2) The city shall inform a registrant of any evidence received that the electronic mailing address is invalid or not functional so that the registrant may provide an updated electronic mailing address.

(D) Once per week, the city shall send electronic mail notification of all final orders entered pursuant to this subchapter since the last date of notification to each party registered pursuant to this section. The notification shall provide an electronic link to the city code enforcement database located on the city's website. The database shall include the following information regarding each final order:

- (1) The name of the person charged with a violation;
- (2) The physical address of the premises where the violation occurred;
- (3) The last known mailing address for the owner of the premises where the violation occurred;
- (4) A copy of the full citation;
- (5) A copy of the full final order; and

(6) The status of the final order regarding its ability to be appealed pursuant to this subchapter.

(E) If an appeal is filed on a final order pursuant to this subchapter, the city shall send electronic mail notification to all registrants.

(F) Within ten days of the issuance of a final order pursuant to this subchapter, the city shall update its code enforcement database to reflect the issued final order, and shall post the notification required by division (D) above containing an updated link to the code enforcement database on the city's website.

(G) The city shall maintain the records created under this section for ten years following their issuance.

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.068 LIENS.**

(A) A lienholder of record who has registered pursuant to §35.067(B) may, within 45 days from the date of issuance of notification under § 35.067(D):

(1) Correct the violation if it has not already been abated; or

(2) Pay all civil fines assessed for the violation, and all charges and fees incurred by the city in connection with enforcement of the ordinance, including abatement costs.

(B) Nothing in this section shall prohibit the city from taking immediate action if necessary, under §35.069.

(C) The lien provided by § 35.066 shall not take precedence over previously recorded liens if:

(1) The city failed to comply with the requirements of §35.067 for notification of the final order; or

(2) A prior lienholder complied with division (A) above.

(D) A lien that does not take precedence over previously recorded liens under division (C) above shall, if the final order remains partially unsatisfied, continue to take precedence over all other subsequent liens except liens for state, county, school board and city taxes.

(E) (1) The city may record a lien before the 45-day period established in division (A) above expires.

(2) If the lien is fully satisfied prior to the expiration of the 45-day period, the city shall release the lien in the County Clerk's office where the lien is recorded within 15 days of satisfaction.

(F) Failure of the city to comply with §35.067 and this section, or failure of a lien to take precedence over previously filed liens as provided in division (C) above, shall not limit or restrict any other remedies the city has against the property of the violator.

(Ord. 2022-03, passed 4-25-2022)

#### **§ 35.069 IMMEDIATE ACTION.**

Nothing in this subchapter shall prohibit the city from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

(Ord. 2022-03, passed 4-25-2022)

### ***WEST POINT REVITALIZATION COMMITTEE***

#### **§ 35.080 THE WEST POINT REVITALIZATION COMMITTEE ESTABLISHED.**

(A) The City Council desires to affirm a standing committee of volunteers to promote the general welfare of its citizens, increase tourism, promote and accomplish projects for the beautification of the city and any other effort assigned or created for the enhancement and/or improvement of the city.

(B) The Chairperson of the West Point Revitalization Committee will be appointed by the Mayor and serve continually unless removed or resigned.

(C) The Chairperson of the West Point Revitalization Committee will appoint additional members and subcommittees as is necessary to accomplish these tasks.

(D) The West Point Revitalization Committee is hereby established, with recognition and appreciation for all efforts and projects performed on the city's behalf prior to the order from which this subchapter was derived.

(Mun. Ord. 2021-01, passed 8-9-2021)

### ***FORT DUFFIELD HERITAGE COMMITTEE***

#### **§ 35.095 THE FORT DUFFIELD HERITAGE COMMITTEE ESTABLISHED.**

(A) The City Council desires to recognize and formalize a committee originally established in 1992 without formal

standing.

(B) The City Council desires to recognize this standing committee of volunteers to promote, maintain and improve the grounds and enhance the visitor experience at Fort Duffield.

(C) The Chairperson of the Fort Duffield Heritage Committee shall be appointed by the Mayor and serve continually unless removed or resigned.

(D) The Chairperson of the Fort Duffield Heritage Committee shall appoint additional members and subcommittees as is necessary to accomplish these tasks.

(E) The Fort Duffield Heritage Committee is hereby established, with recognition and appreciation for all previous efforts and projects performed on the city's behalf.

(Mun. Ord. 2021-02, passed 8-9-2021)

## CHAPTER 36: TAXATION

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### Section

36.01 County assessment adopted

36.02 Due date; payment

36.03 Delinquency

36.04 Ad valorem taxes

36.05 Disposition of funds

### **Cross-reference:**

*Finance and revenue, see Chapter 33*

### **§ 36.01 COUNTY ASSESSMENT ADOPTED.**

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

(Prior Code, § 36.01)

### **§ 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.

(Prior Code, § 36.02)

### **§ 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 home rule cities.

(Prior Code, § 36.03)

### **§ 36.04 AD VALOREM TAXES.**

(A) For the purposes of support of the government of the city and the payment of its debts and expenses, there has been and hereby levied ad valorem taxes on each \$100 of the Fiscal Year 2020 assessed valuation of all taxable property within the taxing jurisdiction of the city as follows: Real property and personal property (personal property includes inventory, furniture and fixtures of business, including inventory held for resale and privately owned registered vehicles), including real and personal property of public service companies on the Department of Revenue assessed valuation.

<i>Expense Type</i>	<i>Tax</i>
Bank deposit tax	.00025
Personal property	.313
Real property	.365

(B) (1) All ad valorem taxes on motor vehicles shall be collected by the County Clerk in accordance with KRS 134.800.

(2) 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.

(Prior Code, § 36.04) (Ord. 2022-06, passed 8-30-2022)

**§ 36.05 DISPOSITION OF FUNDS.**

All moneys 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.

(Prior Code, § 36.05)

**CHAPTER 37: PERSONNEL POLICIES**

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Section

37.01 Personnel policy.

**§ 37.01 PERSONNEL POLICY.**

The personnel policy for the city will be established by municipal order and be reviewed by the City Council annually prior to approving the annual budget.

(Ord. 2022-02, passed 4-11-2022) (Mun. Ord. 2022-01, passed 3-14-2022)

**CHAPTER 38: CODE OF ETHICS**

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Section

***General Provisions***

- 38.001 Title
- 38.002 Finding
- 38.003 Purpose and authority
- 38.004 Definitions

***Standard of Conduct***

- 38.015 Conflicts of interest in general
- 38.016 Conflict of interest in contracts
- 38.017 Receipt of gifts
- 38.018 Use of city or county property, equipment and personnel
- 38.019 Misuse of confidential information
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***Financial Disclosure***

- 38.035 Who must file
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- 38.037 Control and maintenance of statements of financial interests
- 38.038 Financial interests statement in general

## ***Nepotism***

38.050 Nepotism

## ***Enforcement***

38.065 Board of Ethics created

38.066 Facilities and staff

38.067 Power and duties of the Board of Ethics

38.068 Filing and investigation of complaints

38.069 Notice of hearings

38.070 Hearing procedure

38.071 Appeals

38.072 Limitations of actions

38.073 Advisory opinions

38.074 Reprisals against persons disclosing violations prohibited

38.999 Penalty

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

*Personnel policies, see Chapter 37*

## ***GENERAL PROVISIONS***

### **§ 38.001 TITLE.**

This chapter shall be known and may be cited as the “Hardin County Code of Ethics.”

(Prior Code, § 38.01)

### **§ 38.002 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; and

(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.

(Prior Code, § 38.02)

### **§ 38.003 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 65.003.

(C) This chapter is enacted under the power vested in the city and county by KRS 82.082 and pursuant to requirements of KRS 65.003.

(Prior Code, § 38.03)

### **§ 38.004 DEFINITIONS.**

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



**BOARD OF ETHICS.** The 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.

**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.

**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, 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.

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

**COUNTY.** Hardin County, Kentucky.

**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 his, her or 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 one 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; or
- (13) Property Valuation Administrator.

(Prior Code, § 38.04)

## **STANDARD OF CONDUCT**

### **§ 38.015 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) (1) 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.

(2) 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 state 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 or her 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 or her immediate family, whether directly or indirectly, in return therefore.

(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, herself or themselves, in negotiations or proceedings concerning his, her 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.

(Prior Code, § 38.15) Penalty, see § 38.999

### **§ 38.016 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:

(B) The prohibition in division (A) above 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) above shall apply to the renewal of the contract.

(C) The prohibition in division (A) above 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 division (D) below are satisfied.

(D) The prohibition in division (A) above shall not apply in any case where the following requirements are satisfied.

(1) The specific nature of the contract transaction and the nature of the officer's, 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.

(2) 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.

(3) 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.

(4) 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.

(Prior Code, § 38.16) Penalty, see § 38.999

#### **§ 38.017 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.

(Prior Code, § 38.17) Penalty, see § 38.999

#### **§ 38.018 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.

(Prior Code, § 38.18) Penalty, see § 38.999

#### **§ 38.019 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 state's Open Records Act, KRS 61.872 through 61.884, at the time of its use or disclosure.

(Prior Code, § 38.19) Penalty, see § 38.999

#### **§ 38.020 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.

(Prior Code, § 38.20) Penalty, see § 38.999

### **FINANCIAL DISCLOSURE**

#### **§ 38.035 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 Board of Ethics:

- (A) Elected city and county officials; and
- (B) Candidates for elected city and county office.

(Prior Code, § 38.35)

### **§ 38.036 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 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; and
- (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 Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

(Prior Code, § 38.36)

### **§ 38.037 CONTROL AND MAINTENANCE OF STATEMENTS OF FINANCIAL INTERESTS.**

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

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

- (1) Upon the expiration of three years after a person ceases to be an officer, 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; and
- (2) Upon the expiration of three 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.

(Prior Code, § 38.37)

### **§ 38.038 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 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 of 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; and

(9) Offices or directorships held by the officer, candidate, nominee, employee, board or commission member or members of his or her immediate family as of December 31 of the reporting year. Nonprofit, charitable and religious organizations shall be excluded from this disclosure.

(Prior Code, § 38.38)

## **NEPOTISM**

### **§ 38.050 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.

(Prior Code, § 38.55) Penalty, see § 38.999

## **ENFORCEMENT**

### **§ 38.065 BOARD OF ETHICS CREATED.**

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

(B) (1) The Board of Ethics shall consist of five 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 cities of Elizabethtown, Radcliff, Vine Grove and West Point, and the Judge Executive of the county shall each appoint one of the five members of the Board of Ethics as outlined in this section. The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or county, or any city or county agency.

(2) The members shall serve for a term of three years; except that with respect to the members initially appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years and two members shall be appointed for a term of three years. 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 three years. Each member of the Board of Ethics shall have been a resident of the city or county for at least one year prior to the date of the appointment and shall reside in the city or county throughout the term in office.

(3) The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) (1) A member of the Board of Ethics may be removed by the executive authority appointing him or her, subject to the approval of the legislative body (if different from the executive authority) for misconduct, inability or willful neglect of duties.

(2) 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) (1) Vacancies on the 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).

(2) If a vacancy is not filled by the executive authority within 60 days, the remaining members of the Board of Ethics shall fill the vacancy.

(3) All vacancies shall be filled for the remainder of the unexpired term.

(E) Members of the Board of Ethics shall serve without compensation, unless otherwise approved by the legislative 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 Board of Ethics shall be held, as necessary, upon the call of the Chairperson or at the written request of a majority of the members.

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

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

(Prior Code, § 38.65)

### **§ 38.066 FACILITIES AND STAFF.**

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

(Prior Code, § 38.66)

### **§ 38.067 POWER AND DUTIES OF THE BOARD OF ETHICS.**

The 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 ensure that the statements are available for public inspection in accordance with the requirements of this chapter and the state's Open Records Act, being KRS 61.872 through 61.884;

(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; and

(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.

(Prior Code, § 38.67)

### **§ 38.068 FILING AND INVESTIGATION OF COMPLAINTS.**

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Clerk/Treasurer's office of the legislative body, or the administrative official designated by the Board of Ethics. The Clerk/Treasurer shall forward the complaint to the Board of Ethics within ten 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 ten working days from the date of receipt. The Board shall forward within ten 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 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) (1) 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.

(2) 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; and/or

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

(Prior Code, § 38.68)

#### **§ 38.069 NOTICE OF HEARINGS.**

(A) 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.

(B) 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 ten days notice of any hearing.

(Prior Code, § 38.69)

#### **§ 38.070 HEARING PROCEDURE.**

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

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records, 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 and to submit evidence and to be represented by counsel. All witnesses shall have the right to be represented by counsel.

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

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

(F) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this 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, dismissal or removal from office;

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

(5) Refer evidence of criminal violations of this subchapter or state law to the County Attorney or Commonwealth Attorney of the jurisdiction for prosecution.

(Prior Code, § 38.70) Penalty, see § 38.999

### **§ 38.071 APPEALS.**

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

(Prior Code, § 38.71)

### **§ 38.072 LIMITATION OF ACTIONS.**

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one year from the time the party complained about, leaves office, board, commission or employment.

(Prior Code, § 38.72)

### **§ 38.073 ADVISORY OPINIONS.**

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer, 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 state's Open Records Law, being KRS 61.872 through 61.884, 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.

(Prior Code, § 38.73) Penalty, see § 38.999

### **§ 38.074 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: 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:

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

(2) To be exempt from required disclosure under the provisions of the state's Open Records Act, KRS 61.870 through 61.884; or

(3) Is confidential under any other provision of law.

(Prior Code, § 38.74)

#### **§ 38.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any violation of §§ 38.015 through 38.020 of this code 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.

(Prior Code, § 38.16)

(C) Any person who knowingly files with the Board of Ethics 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.

(Prior Code, § 38.68)

## **TITLE V: PUBLIC WORKS**

Chapter

**50. GENERAL UTILITIES**

**51. SEWERS**

**52. WATER**

**53. GARBAGE**

**54. STORMWATER MANAGEMENT**

### **CHAPTER 50: GENERAL UTILITIES**

Section

#### ***General Provisions***

50.01 Definitions

50.02 Powers and authority of inspectors

50.03 Tampering with or damaging wastewater facilities

50.04 Connection to water lines

50.05 Utility work on city property

#### ***Rates and Charges***

50.20 Water and sewer tap-in charges

50.21 Monthly water/sewer/garbage rates

50.22 Rates effective when sewer lines available

50.23 Proration of charges

50.24 All customers metered; water meter deposit

50.25 Meter reading and billing procedure

- 50.26 Joint water/sewer/garbage billing
- 50.27 Disconnection; bill protest procedure
- 
- 50.99 Penalty

## **GENERAL PROVISIONS**

### **§ 50.01 DEFINITIONS.**

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

**AVAILABLE.** Applies to the sewer system if any premises abut upon any street, road, alley, public way or easement in which there exists a sewer pipe, main, lateral or other structure or installation of the sewer system capable of receiving flowable wastes, or if there is a city sewer within 100 feet of the premises.

**BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

**BUILDING DRAIN.** The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal, also called **HOUSE CONNECTION.**

**COMBINED SEWER.** A sewer intended to receive both wastewater and storm or surface water.

**EASEMENT.** An acquired legal right for the specified use of land owned by others.

**ENGINEER.** The superintendent of wastewater facilities, or of wastewater treatment works, or of water pollution control of the city, or his or her authorized deputy, agent or representative.

**FLOATABLE OIL.** Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

**GARBAGE.** The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

**INDUSTRIAL WASTES.** The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

**NATURAL OUTLET.** Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**pH.** The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10<sup>-7</sup>.

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (one and twenty-seven hundredths centimeters) in any dimension.

**PUBLIC SEWER.** A common sewer controlled by a governmental agency or public utility.

**SANITARY SEWER.** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

**SEWAGE.** The spent water of a community. The preferred term is **WASTEWATER.**

**SEWER.** A pipe or conduit that carries wastewater or drainage water.

**SLUG.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system or performance of the wastewater treatment works.

**STORM DRAIN** or **STORM SEWER.** A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

**SUPERINTENDENT.** The Engineer.

**SUSPENDED SOLIDS.** Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as nonfilterable residue.

**UNPOLLUTED WATER.** Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

**WASTEWATER.** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

**WASTEWATER FACILITIES.** The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

**WASTEWATER TREATMENT WORKS.** An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with **WASTE TREATMENT PLANT**, or **WASTEWATER TREATMENT PLANT** or **WATER POLLUTION CONTROL PLANT**.

**WATERCOURSE.** A natural or artificial channel for the passage of water either continuously or intermittently.

(Prior Code, § 50.01)

## **§ 50.02 POWERS AND AUTHORITY OF INSPECTORS.**

(A) The Engineer and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the wastewater collection system in accordance with the provisions of this chapter.

(B) The Engineer or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(C) While performing the necessary work on private properties referred to in division (A) above, the Engineer or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury, or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.11 of this code.

(D) The Engineer and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Prior Code, § 50.02)

## **§ 50.03 TAMPERING WITH OR DAMAGING WASTEWATER FACILITIES.**

No person shall intentionally or wantonly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under a charge of criminal mischief.

(Prior Code, § 50.03) Penalty, see § 50.99

### **Statutory reference:**

*Criminal mischief, see KRS 512.020 through 512.040*

## **§ 50.04 CONNECTION TO WATER LINES.**

All owners of houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or any other habitable building of any kind situated on lots abutting any street, alley or easement, in which there is hereafter installed a water line which is part of the combined and consolidated municipal waterworks and sewer system of the city shall, within 90 days from the date the water line is installed and placed in operation, connect to the water line.

(Prior Code, § 50.04) Penalty, see § 50.99

## **§ 50.05 UTILITY WORK ON CITY PROPERTY.**

Firms or persons who have contracts with the city for the installation, inspection or repair of water mains, sewer mains or other utility services are granted the authority to use city streets and alleys and other public properties as required under the supervision of the Director of Public Works.

(Prior Code, § 50.05)

## **RATES AND CHARGES**

**§ 50.20 WATER AND SEWER TAP-IN CHARGES.**

(A) The tapping fee for residential and small business users where water service is available from a main water line within 50 feet of the premises will be \$500, which will include the installation of a line to the edge of the premises and the installation of a meter box and meter.

(B) The tap in and meter charges shall be as follows:

<i>Tap-in Charge</i>	<i>Rate</i>
Water tap:	
5/8-inch by 3/4-inch meter	\$650
1 inch by 1 inch meter	\$850
2 inch by 2 inch meter	To be charged at actual material and labor cost
Additional time plus material per service if road crossing is required	

(C) The tapping fees for the installation of a sewer service on an existing main sewer line within 50 feet of the premises shall be \$1,000.

(D) The charge for water or sewer service for any distance greater than 50 feet from a main will require the payments listed in divisions (A), (B) and (C) above plus the cost of materials and labor for the distance beyond 50 feet, plus 10% of such additional cost for administration thereof.

(E) The charges for the installation of sewer service on an existing line for a six-inch pipe will be \$750 plus the cost of labor and materials to install the tap and the installation will be a maximum of 50 feet from the main or the property line, whichever is less. The city will be responsible for all taps into the sewer main. In the event that the tap-in fee is not paid, then the city will not furnish water to the consumer until it is paid. In the event that the consumer has not paid a tap-in fee and is using water, the city shall shut off the water to the consumer until the tap-in fee is paid.

(Prior Code, § 50.40) (Ord. 2018-08 passed 7-9-2018; Ord. 2018-09, passed 7-9-2018) Penalty, see § 50.99

**§ 50.21 MONTHLY WATER/SEWER/GARBAGE RATES.**

The rates and charges for water services furnished by the city's water system are hereby revised as follows.

(A) *Minimum water rate.* There shall be a minimum usage charge of 2,500 gallons of water in each month for all years mentioned herein.

(B) *Additional water rates.* The rates for water, sewer and garbage collection services to be furnished by the city, both inside and outside the city, are set forth in the current schedule of rates approved by Council by ordinance. Current rates are on file with the Clerk/Treasurer and are available for public inspection.

(Prior Code, § 50.41) (Ord. 2015-02, passed - -)

**§ 50.22 RATES EFFECTIVE WHEN SEWER LINES AVAILABLE.**

(A) All owners and occupants of premises where sewers are made available shall, within 90 days from the date a sewer line is installed and placed in operation, connect thereto all sanitary sewer drain pipes of the premises.

(B) The rates and charges for the services rendered by or the availability of the sewer services of the combined municipal water and sewer system shall become effective as to all premises where new sewer lines are made available upon the date of actual connection thereto or 90 days after a representative of the city gives notice to the owner or occupant of the premises that sewer service has been made available, whichever date is the earlier.

(Prior Code, § 50.42) Penalty, see § 50.99

**§ 50.23 PRORATION OF CHARGES.**

As soon as sewer service is furnished to any user, the charges shall be collected, and if the service is for less than a whole month, the sewer service shall be billed on a pro rata basis by considering that the water used by the user was the same proportion of the total water used for the particular month as the number of days he or she had sewer service bore to the total number of days in the month.

(Prior Code, § 50.43) Penalty, see § 50.99

**§ 50.24 ALL CUSTOMERS METERED; WATER METER DEPOSIT.**

(A) *Meters required.*

(1) No free service shall be allowed or permitted from the facilities of the combined municipal water and sewer system of the city. No connections to the water system shall be permitted or made except on a fully metered basis. Each and every

user of water service shall have a separate meter, except that more than one user in the same building may be on the same meter.

(2) In the event a lot, parcel of land, building or premises discharging water or other liquid wastes uses water supplied on other than a metered basis from either a private or a public water supply, then in each case the owner or occupant may be required to cause a water meter or other measuring device to be installed, acceptable to the City Council, and the quantity of water used as measured by the meter shall determine the sewer rate, rental or charge and pending installation of the meter or measuring device, rates, rentals and charges shall be based upon an estimated quantity of water used.

(3) All water customers in the city shall pay a monthly water meter rental fee. The fee will be determined by the size of the meter that each customer is using. Meter rental fees will be billed on the customer's monthly water bill and shall be as follows.

<i>Tap/Meter Size</i>	<i>Rental Fee</i>
5/8-inch by 3/4-inch meter	\$3/month
1 inch by 1 inch meter	\$5/month
2 inch by 2 inch meter	\$10/month

(B) *Water meter deposits.*

- (1) The deposit for property owners shall be \$50.
- (2) The deposit for persons renting any property shall be \$125.

(3) The deposit for a person buying property will be returned in one year; if renting any property, the deposit shall be kept until that person has moved from that property.

(Prior Code, § 50.44) (Ord. 2018-11, passed 8-13-2018)

**§ 50.25 METER READING AND BILLING PROCEDURE.**

The meters for water service shall be read as soon as is reasonably possible after the middle of each month, and all bills for water and sewer service shall be rendered on or about the first of the following month. If any bill for water and sewer service is not paid by the tenth of the following month, a 3% penalty shall be added to the entire amount of the bill. If any bill is not paid by the fifteenth of the following month, the water service of the customer in default shall be discontinued in accordance with § 50.27 of this code and shall not be reinstated until payment has been made in accordance with § 50.26 of this code. If water customers are disconnected from service due to nonpayment of water bill, to reconnect to water service they are to pay a fee as shown in the following table. After the customers have paid the service fee and the past due water charges, the city will then restore water service.

First delinquent billing cycle	\$40
Second consecutive delinquent billing cycle	\$50
Third consecutive delinquent billing cycle	\$75
Every consecutive delinquent billing cycle thereafter	\$100

(Prior Code, § 50.45) (Ord. 2018-10, passed 8-13-2018) Penalty, see § 50.99

**§ 50.26 JOINT WATER/SEWER/GARBAGE BILLING.**

Bills for water, sewer and garbage collection service shall be billed, collected and enforced together, so that when any bill has remained unpaid and becomes delinquent the water service to the delinquent premises will be discontinued in accordance with § 50.27 of this code and will not be reinstated until the entire bill is paid in full. Payment for water service on any bill will not be acceptable without payment for sewer and garbage collection service, except to the extent that the payment shall be deducted from the sum due and owing for the combined water, sewer and garbage collection services, but in no event shall water service be restored until the entire bill has been paid.

(Prior Code, § 50.46) Penalty, see § 50.99

**§ 50.27 DISCONNECTION; BILL PROTEST PROCEDURE.**

The city shall disconnect utility service only in accord with the following policies.

(A) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit required has been made. It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily



readable provisions to the effect:

(1) All bills are due and payable on or before the date set forth on the bill;

(2) If any bill is not paid by or before that date, a delinquent notice will be delivered containing a statement that if the bill is not paid on or before the date set forth in the delinquent notice, service will be discontinued for nonpayment; and

(3) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified.

(Prior Code, § 50.47)

#### **§ 50.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 50.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 51: SEWERS**

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### Section

- 51.01 Unlawful deposits
- 51.02 Discharges to natural outlets
- 51.03 Privies, septic tanks and cesspools; connection with public sewer
- 51.04 Private wastewater disposal regulations
- 51.05 Building sewer permits and specifications
- 51.06 Discharge of storm or surface waters
- 51.07 Prohibited discharges
- 51.08 Engineer's authority as to dangerous discharges
- 51.09 Grease, oil and sand interceptors
- 51.10 Maintenance of preliminary treatment facilities
- 51.11 Observation structures
- 51.12 User required to provide information
- 51.13 Measurements, tests and analyses
- 51.14 Special agreements
- 51.15 House sewer connections; specifications

- 51.99 Penalty

#### **§ 51.01 UNLAWFUL DEPOSITS.**

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(Prior Code, § 50.15) Penalty, see § 51.99

## **§ 51.02 DISCHARGES TO NATURAL OUTLETS.**

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Prior Code, § 50.16) Penalty, see § 51.99

## **§ 51.03 PRIVIES, SEPTIC TANKS AND CESSPOOLS; CONNECTION WITH PUBLIC SEWER.**

(A) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(B) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that the public sewer is within 100 feet (30 and one-half meters) of the property line.

(Prior Code, § 50.17) Penalty, see § 51.99

## **§ 51.04 PRIVATE WASTEWATER DISPOSAL REGULATIONS.**

(A) Where a public sanitary or combined sewer is not available under the provisions of §51.03 of this code, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Engineer. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Engineer. A permit and inspection fee of \$50 shall be paid to the city at the time the application is filed.

(C) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Engineer. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Engineer when the work is ready for final inspection before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Engineer.

(D) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health of the commonwealth. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 9,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in division (D) above, a direct connection shall be made to the public sewer within 90 days in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be abandoned and filled with suitable material.

(F) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

(Prior Code, § 50.18) Penalty, see § 51.99

### **Cross-reference:**

*Water and sewer tap-in charges, see § 50.20*

## **§ 51.05 BUILDING SEWER PERMITS AND SPECIFICATIONS.**

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Engineer.

(B) There shall be two classes of building sewer permits, for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Engineer. A permit and inspection fee of \$50 for a residential or commercial building sewer permit and \$50 for an industrial building sewer permit shall be paid to the city at the time the application is filed.

(C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.

(E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Engineer, to meet all requirements of this chapter.

(F) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. *Manual of Practice No. 9* shall apply.

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

(H) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless the connection is approved by the Engineer for purposes of disposal of polluted surface drainage.

(I) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. *Manual of Practice No. 9*. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Engineer before installation.

(J) The applicant for the building sewer permit shall notify the Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Engineer or his or her representative.

(K) (1) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(2) Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Prior Code, § 50.19) Penalty, see § 51.99

**Cross-reference:**

*Water and sewer tap-in charges, see § 50.20*

**§ 51.06 DISCHARGE OF STORM OR SURFACE WATERS.**

(A) No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof run-off, subsurface drainage or cooling water to any sewer, except stormwater run-off from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Engineer.

(B) (1) Stormwater other than that exempted under division (A) above, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Engineer and other regulatory agencies.

(2) Unpolluted industrial cooling water or process waters may be discharged, on approval of the Engineer, to a storm sewer, combined sewer or natural outlet.

(Prior Code, § 50.20) Penalty, see § 51.99

**§ 51.07 PROHIBITED DISCHARGES.**

(A) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works; and

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and

fleshings, entrails, offal, paper dishes, cups, milk containers and the like either whole or ground by garbage grinders.

(B) The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Engineer may set limitations lower than the limitations established in the regulations below if in his or her opinion more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Engineer will give consideration to the factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Engineer are as follows:

- (1) Wastewater having a temperature higher than 150°F (65°C);
- (2) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or product of mineral oil origin;
- (3) Wastewater from industrial plants containing floatable oils, fat or grease;
- (4) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Engineer for the materials;
- (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Engineer;
- (7) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the Engineer in compliance with applicable state or federal regulations;
- (8) Quantities of flow, concentrations or both which constitute a "slug" as defined in §50.01 of this code;
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet requirements of other agencies having jurisdiction over discharge to the receiving waters; and
- (10) Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

(Prior Code, § 50.21) Penalty, see § 51.99

#### **§ 51.08 ENGINEER'S AUTHORITY AS TO DANGEROUS DISCHARGES.**

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 51.07(B) of this code, and which in the judgment of the Engineer, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or public nuisance, the Engineer may do the following:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 51.14 of this code.

(B) When considering the above alternatives, the Engineer shall give consideration to the economic impact of each alternative on the discharger. If the Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Engineer.

(Prior Code, § 50.22) Penalty, see § 51.99

#### **§ 51.09 GREASE, OIL AND SAND INTERCEPTORS.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Engineer, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 51.07(B)(3) of this code, or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Engineer and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of

the dates and means of disposal which are subject to review by the Engineer. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

(Prior Code, § 50.23) Penalty, see § 51.99

#### **§ 51.10 MAINTENANCE OF PRELIMINARY TREATMENT FACILITIES.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(Prior Code, § 50.24) Penalty, see § 51.99

#### **§ 51.11 OBSERVATION STRUCTURES.**

When required by the Engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The structure, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Engineer. The structure shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(Prior Code, § 50.25) Penalty, see § 51.99

#### **§ 51.12 USER REQUIRED TO PROVIDE INFORMATION.**

(A) The Engineer may require a user of sewer services to provide information needed to determine compliance with this chapter.

(B) These requirements may include:

- (1) Wastewaters discharge peak rate and volume over a specified time period;
- (2) Chemical analyses of wastewaters;
- (3) Information on raw materials, processes and products affecting wastewater volume and quality;
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
- (6) Details of wastewater pretreatment facilities; and/or
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

(Prior Code, § 50.26)

#### **§ 51.13 MEASUREMENTS, TESTS AND ANALYSES.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis subject to approval by the Engineer.

(Prior Code, § 50.27)

#### **§ 51.14 SPECIAL AGREEMENTS.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

(Prior Code, § 50.28)

#### **§ 51.15 HOUSE SEWER CONNECTIONS; SPECIFICATIONS.**

(A) All house sewer connections must be constructed of either cast iron, soil pipe or wedge lock.

(B) The final connection between the house drain and the house sewer and all joints in the house sewer, other than cast iron pipe with lead joints, wedge lock starting at the main sewer tap and connecting to the house drain shall be hot poured with bell and spigot ends.

(C) All piping with preformed joints shall be wiped clean of foreign matter and coated with an approved material before being joined. All hot poured joints shall be firmly packed with dry jute and poured with GK or JG-60 compound.

(D) Joints made with cement or cold mastic material shall not be accepted.

(E) The house sewer and all branches shall be laid to a uniform grade and alignment and of a grade of not less than one-eighths-inch per foot or more than one-quarter-inch per foot.

(F) An approved adopter fitting or reducer shall be used when the house sewer is of a different material or size than the main sewer.

(G) The house sewer must be left open in its entirety for inspection, including the piping to the trunk sewer. If any house sewer or parts thereof is covered prior to inspection, it will be necessary that it be uncovered before it is accepted and approved.

(H) A plumbing permit must be secured from the Plumbing Inspector located at Hardin County Planning, 14 Public Square, Third Floor, Elizabethtown, Kentucky 42701 on Thursdays between the hours of 1:00 p.m. and 2:00 p.m.

(I) Any person who refuses to uncover a house sewer for inspection will be violating the Standard Plumbing Code, PC-11-3 and the regulation of the county's Health Department.

(Prior Code, § 50.29) Penalty, see § 51.99

#### **§ 51.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 50.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 52: WATER**

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Section

### ***Water Shortage Response***

- 52.01 Purpose
- 52.02 Definitions
- 52.03 Declaration of water shortage advisory
- 52.04 Declaration of water shortage alert
- 52.05 Declaration of water shortage emergency
- 52.06 Shortage water rates
- 52.07 Regulations
- 52.08 Violations
  
- 52.99 Penalty

### ***WATER SHORTAGE RESPONSE***

#### **§ 52.01 PURPOSE.**

The purpose of this subchapter is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout the city in the event a shortage is declared. Nothing in this subchapter shall be construed to interfere with common law riparian or statutory water rights.

(Prior Code, § 50.60)

#### **§ 52.02 DEFINITIONS.**

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

**CUSTOMER.** Any person using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of delivery.

**OTHER SOURCES OF WATER.** Water that has not been introduced by the city into its water distribution system.

**RAW WATER SUPPLIES.** All water potentially available to persons in the city.

**TREATED WATER.** Water that has been introduced by the city into its water distribution system, including water offered



for sale. Uses of treated water are classified in the following definition.

**USE CLASSIFICATIONS.**

(1) **ESSENTIAL WATER USES (CLASS I).** The following uses of water, listed by site or user type, are essential:

- (a) *Domestic.* Water necessary to sustain human life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation;
- (b) *Health care facilities.* Patient care and rehabilitation;
- (c) *Water hauling.* Sales for domestic use where not reasonably available elsewhere.;
- (d) *Public use.*
  - 1. Firefighting; and
  - 2. Health and public protection purposes, as specifically approved by health officials and the municipal governing body.

(2) **SOCIALLY OR ECONOMICALLY IMPORTANT USES OF WATER (CLASS II).** The following uses of water, listed by site or user type, are socially or economically important:

- (a) *Domestic.* Personal, in-house water use including kitchen, bathroom and laundry;
- (b) *Water hauling.* Non-domestic, when other sources are not reasonably available elsewhere;
- (c) *Commercial and civic use.*
  - 1. Commercial car and truck washes;
  - 2. Laundromats;
  - 3. Restaurants, clubs and eating places; and
  - 4. Schools, churches, motels/hotels and similar commercial establishments.
- (d) *Outdoor non-commercial watering.*
  - 1. Minimal watering of vegetable gardens; and
  - 2. Minimal watering of trees where necessary for their survival.
- (e) *Outdoor commercial or public watering (using conservation methods and when other sources of water are not available or feasible to use).*
  - 1. Agricultural irrigation for the production of food and fiber or the maintenance of livestock;
  - 2. Watering by arboretums and public gardens of national, state, regional or community significance where necessary to preserve specimens, watering by commercial nurseries where necessary to maintain stock;
  - 3. Watering where necessary to establish or maintain revegetation or landscape plantings required pursuant to law or regulation;
  - 4. Watering of woody plants where necessary to preserve them; and
  - 5. Minimal watering of golf course greens.
- (f) *Recreational.* Operation of municipal swimming pools and residential pools that serve more than 25 dwelling units; and
- (g) *Air conditioning.*
  - 1. Refilling for startup at the beginning of the cooling season;
  - 2. Makeup of water during the cooling season; and
  - 3. Refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair services.

(3) **NON-ESSENTIAL (CLASS III).** Any wastewater, as defined herein, is non-essential. The following uses of water, listed by site or user type, are also non-essential:

- (a) Public use:
  - 1. Use of fire hydrants (excluding Class I and Class II uses), including use of sprinkler caps, testing fire apparatus and fire department drills; and
  - 2. Flushing of sewers and hydrants except as needed to ensure public health and safety as approved by health

officials and the municipal governing body.

(b) Commercial and civic use:

1. Serving water in restaurants, clubs or eating places, except by customer request;
2. Failure to repair a controllable leak; and
3. Increasing water levels in scenic and recreational ponds and lakes, except as necessary to support fish and wildlife.

(c) Ornamental purposes: Fountains, reflecting pools and artificial waterfalls;

(d) Outdoor non-commercial watering:

1. Use of water for dirt control or compaction;
2. Watering of annual or non-woody plants other than vegetable gardens;
3. Watering of lawns, parks, golf course fairways, playing fields and other recreational areas;
4. Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surface areas;
5. Washing down buildings or structures for purposes other than immediate fire protection; and
6. Flushing gutters or permitting water to run or accumulate in any gutter or street.

(e) Outdoor commercial or public watering:

1. Expanding nursery facilities, placing new irrigated agricultural land in production or planting of landscaping except when required by a site design review process;
2. Use of water for dirt control or compaction;
3. Watering of lawns, parks, golf course fairways, playing fields and other recreational areas;
4. Washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surface areas;
5. Washing down buildings or structures for purposes other than immediate fire protection; and
6. Flushing gutters or permitting water to run or accumulate in any gutter or street.

(f) Recreational uses other than those specified as Class II;

(g) Non-commercial washing of motor and other vehicles; and

(h) Air conditioning (see also Class II purposes): Refilling cooling towers after draining.

**WASTE OF WATER.** Includes, but is not limited to:

- (1) Permitting water to escape down a gutter, ditch or other surface drain; or
- (2) Failure to repair a controllable leak of water due to defective plumbing.

**WATER SHORTAGE RESPONSE PHASES.**

(1) **ADVISORY.** Conditions exist which indicate the potential for serious water supply shortages.

(2) **ALERT.** Raw water supplies are consistently below seasonal averages, and if they continue to decline, may not be adequate to meet normal needs.

(3) **EMERGENCY.** Water supplies are below the level necessary to meet normal needs and serious shortages exist in the area.

(Prior Code, § 50.61)

**§ 52.03 DECLARATION OF WATER SHORTAGE ADVISORY.**

Whenever the governing body of the city finds that a potential shortage of raw water supplies is indicated, it shall be empowered to declare by resolution that a water shortage advisory exists, and that the Water Superintendent shall, on a daily basis, monitor the supply and demands upon that supply. In addition, the Mayor is authorized to call upon all water customers to employ voluntary water conservation measures to limit non-essential (Class III) water use and eliminate the waste of water. This resolution shall be published in the official city newspaper and may be publicized through the general news media or any other appropriate method for making the resolutions public.

(Prior Code, § 50.62)

**§ 52.04 DECLARATION OF WATER SHORTAGE ALERT.**

Whenever the governing body of the city finds raw water supplies to be consistently below seasonal averages, and if they continue to decline and may not be adequate to meet normal needs, it shall continue to encourage voluntary water

conservation measures defined under the advisory declaration, and further shall impose a ban on all non-essential (Class III) water uses for the duration of the shortage until it is declared to have ended by resolution of the governing body. Declaration of these resolutions shall follow the guidelines in § 52.03 of this code.

(Prior Code, § 50.63)

#### **§ 52.05 DECLARATION OF WATER SHORTAGE EMERGENCY.**

(A) Whenever the governing body of the city finds that raw water supplies are below the level necessary to meet normal needs and that serious shortages exist, it shall be empowered to declare by resolution that a water shortage emergency exists.

(B) Essential uses (Class I) shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all socially or economically important uses (Class II) shall be restricted, and non-essential uses (Class III) shall be banned.

(C) These restrictions shall be considered ongoing until the emergency is ended by resolution of the governing body.

(D) Declaration of these resolutions shall follow the guidelines in §52.03 of this code.

(Prior Code, § 50.64)

#### **§ 52.06 SHORTAGE WATER RATES.**

(A) Upon the declaration of a water shortage as provided in §§52.03 through 52.05 of this code, the City Council shall have the power to adopt shortage water rates, by ordinance, designed to conserve water supplies.

(B) The rates may provide for, but not be limited to:

- (1) Higher charges per unit for increasing usage (increasing block rates);
- (2) Uniform charges for water usage per unit of use (uniform unit rate);
- (3) Extra charges for use in excess of a specified level (excess demand surcharge); or
- (4) Discounts for conserving water beyond specified levels.

(Prior Code, § 50.65)

#### **§ 52.07 REGULATIONS.**

During the effective period of any water supply shortage as provided for in §§52.03 through 52.05 of this code, the Mayor or Water Superintendent is empowered to promulgate such regulations as may be necessary to carry out the provisions of this subchapter, any water supply shortage resolution or water shortage rate ordinance. The regulations shall be subject to the approval of the governing body at its next regular or emergency meeting.

(Prior Code, § 50.66)

#### **§ 52.08 VIOLATIONS.**

Any person who violates the provisions of this subchapter, who fails to carry out the duties and responsibilities imposed by this subchapter, or who impedes or interferes with any action undertaken or ordered pursuant to this subchapter shall be subject to the following penalties.

(A) If the Mayor, City Manager, Water Superintendent or other city official or officials charged with implementation and enforcement of this subchapter of a water supply shortage resolution learns of any violation of any water use restriction imposed pursuant to this subchapter, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the city who is responsible for the violation or its correction. The notice shall describe the violation and order that it be corrected, cured or abated immediately or within the specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures.

(1) The city shall give the customer notice by mail that, due to the violation, water services will be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the city governing body or a city official designated as a hearing officer by the governing body.

(2) If a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered.

(3) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(B) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to division (A) above. In the event of subsequent violations, the reconnection fee shall be \$200 for the second violation and \$300 for each additional violation.

(C) Any customer may also be charged with violation of this subchapter and prosecuted in district court, and fined in an amount as set forth in § 52.99 of this code.

(Prior Code, § 50.67) Penalty, see § 52.99

### § 52.99 PENALTY.

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this subchapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 50.99) (Ord. 2007-12, passed 11-15-2007)

## CHAPTER 53: GARBAGE

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### Section

- 53.01 Definitions
- 53.02 Uncovered garbage
- 53.03 Deposit on the streets
- 53.04 Disposal of trash
- 53.05 Burning of trash
- 53.06 Containers: specifications; placement
- 53.07 Responsibility for containers
- 53.08 Garbage collection fees
- 53.09 Adopt the county's solid waste management plan
  
- 53.99 Penalty

### **Cross-reference:**

*Certain conditions declared a nuisance, see §96.02*

*Littering, see Chapter 94*

### § 53.01 DEFINITIONS.

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

**GARBAGE.** Wastes resulting from the handling, preparation, cooking and consumption of foods, wastes from the handling, storage and sale of produce.

### **REFUSE.**

- (1) Combustible trash, including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding;
- (2) Noncombustible trash, including, but not limited to metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery and other mineral waste;
- (3) Street rubbish, including, but not limited to street sweepings, dirt, leaves, catch-basin dirt and contents of litter receptacles; and
- (4) Refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations, such as boiler-house cinders, lumber, scraps and shavings.

(Prior Code, § 51.01) Penalty, see § 53.99

### § 53.02 UNCOVERED GARBAGE.

- (A) It shall be unlawful for any person to place or permit to remain anywhere in the city any garbage or other material, subject to decay, other than grass or leaves, except in a tightly covered metal or plastic container.
- (B) It shall be unlawful for any person to cause or permit to accumulate any refuse that can be blown away by the wind anywhere in the city, except in a covered container.

(Prior Code, § 51.02) Penalty, see § 53.99

### **§ 53.03 DEPOSIT ON THE STREETS.**

It shall be unlawful for any person to deposit or permit to fall from any vehicle any garbage or refuse on any public streets or highways in the city. This section shall not be construed to apply where garbage and refuse has been placed for pickup and disposal in accordance with the provisions of this chapter.

(Prior Code, § 51.03) Penalty, see § 53.99

### **§ 53.04 DISPOSAL OF TRASH.**

(A) Garbage and refuse shall be disposed of by any of the following methods:

- (1) Pickup and collection by sanitation companies authorized by the city;
- (2) Dumping in an approved county sanitation landfill; or
- (3) Burning in accordance with the provisions of this chapter.

(B) It shall be unlawful to dispose of garbage or refuse by dumping same on any premises in the city with or without the consent of the owner of the premises. Garbage and refuse collected by authorized sanitation companies shall not be disposed of within the city.

(C) Garbage or refuse shall be disposed of from all premises within the city once per week.

(Prior Code, § 51.04) Penalty, see § 53.99

### **§ 53.05 BURNING OF TRASH.**

(A) It shall be unlawful to burn garbage anywhere in the city. It shall be unlawful to burn refuse anywhere in the city, except in an approved incinerator. An approved incinerator is defined as follows.

(1) Any incinerator with a capacity of more than two bushels shall be constructed to comply with the requirements of the state's Air Pollution Commission.

(2) Any incinerator with a capacity of two bushels or less shall meet the requirements of the state's standards of safety and be approved by the Fire Chief.

(B) Leaves may be burned outside an approved incinerator if properly piled at least 50 feet from any structure and if the fire is attended at all times by an adult.

(Prior Code, § 51.05) Penalty, see § 53.99

### **§ 53.06 CONTAINERS: SPECIFICATIONS; PLACEMENT.**

(A) All garbage, refuse and ashes awaiting disposal shall be placed in metal or plastic containers equipped with a tight cover, or containers such as plastic bags, which must be closed at the top and secured to prevent animal pilferage of garbage. Clean up is the responsibility of the property owner and persons occupying premises. Any container that is not a commercial dumpster used by a sanitation company shall be equipped with handles so that it may be carried by one man, and shall have a capacity of not less than ten gallons or more than 30 gallons. While storing garbage or refuse, the container shall be kept completely closed at all times.

(B) No person shall permit his or her containers to sit upon any public right-of-way unless placed there for pickup and disposal, and then shall be placed there only on the day of collection and prior to such collection. All containers shall be placed near a public road, street or at a place convenient to be picked up for disposal purposes. All containers must be removed from street site within 12 hours after collection.

(C) All dumpsters for waste disposal (other than those for temporary uses) shall be adequately screened from street view and living unit view and be fully accessible for garbage collection. Such screen shall be pleasing in design and of a substantial material, easily maintainable and sufficient to block the view from the street and living units.

(Prior Code, § 51.06) (Ord. 2018-16, passed 11-12-2018) Penalty, see § 53.99

### **§ 53.07 RESPONSIBILITY FOR CONTAINERS.**

All individuals having the use of or placing garbage or refuse in garbage containers shall be responsible for their own garbage containers, regardless of whether the persons are the owners of the premises or the owners of the garbage containers. It shall be the responsibility of each person who rents any premises to comply with the provisions of this chapter and the owner of any premises shall not be responsible for the acts of any renter as far as the accumulation, transmission and disposal of, garbage and refuse. It shall be the responsibility of the owner of the premises to mark all garbage containers in a manner so as to identify which garbage containers are to be used for each unit of the premises.

(Prior Code, § 51.07) Penalty, see § 53.99

### **§ 53.08 GARBAGE COLLECTION FEES.**

(A) Garbage collection fees are on file at the city hall.

(B) The fees charged for garbage collection shall be included on the monthly water and sewer bills (see § 50.21 of this code) and collected in the same manner as the water and sewer bills.

(Prior Code, § 51.08) Penalty, see § 53.99

**Cross-reference:**

*Water and sewer billing procedure, see § 50.25*

**§ 53.09 ADOPT THE COUNTY'S SOLID WASTE MANAGEMENT PLAN.**

The city hereby adopts the Hardin County Solid Waste Management Plan 2018-2022 Update and supports its action plan, implementation plan and associated activities.

(Res. 2017-05, passed - -)

**§ 53.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 50.99) (Ord. 2007-12, passed 11-15-2007)

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## **CHAPTER 54: STORMWATER MANAGEMENT**

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Section

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***STORMWATER UTILITY***

**§ 54.01 DEFINITIONS.**

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



**ACTIVE WATER SERVICE ACCOUNT.** An account with or without water meter that is current with a service contract.

**CHARGES.** The amounts in money due and payable for gas, water, sewer and stormwater service rendered to customers of the city's municipal utilities in the ordinary and regular course of business according to the rates fixed by the appropriate ordinances.

**EQUIVALENT RATE UNITS (ERU).** The basic unit for the computation of stormwater service fee. All single-family dwelling units are considered one *ERU* regardless of the actual lot or structure size and are considered to have an average impervious area of 3,000 square feet. Nonresidential/commercial property shall be determined by square footage of impervious surface and by the city and the administrative, technical and operational personnel thereof and its designated agents or assigns.

**IMPERVIOUS AREA.** The horizontal-projected plane of roof, paved areas and other impervious surfaces, but does not include non-permanent structures such as temporary buildings and tents. Also excluded are: All lawns; landscape areas; gardens or farming areas; swimming pools, ponds and lakes; and stormwater retention and detention basins.

**MULTI-FAMILY RESIDENTIAL PROPERTIES.** All duplex, tri-plex, four-plex, condominium, mobile home parks, apartments and other properties containing more than one dwelling unit but less than five dwelling units. Any residential units consisting of five or more units shall be considered commercial property. Also included are residential unit(s) in a multi-occupancy building of a predominately nonresidential/commercial nature, such as multi-story building with retail, office and residential uses. Common areas associated with such properties shall be included in the charge to the multi-family units on said properties.

**NONRESIDENTIAL/COMMERCIAL PROPERTY.** All property zoned or used for commercial, industrial, retail, governmental or other nonresidential purposes and shall include all developed real property in the city service area not classified as single-family or multi-family as defined in this section.

**PUBLIC ENTITY.** Any federal, state or local government agency and any instrumentality of such agency created by state or local statute, executive order, ordinance, resolution or other legislative act, to perform a purely public purpose.

**SINGLE-FAMILY PROPERTY.** All single-family detached housing units. Attached single-family dwellings served by individual water meters shall also be considered under this category. All other residential developments shall be classified as multi-family.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.02 STORMWATER FEES.**

(A) All properties of record with an active water service account within the city shall pay a monthly stormwater fee based on the contribution to stormwater runoff which shall be based on the impervious areas of the properties. Impervious areas shall be expressed in equivalent rate units.

(B) Each dwelling unit on single-family property shall be considered one ERU for billing purposes.

(C) The monthly stormwater fee for all multi-family properties shall be as follows:

- (1) Duplex, tri-plex or four-plex units: One ERU per dwelling unit;
- (2) Condominium units: One ERU per dwelling unit;
- (3) Apartments: One-half ERU per dwelling unit; and
- (4) Mobile homes: One-half ERU per lot space.

(D) The monthly stormwater fee for all nonresidential/commercial property shall be determined by measuring the total square footage of all impervious surface area as follows.

- (1) The total impervious area shall be divided by 3,000 square feet to determine the equivalent rate unit.
- (2) Impervious area determinations shall be rounded to the nearest whole number ERU.

(3) A fee of \$1.50 per ERU will be charged for the first 60,000 square feet of each property and \$1 per ERU for all impervious area over 60,000 square feet.

(E) The stormwater fee shall be \$1.50 per ERU.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.03 PUBLIC PROPERTY EXEMPTION.**

All publicly owned paved streets, roadways and sidewalks shall not be subject to any stormwater fee.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.04 BILLING.**

(A) In the event a property shall not have utility service but is deemed to be contributing runoff to the city's stormwater

management system, a new account shall be developed and that property shall be billed for the stormwater fees.

(B) For new developments, and/or as other special circumstances may require, all nonresidential/commercial properties for which the actual impervious areas have not been determined shall pay a minimum monthly fee based on one ERU until the actual impervious areas are determined.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.05 STORMWATER MANAGEMENT FUND.**

(A) All fees collected pursuant to this subchapter shall be used exclusively by the city for the purpose of paying for all components and activities of the stormwater management and water quality program.

(B) Expenditures for purposes that are not related to the city's management program shall not be permitted except as authorized by the city.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.06 REDUCTION OF IMPACT CREDITS.**

(A) A 20% reduction shall be applied for developments that design detention or retention basins for a 50-year, 24-hour duration rain fall event.

(B) A 30% reduction shall be applied for developments that design detention or retain basins for a 100-year, 24-hour duration rain fall event.

(C) Developments that have provided detention or retention basins since July 1, 1999, and were approved by the city shall receive a 20% reduction.

(D) Public entities that have constructed stormwater detention or retention structures shall receive a 100% credit for the development in the year constructed. The credit can carry forward for a period of two years if it exceeds the annual stormwater utility fee.

(Ord. 2011-04, passed 9-12-2011)

#### **§ 54.07 APPEALS.**

(A) Any customer or property owner who believes that the stormwater fee for his or her property has been assigned or computed incorrectly may petition in writing to the city for a review of said charges.

(B) (1) The city shall be responsible for establishing an appeal process to review and adjudicate appeals.

(2) Any credits authorized by the appeal process shall only be effective against billings subsequent to the date of authorization.

(Ord. 2011-04, passed 9-12-2011)

### **STORMWATER MANAGEMENT**

#### **§ 54.20 ADOPTION; FINDINGS OF FACT.**

The City Council hereby adopts, affirms and incorporates by reference as if fully set forth herein, as its "Findings of Fact," the recitals set forth in the ordinance codified herein.

(Ord. 2011-07, passed 10-19-2011)

#### **§ 54.21 DEFINITIONS.**

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

**CSS.** The combined sewer system, or the sewer system that carries a mixture of stormwater and sanitary sewage during and immediately after rain events.

#### **ILLICIT CONNECTIONS.**

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized

enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE.** The act of depositing pollutants into the MS4 and/or the CSS.

**KEPSC.** The Kentucky Erosion Prevention and Sediment Control Program, which is a group consisting of the MS4 communities throughout the commonwealth, created to establish equity throughout the commonwealth in the training and qualification of inspectors and plan preparers.

**KPDES.** The Kentucky Pollutant Discharge Elimination System.

**MCM.** A minimum control measure, which is the least action required to obtain the goals as set forth in the KPDES permit.

**MS4.** The municipal separate storm sewer system, or the conveyance system that carries only stormwater, and not sanitary sewage.

**NOD.** A notice of deficiency, which will be defined as the written notice given to a person or entity by the city upon the first violation of this subchapter. The violator of this subchapter shall be given a set time period to make corrective actions to repair the system.

**NOI.** The notice of intent of a construction project, as defined in the KPDES permit.

**NOT.** The notice of termination of a construction project, as defined in the KPDES permit.

**NOV.** A notice of violation, which will be defined as the subsequent written notices, after the NOD given to a person or entity by the city after repeated violations of this subchapter have occurred. The violator of this subchapter shall be given a reasonable time period to make corrective actions to repair the system prior to stop work orders, fines and/or mandated incarceration.

**PERSON.** Any natural person, or any firm, proprietorship, association, corporation or other public or private organization.

**POLLUTANTS.** Includes paint, oil or any petroleum-based substances, toxic chemicals or hazardous materials and substances, solid or human waste, untreated sewage or any substance, the exposure to which is deemed harmful to humans, animals or the environment under federal or state law.

**PRIVATE STORM SEWER DRAINAGE SYSTEM.** Any manhole, drainage inlet, catch basin, ditch, creek, stream, water course, drainage conduit, sewer, pond, lake, drainage way, retention basin or topographical configuration which acts to channel the course of stormwater flow across privately owned property, or any combination of the above, or all other natural or human-made outlets which empty into any of the above which carry storm and surface water and drainage but does not fall within a dedicated and/or platted right-of-way, drainage easement or utility easement. These systems are not to be maintained by the city.

**PUBLIC STORM SEWER DRAINAGE SYSTEM.** Any approved and dedicated manhole, drainage inlet, public right-of-way, including curb and gutter, catch basin, ditch, creek, stream, water course, drainage conduit, sewer, pond, lake, drainage easement, retention basin or topographical configuration which acts to channel the course of stormwater flow across publicly or privately owned property, or any combination of the above, or all other approved and dedicated natural or human-made outlets which empty into any of the above drainage system which carry storm, surface water and drainage which fall within a dedicated right-of-way, drainage easement or utility easement. These systems are to be maintained by the city.

**QUALIFIED INSPECTOR.** An individual who has successfully completed the KEPSC qualified inspector training program and has scored a passing grade on the exam, or has obtained a similar qualification from a similar accredited program on the state or national level. Other professional registrations or licenses shall not be substituted for this qualification.

**STOP WORK ORDER.** A written notice given to any violator of this subchapter requiring the violator to immediately cease and desist any and all activity on the site the violation occurred, other than any work required to correct and repair the damaged system. No other work can be performed on the site until the stop work order is rescinded.

**SWPPP.** The Stormwater Pollution Prevention Plan of a construction project, as defined in the KPDES permit.

**YARD WASTE.** Includes grass clippings, leaves, limbs, plants, bushes, flowers or shrubs.

(Ord. 2011-07, passed 10-19-2011)

## **§ 54.22 ILLICIT DISCHARGE DETECTION AND ELIMINATION.**

It shall be unlawful for any person to do, or permit, authorize, allow or direct another person to do, or fail to do when required, any of the following:

(A) Deposit any concrete, steel, pollutants, building materials or yard waste of any kind in the guttered curb of any street or alley located within public right-of-way that drains into the MS4 or CSS;

(B) Deposit any solid waste, debris, yard waste, pollutants, wastewater (sewage), concrete, building materials, tires, appliances, animal carcasses or any other substance, material or obstruction of any kind in an open ditch, sewer or stormwater inlet and catch basin or manhole, that is part of or drains into the MS4 or CSS; and/or

(C) Connect to the public storm sewer system with any illicit connection.

(Ord. 2011-07, passed 10-19-2011) Penalty, see § 54.99

#### **§ 54.23 CONSTRUCTION SITE STORMWATER RUNOFF CONTROL.**

It shall be unlawful for any person (owner/contractor/developer) to do, or permit, authorize, allow or direct another person to do or fail to do when required, any of the following:

- (A) Store any building material, construction equipment and/or equipment in any proposed or platted public right-of-way;
- (B) Construct on any lot in the city prior to obtaining a cut and fill permit. In the review of the cut and fill permit, the City Engineer, or his or her designee, shall determine if a NOI/SWPPP is required by the owner/contractor/developer. If required, the NOT shall be submitted to the state's Division of Water (DOW), and a copy of the NOI/SWPPP shall be delivered to the City Engineer's office prior to the start of construction. The amount of time between the submittal of the NOI to the DOW and the allowable start of construction shall be as determined in the current KPDES permit. The erosion control procedures employed in the field shall be those necessary to prevent pollution, as specified in the current KPDES permit, the state's *Erosion Prevention and Sediment Control Field Guide* and the state's best management practices (BMPs) for controlling erosion, sediment and pollutant runoff from construction sites, and shall be maintained and updated as needed. The SWPPP shall be updated as often as necessary in order to accurately portray the erosion control systems in the field at all times. A copy of the NOI/SWPPP shall be kept on the job site and shall be made available to the City Engineer's staff at all times. The NOT shall be submitted to the DOW upon completion of the construction project and final stabilization of the soil has taken place and is functional based on an on-site project closeout meeting with the City Engineer's staff. A copy of the NOT shall also be submitted to the City Engineer's office;
- (C) If the NOI/SWPPP/NOT is deemed required by the City Engineer, it shall be unlawful to operate a construction site without employing a qualified inspector to inspect the entire site and maintain all inspection records as required by the current KPDES permit. All inspection reports shall be kept on site and shall be made available to the City Engineer's representative at all times; and
- (D) If any construction does not require the NOI/SWPPP/NOT, it shall be unlawful to fail to maintain all erosion control devices as per the public improvement specifications. These erosion control devices shall include, but are not limited to rock runouts, sediment transport control devices and all other best management practices as appropriate for the site conditions.

(Ord. 2011-07, passed 10-19-2011) Penalty, see § 54.99

#### **§ 54.24 POST-CONSTRUCTION STORMWATER MANAGEMENT IN NEW DEVELOPMENT, REDEVELOPMENT AND EXISTING SYSTEMS.**

(A) *Depositing of material in public and/or private systems.* It shall be unlawful for any person to do, or permit, authorize or direct another person to do or fail to do when required, any of the following:

- (1) Erect, construct, deposit or plant, any building, outbuilding, shed, fence, playground equipment, concrete, landscape berm, trees, bushes, shrubs, flowers, rocks, dirt or any other substance or structure that covers, alters, obstructs, impairs or encroaches on a public stormwater drainage system;
- (2) Cover, alter, excavate, fill, obstruct, encroach on or deposit any concrete, steel, pollutants, building materials, yard waste or construct ramps of any kind in the guttered curb of any street or alley located within public right-of-way; or
- (3) Cover, alter, excavate, fill, divert, obstruct, impair, encroach on or deposit any solid waste, debris, yard waste, pollutants, wastewater (sewage), concrete, building materials, tires, appliances, animal carcasses or any other substance, material or obstruction of any kind in an open ditch, sewer or stormwater inlet and catch basin, manhole, right-of-way curb and gutter or over, under or across any public storm sewer system.

(B) *Grading/regrading private property.* It shall be unlawful for any person to do, or permit, authorize or direct another person to grade or regrade any private property in such manner as to obstruct, divert or impede the natural flow of surface stormwater across said person's property or adjoining properties.

(C) *Construction of private storm sewer systems.* All private storm sewer systems shall be in place, functioning and certified by a licensed professional engineer prior to the occupation of any property improvements by the owner. It shall be unlawful for any person to refuse to construct any part of a private storm sewer system that has not been approved in advance by the City Engineer on any development or site plan.

(D) *Maintenance of private storm sewer systems.* The owner of the property on which the private storm sewer system, which includes but is not limited to, the conveyance system, detention/retention basins and water quality units, is located, shall, at the written request of the City Engineer, employ a licensed professional engineer to certify that the private storm sewer system is being maintained at the level of service for which it was originally designed. If a determination is made that the property owner is not maintaining the private system at or above the level of service indicated in the original design, a notice of deficiency shall be issued and the standard escalated process of enforcement initiated. It shall be unlawful for any person to refuse to maintain any part of a private storm sewer system that has been approved by the City Engineer as part of any development or site plan. The system shall be maintained at all times to the level of service it was designed for.

(Ord. 2011-07, passed 10-19-2011) Penalty, see § 54.99

#### **§ 54.25 ENFORCEMENT.**

(A) *Public nuisances.* The acts, omissions and conditions prohibited in sections of this subchapter are hereby declared to be public nuisances that are inimical to the health, safety and welfare of the citizens of the city.

(B) *Responsibility of property owner to remove or abate public nuisance.* The owner(s) of property shall be responsible for the removal or abatement, at the property owner's sole expense, of any obstruction, impediment or encroachment under, over or across any public stormwater drainage system on the owner's property, that is prohibited in sections above and in existence at the time of the adoption of this subchapter. It shall be the duty of the Building Inspector, as soon as the Building Inspector ascertains the existence of an unlawful obstruction or encroachment on any public stormwater drainage system, to forthwith notify in person, or in writing by certified mail, return receipt requested as stated below, the record owner of the property on which the public stormwater drainage system is located and/or the holder of the NOI, to remove or abate the unlawful condition, obstruction or encroachment within the time specified in the written notice, except in the case of an emergency approved and declared by the City Manager, in which case the notice given shall be the notice which is reasonable and necessary under the circumstances. Failure of the owner of the property to actually receive the notice required herein shall in no way invalidate the provisions of this subchapter or affect the liability of such owner for the cost of removing or abating the public nuisance found to exist on the owner's property.

(C) *City may abate nuisance; notice of abatement and assessment, lien.* If the property owner fails to remove or abate the nuisance in the manner and according to the specifications directed by the Building Inspector, within the time permitted therefore, the city may proceed to remove or abate the public nuisance. A record of the entire cost associated therewith, including labor and materials, shall be transmitted to the City Engineer who shall, upon approval thereof, assess the cost of the removal or abatement of the public nuisance against the owner(s) of the property improved thereby, by sending the property owner a written "notice of abatement and assessment" directing said property owner(s) to reimburse the city in full for the cost of abatement, within 30 days of receipt thereof. If the property owner or owners fail to comply with the "notice of abatement and assessment" and do not indemnify the city for the cost of removing or abating the public nuisance within the prescribed time period, the city shall have a lien against the property improved thereby for the reasonable value of labor and materials utilized to abate the public nuisance. The lien shall be as follows.

(1) The city shall have a lien against any property or properties finally determined by the Building Inspector to be in violation of this subchapter to secure the payment and recovery of the reasonable value of labor and materials used to abate the violation, including fines, charges, costs, penalties and/or fees, including administrative fees. The lien shall be superior to and have priority over, all other subsequent liens on the property except state, county, school board, city taxes and nuisance abatement liens lawfully imposed under KRS 72.720.

(2) The lien shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the rate of 12% per annum thereafter until paid.

(3) In addition to the remedy prescribed in division (B) above, the person found to have committed the violation shall be personally liable for the amount of all fines, charges, costs, penalties and/or fees, including administrative fees assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of this subchapter. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(4) It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of deficiency, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the requirements listed in the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation issued by the City Engineer and shall furnish to the City Engineer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the necessary corrections and repairs required by such notice of violation.

(Ord. 2011-07, passed 10-19-2011) Penalty, see § 54.99

#### **§ 54.26 NOTIFICATION.**

All notification shall be served in person to the owner(s) of the property according to the records in the office of the property valuation administrator, or in writing by certified mail, return receipt requested.

(A) *Notice of deficiency (NOD).* The Building Inspector's office shall have authority to inspect any site that it deems to be in violation of this subchapter. If any site violates any portion of this subchapter, a written NOD shall be delivered to the violator. The violator shall be given seven calendar days, or as directed by the City Engineer or his or her designee, to correct the deficiency per the details as specified in the NOD.

(B) *Notice of violation level I (NOV I).* The Building Inspector's office shall issue a NOV I to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOD within the time period specified or violates the provisions of this subchapter to an extent the public health and safety is at risk. The violator shall be given three calendar days, or as directed by the Building Inspector or his or her designee, to correct the deficiency per the details as specified in the NOV I.

(C) *Notice of violation level II (NOV II): Stop work order.* The City Engineer's office shall issue a NOV II to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOV I within the time period specified, or violates the provisions of this subchapter to an extent the public health and safety is at risk. The violator shall be given a stop work order. At this point, the violator shall not work on any item on the site other than to take actions necessary to correct the violation. The violator shall be given seven calendar days, or as directed by the City Engineer or his or her designee, to correct the deficiency per the details as specified in the NOV II. If the corrective actions are taken, then the stop work order shall be rescinded, and work can continue on the site.



(D) *Notice of violation level III (NOV III)*. The Building Inspector's office shall issue a NOV III to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOV II within the time period specified, or violates the provisions of this subchapter to an extent the public health and safety is at risk.

(Ord. 2011-07, passed 10-19-2011) Penalty, see § 54.99

#### **§ 54.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) *Criminal penalty*. The owner or holder of any property found to be in violation of any section of §§ 54.20 through 54.26 of this code and upon issuance and receipt of the NOV III, shall be guilty of a Class A misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$500 or by imprisonment for a term not to exceed 12 months, or both. Each day (24-hour period) on which a violation occurs or continues shall constitute a separate offense under §§ 54.20 through 54.26 of this code.

(2) *Civil penalty*. As an alternative to, or in conjunction with the penalty set forth herein, any person found to be in violation of §§ 54.20 through 54.26 of this code, and upon receipt of the NOV III, may also be assessed a civil penalty not to exceed \$1,000, payable to the city, within 20 days of the issuance of the citation. Civil penalties not paid within the time prescribed herein may be recovered by the city in a civil action, in the same manner provided for the collection of a civil debt.

(3) *Legal and equitable remedies*. In addition to the penalties prescribed herein, the city may institute appropriate actions or proceedings at law or equity, including mandatory injunctive relief, to enforce the provisions of §§ 54.20 through 54.26 of this code and/or to correct violations thereof. The conviction and punishment of any person hereunder shall not relieve said person of the responsibility to abate or correct prohibited nuisances, encroachments or conditions or to remove prohibited obstructions, structures, impediments, improvements or any other material or object from any public storm sewer system, nor prevent the enforcement, correction or removal thereof.

(Ord. 2011-07, passed 10-19-2011)

## **TITLE VII: TRAFFIC CODE**

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. PARKING REGULATIONS**
- 73. RECREATIONAL VEHICLES**
- 74. TRAFFIC SCHEDULES**

### **CHAPTER 70: GENERAL PROVISIONS**

Section

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- 70.01 Definitions
- 70.02 Required obedience to traffic directions
- 70.03 Powers and duties of Police Department
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- 70.05 Temporary regulations
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#### ***Traffic-Control Devices***

- 70.20 Signal legends
- 70.21 Establishment and maintenance of traffic-control devices
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#### ***Cross-reference:***

*Parking regulations, see Chapter 72*

*Streets and sidewalks, see Chapter 91*

*Traffic rules, see Chapter 71*

### ***GENERAL PROVISIONS***

#### **§ 70.01 DEFINITIONS.**

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

**AUTHORIZED EMERGENCY VEHICLES.** Vehicles of the Fire Department or Police Department, vehicles of the Commonwealth Attorney's office when on official business and ambulances on an authorized emergency run.

**BOULEVARD.** Any legally designated street at which cross traffic is required to stop before entering or crossing such boulevard.

**BUSINESS DISTRICT.** Any portion of any street between two consecutive intersections in which 50% or more of the frontage on either side of the street is used for business purposes.

**CROSSWALK.** The portion of the roadway included within the extension of the sidewalk across any intersection, and such other portions of the roadway between two intersections, as may be legally designated as crossing places and marked by stanchions, paint lines or otherwise.

**CURB.** The boundary of the portion of the street used for vehicles, whether marked by curbstones or not.

**INTERSECTION.** The part of the public way embraced within the extensions of the street lines of two or more streets which join at an angle whether or not one such street crosses the other.

**OFFICIAL TRAFFIC-CONTROL DEVICES.** All signs, signals, warnings, directions, markings and devices placed or erected or maintained by authority of the Chief of Police.

**ONE-WAY STREET.** A street on which vehicles are permitted to move in one direction only.

**OPERATOR.** Every person who is in actual physical control of the guidance, starting and stopping of a vehicle.

**PARK.** When applied to vehicles, to leave a vehicle standing, whether occupied or not, for a period of time longer than is necessary to receive or discharge passengers or property.

**PEDESTRIAN.** Any person afoot.

**PLAY STREET.** Any street or portion thereof so designated by the Chief of Police and reserved as a play area for children, from which all traffic is barred, except vehicles to and from abutting properties.

**POLICE DEPARTMENT.** The Police Department or other persons or agency authorized to perform the duties of §70.03 of this code or any other acts necessary to implement and enforce this traffic code.

**PUBLIC WAY.** The entire width between property lines of every way, dedicated passway or street set aside for public travel, except bridle paths and foot paths.

**REVERSE TURN.** To turn a vehicle on any street in such a manner as to proceed in the opposite direction.

**RIGHT-OF-WAY.** The privilege of the immediate and preferential use of the street.

**ROADWAY.** The portion of any street, improved, designated or ordinarily used for vehicular travel.

**SIDEWALK.** The portion of the street between the curb and the property line intended for the use of pedestrians.

**STOPPING.** As applied to vehicles, to stop a vehicle longer than is actually necessary to receive or discharge passengers.

**STREET.** Every public way, including alleys.

**TRAFFIC.** Pedestrians, ridden or herded animals, vehicles, buses and other conveyances, individually or collectively, while using any street for the purpose of travel.

**VEHICLE.** Every device in, on or by which any person or property is or may be transported or drawn on any street except devices moved by human power or used exclusively on stationary rails or tracks.

(Prior Code, § 70.01)

#### **§ 70.02 REQUIRED OBEDIENCE TO TRAFFIC DIRECTIONS.**

(A) It shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction given by a uniformed police officer, or to fail or refuse to comply with any of the traffic regulations of this traffic code.

(B) (1) The provisions of this traffic code shall apply to the driver of any vehicle owned or used in the service of the United States Government, the state, county or city.

(2) It shall be unlawful for any driver to violate any of the provisions of this traffic code, except as otherwise permitted in this traffic code or by state statute.

(C) Every person propelling any pushcart or riding a bicycle or an animal on any roadway, every person driving any animal on any roadway and every person driving any animal-drawn vehicle shall be subject to the provisions of this traffic code applicable to the driver of any vehicle, except the provisions of this traffic code which by their very nature can have no application.

(Prior Code, § 70.02) Penalty, see § 70.99

#### **§ 70.03 POWERS AND DUTIES OF POLICE DEPARTMENT.**

It shall be the duty of the Police Department to direct all traffic in conformance with this traffic code and to enforce the traffic regulations as set forth in this traffic code, to make arrest for traffic violations, to investigate accidents and to cooperate with other officers of the city in the administration of the traffic laws, and in developing ways and means to improve traffic conditions.

(Prior Code, § 70.03)

#### **§ 70.04 AUTHORITY FOR ENFORCEMENT.**

Authority to direct and enforce all traffic regulations of this city in accordance with the provisions of this traffic code and to make arrests for traffic violations is given to the Police Department, and, except in case of emergency, it shall be unlawful for any other person to direct or attempt to direct traffic by voice, hand, whistle or any other signal.

(Prior Code, § 70.04) Penalty, see § 70.99

#### **§ 70.05 TEMPORARY REGULATIONS.**

When required for the convenience and safety of the public and to alleviate unusual traffic problems, the Chief of Police or other authorized city official shall, at his or her discretion, have authority to impose traffic regulations as he or she may deem necessary for temporary periods not to exceed two weeks. If these temporary regulations are necessary for a period longer than two weeks, the City Clerk/Treasurer shall be notified in writing of the extended order.

(Prior Code, § 70.05)

#### **§ 70.06 TOWING SERVICES; ROTATION LIST; FEE SCHEDULE.**

(A) (1) The Police Department shall retain a nonexclusive franchise towing service rotation list of not more than four towing services, all of whom first must meet the requirements of this section.

(2) The towing services granted nonexclusive franchises shall be selected by competitive bidding by the City Council on the basis of the amount of the franchise fee offered and the capacity of the bidders to meet the needs of the Police Department and the persons whose vehicles are towed.

(3) When other qualifications are equal, consideration of the amount, variety and quality of equipment will be considered in limiting the nonexclusive franchises to four.

(4) Each franchise shall be awarded by the City Council for five years from the date of issue.

(B) Vacancies in the towing service rotation list may, at the option of the City Council, be filled in the same manner as in division (A) above.

(C) Towing services needed by the Police Department will be called in rotation order, unless in the judgment of officers on the scene for the health and safety of the public, other choices are deemed necessary.

(D) The towing service must comply with all rules and regulations as set forth by the state's Motor Vehicle Enforcement Department.

(E) Each tow is \$125, as set by tow companies. Fees include a \$50 fee for the first day, a \$25 administrative fee, \$25 storage fee and \$25 for each additional day.

(F) Towing services must meet all state insurance requirements and specifically \$100,000 in tow (or hook-on) insurance as required by the state police and garage keeper insurance with a minimum coverage of \$50,000 to protect owners of vehicles in storage.

(G) Tow vehicles must meet the requirements of the state police and failure to maintain towing equipment or provide adequately trained and responsible drivers will be reason for removal from the towing list.

(H) All vehicles towed on orders by the Police Department can be released to the owners only with a signed release form from the city.

(I) Tow trucks must respond to a call site within 20 minutes unless in the opinion of the Police Chief there are extenuating circumstances. Failure to respond within the prescribed time will be reason to remove the towing service from the towing service list.

(J) The chosen tow services shall pay to the city a franchise fee of a minimum of 15% of all fees and charges collected and for all receipts of unclaimed vehicles sold for scrap. The fees are to be paid monthly within ten days after the end of each calendar month to the City Clerk/Treasurer. Late fees will draw a penalty of 2% per each month or portion thereof, compounded monthly, and the offending towing service may be suspended or removed from the list of towing services. Failure to pay fees shall constitute a lien on the property of the towing service.

(K) Towing services removed from the franchise rotation list will still be liable for all fees on vehicles already towed or in storage.

(L) Towing services removed from the list may be reinstated only with the approval of the City Council.

(M) Towing services on the towing services rotation list shall tow city vehicles without charge whenever the need arises within the city and its immediate environs, and, on the request of the Police Department, shall tow impounded vehicles stored outside the county to the city's police station for examination under the county's procedures, and if necessary in the opinion of the Police Chief, returned.

(N) The rotation list notwithstanding, requests of vehicle owners/operators for a specified towing service operating in the area will be honored on accident scenes where the owners/operators are not charged, as long as the requests do not interfere with traffic or would not otherwise endanger or affect adversely the rights of other motorists or citizens.

(Prior Code, § 70.06)

## **TRAFFIC-CONTROL DEVICES**

### **§ 70.20 SIGNAL LEGENDS.**

Whenever traffic is regulated or controlled exclusively by a traffic-control sign or signs exhibiting the words "go," "caution" or "stop," or exhibiting different colored lights for purposes of traffic control, the following colors only shall be used, and these terms and lights shall indicate and be obeyed as follows.

(A) *Green alone or "go."* Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time the signal is exhibited.

(B) *Steady yellow alone or "caution" when shown following the green or "go" signal.* Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicular traffic facing a steady yellow signal may enter and clear the intersection.

(C) *Red alone or double red or "stop."* Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "go" is shown alone.

(D) *Flashing red alone.* Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall not again proceed until it can do so without danger.

(E) *Flashing amber alone.* Vehicular traffic facing the signal shall reduce its speed and proceed cautiously across the intersection controlled by such signal.

(F) *"Yield right-of-way."* Vehicular traffic facing the "yield right-of-way" sign shall bear the primary responsibility of safely entering the primary intersecting or merging right-of-way. All traffic facing the sign shall yield the right-of-way to all vehicles and pedestrians within the primary intersecting or merging right-of-way. No vehicle facing a "yield right-of-way" sign shall

enter the merging or intersecting right-of-way at a speed in excess of 15 mph, except that this speed limit shall not apply to vehicles entering an expressway.

(G) *Lane lights.* When lane lights are installed over any street for the purpose of controlling the direction of flow of traffic, vehicular traffic shall move only in traffic lanes over which green arrows appear. However, when flashing amber lights appear above a lane all left turns shall be made from that lane. Where red arrows appear above such lanes, vehicles shall not move against them. If flashing amber lights show above a lane, that lane shall be used only for passing and for left turns unless a sign at such place prohibits such turn.

(Prior Code, § 70.15) Penalty, see § 70.99

**Statutory reference:**

*Traffic-control signals, see KRS 189.338*

**§ 70.21 ESTABLISHMENT AND MAINTENANCE OF TRAFFIC-CONTROL DEVICES.**

(A) The city shall establish and maintain all official traffic-control devices necessary within the city. All traffic-control devices, including signs, shall be employed to indicate one particular warning or regulation, shall be uniform and as far as possible shall be placed uniformly.

(B) All traffic-control devices and signs shall conform to required state specifications.

(Prior Code, § 70.16)

**§ 70.22 OBEDIENCE TO SIGNALS.**

(A) It shall be unlawful for the driver of any vehicle to disobey the signal of any official traffic-control device placed in accordance with the provisions of this traffic code, or of a traffic barrier or sign erected by any of the public departments or public utilities of the city, or any electric signal, gate or watchperson at railroad crossings, unless otherwise directed by a police officer. However, the type and the right to or necessity for such barrier or sign must be approved by the city.

(B) Such sign, signal, marking or barrier shall have the same authority as the personal direction of a police officer.

(Prior Code, § 70.17) Penalty, see § 70.99

**§ 70.23 INTERFERENCE WITH SIGNALS.**

No person shall, without authority, attempt to or in fact alter, deface, injure, knock down or remove any official control device or any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof.

(Prior Code, § 70.18) Penalty see § 70.99

**§ 70.24 UNAUTHORIZED SIGNALS OR MARKINGS.**

(A) (1) It shall be unlawful for any person to place, maintain or display on or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic device or railroad sign or signal which attempts or purports to direct the movement of traffic, or which conceals or hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal.

(2) No person shall place or maintain, nor shall any public authority permit on any street, any traffic sign or signal any commercial advertising.

(3) Nothing in this section shall be construed as restricting any public department or public utility of the city in any emergency or temporarily from marking or erecting any traffic barrier or sign whose placing has been approved by the city.

(B) Every prohibited sign, signal or marking is declared to be a public nuisance, and the city is empowered forthwith to remove it or cause it to be removed.

(Prior Code, § 70.19) Penalty, see § 70.99

**§ 70.25 DEVICE TO BE LEGIBLE AND IN PROPER POSITION.**

No provision of this traffic code for which signs or any other traffic-control device is required shall be enforceable against an alleged violator if at the time and place of the alleged violation the required device was not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(Prior Code, § 70.20)

**§ 70.26 TEMPORARY DISREGARD OF DEVICES BY POLICE OFFICERS.**

In an emergency any police officer may at his or her discretion disregard traffic-control lights or signals or established regulations in order to facilitate the movement of traffic.

(Prior Code, § 70.21)

**MOTOR VEHICLE LICENSE TAX**

## § 70.40 DEFINITION.

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

**MOTOR VEHICLE.** All agencies for the transportation of persons or property over or upon the public highways of this city and all vehicles passing over or upon the highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily impractical for the transportation of persons or property upon the highways and such vehicles as travel exclusively upon rails.

(Prior Code, § 70.35)

## § 70.41 LICENSE REQUIRED.

It shall be unlawful for any person, firm, company, partnership or corporation, residing or situated within the city, to use or operate any automobile or motor vehicle over and upon the streets of the city, in connection with a business conducted or regular occupation followed, within the city limits or as a means of conveyance to and from a position, job or labor for which remuneration is received from the business or occupation in the city, without obtaining a license and paying the tax provided for in this subchapter.

(Prior Code, § 70.36) Penalty, see § 70.99

## § 70.42 TAXES.

Motor vehicle taxes and property taxes shall apply to motor vehicles only; no city license fees shall apply.

(Prior Code, § 70.37)

## COMMERCIAL VEHICLE LICENSE

### § 70.55 LICENSE REQUIRED.

Any person or business entity who unloads goods, commodities or merchandise or any kind of other material by truck or other motor vehicle or other conveyance for the purpose of making a profit within the corporate limits of the city shall obtain a license for the privilege of using the public ways of the city. The license required shall be issued by the City Clerk/Treasurer on forms provided for that purpose.

(Prior Code, § 70.50) Penalty, see § 70.99

### § 70.99 PENALTY.

(A) Any person who violates any provision of this traffic code where no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

(B) Any person or business entity who fails to pay the fees required by §§70.55 and 70.56 within 30 days of the due date shall be fined not less than \$10 nor more than \$500 and each day a violation continues shall constitute a separate offense.

(Prior Code, § 70.99)

## CHAPTER 71: TRAFFIC RULES

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### Section

#### *Operation Generally*

- 71.01 Obstructing traffic
- 71.02 Reverse or U turns
- 71.03 Backing vehicles
- 71.04 Vehicles crossing sidewalks
- 71.05 Speed limits
- 71.06 Motor vehicles in parks

#### *Accidents*

- 71.20 Duty of operator
- 71.21 Accident report

#### *Prohibitions*

- 71.35 Operator of vehicle to drive carefully
- 71.36 Right-of-way of emergency vehicles; following emergency vehicles; driving over fire hose
- 71.37 Smoke emission or other nuisance

### ***Parades***

- 71.50 Definitions
- 71.51 Permit required
- 71.52 Application for permit
- 71.53 Standards for issuance of permit
- 71.54 Notice of rejection of permit
- 71.55 Appeal procedure when permit denied
- 71.56 Alternative permit
- 71.57 Notice to city and other officials when permit issued
- 71.58 Contents of permit
- 71.59 Duties of permittee
- 71.60 Public conduct during parades
- 71.61 Revocation of permit
  
- 71.99 Penalty

## **OPERATION GENERALLY**

### **§ 71.01 OBSTRUCTING TRAFFIC.**

(A) It shall be unlawful to operate any vehicle or permit it to remain standing in any street in a manner as to create an obstruction thereof.

(B) It shall be unlawful for the operator of any vehicle to enter any intersection or crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding the indication of any traffic-control signal which may be located at the intersection or crosswalk.

(C) Any intersection deemed by the city to be of special or critical importance to the movement of traffic shall be marked in a distinctive manner in order to indicate its importance. Should the operator of any vehicle enter any intersection so marked when there is insufficient room on the other side of the intersection to accommodate the vehicle, the indication of any traffic-control signal notwithstanding, he or she shall be deemed to have violated this division (C) rather than division (B) above.

(Prior Code, § 71.01) Penalty, see § 71.99

### **§ 71.02 REVERSE OR U TURNS.**

The operator of any vehicle shall not turn the vehicle so as to proceed in the opposite direction unless the movement can be made in safety without interfering with other traffic.

(KRS 189.330(8)) (Prior Code, § 71.02) Penalty, see § 71.99

### **§ 71.03 BACKING VEHICLES.**

(A) It shall be unlawful for the operator of any vehicle to back the vehicle at any intersection for the purpose of executing a turning movement.

(B) A vehicle from any parking position shall be backed by the operator in a manner as to proceed on the same side of the roadway in the lawful direction of travel.

(Prior Code, § 71.03) Penalty, see § 71.99

### **§ 71.04 VEHICLES CROSSING SIDEWALKS.**

(A) It shall be unlawful for the operator of any vehicle to drive within any sidewalk space except at a permanent or temporary driveway or by special permit from the Chief of Police or other authorized city official.

(B) (1) It shall be unlawful for the operator of any vehicle to drive the vehicle out of any alley, driveway, building or lot



and across a sidewalk, or its extension across the alley, unless the vehicle has been brought to a complete stop immediately prior to crossing the sidewalk or its extension.

(2) On entering the roadway from the alley, driveway or building the operator shall yield the right-of-way to all vehicles approaching on the roadway.

(3) The operator of any vehicle intending to cross a sidewalk and turn into an alley from the roadway may do so at low speed and with caution.

(Prior Code, § 71.04) Penalty, see § 71.99

#### **§ 71.05 SPEED LIMITS.**

(A) The speed limit shall be 20 mph on all city streets except as otherwise posted by the city or state, and except on those streets listed in Chapter 74 Schedule I of this code.

(B) The speed limit shall be 15 mph in all school zones.

(C) Any person violating the provisions of this section shall, upon conviction, be fined as set forth and prescribed in KRS 189.394, which is incorporated herein and made a part thereof by reference.

(Prior Code, § 71.05) Penalty, see § 71.99

#### **§ 71.06 MOTOR VEHICLES IN PARKS.**

(A) It shall be unlawful for any person to operate any motor vehicle in the city recreational areas, including but not limited to Fort Duffield Park, Salt River Boat Dock and Veterans Memorial Park, except on roads specifically intended for motor vehicles in those areas and at times specified as normal operation hours.

(B) As used in this section the term **MOTOR VEHICLES** shall include, but is not limited to: Cars; trucks; buses; motorcycles; motor bikes; mini bikes; or any other similar motor vehicle. The term shall not include all vehicles operated by fire, emergency, forest service, medical and law enforcement officials.

(Prior Code, § 71.06) Penalty, see § 71.99

### **ACCIDENTS**

#### **§ 71.20 DUTY OF OPERATOR.**

It shall be the duty of the owner of, operator of or passenger in any motor vehicle which is involved in an accident in which any person is injured or property damaged to stop immediately and ascertain the extent of the injury or damage and render such assistance as may be needed.

(Prior Code, § 71.15) Penalty, see § 71.99

#### **Statutory reference:**

*Duty in case of accident, see KRS 189.580*

#### **§ 71.21 ACCIDENT REPORT.**

The operator, owner or passenger involved in an accident resulting in the injury or death of any person, or an accident in which property is damaged, shall immediately report the accident or property damage to the Police Department.

(Prior Code, § 71.16) Penalty, see § 71.99

### **PROHIBITIONS**

#### **§ 71.35 OPERATOR OF VEHICLE TO DRIVE CAREFULLY.**

(A) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.

(B) No person shall willfully operate any vehicle on any highway in a manner as to injure the highway.

(KRS 189.290) (Prior Code, § 71.25) Penalty, see § 71.99

#### **§ 71.36 RIGHT-OF-WAY OF EMERGENCY VEHICLES; FOLLOWING EMERGENCY VEHICLES; DRIVING OVER FIRE HOSE.**

(A) Upon the approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating or oscillating red or blue lights visible under normal conditions from a distance of 500 feet to the front of the vehicle, or when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(B) Upon the approach of any emergency vehicle operated in conformity with the provisions of division (A) above, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(C) No operator of any vehicle, unless he or she is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of division (A) above closer than 500 feet, nor shall he or she drive into, park the vehicle into or park the vehicle within the block where the vehicle has stopped in answer to an emergency call or alarm, unless he or she is directed otherwise by a police officer or firefighter.

(D) No vehicle, train or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway or track for use at any fire alarm unless the fire department official in command consents that the hose be driven over.

(KRS 189.930) (Prior Code, § 71.26) Penalty, see § 71.99

### **§ 71.37 SMOKE EMISSION OR OTHER NUISANCE.**

Every vehicle when on a highway shall be so equipped as to make a minimum of noise, smoke or other nuisance, to protect the rights of other traffic and to promote the public safety.

(KRS 189.020) (Prior Code, § 71.27) Penalty, see § 71.99

## **PARADES**

### **§ 71.50 DEFINITIONS.**

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

**PARADE.** Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display in or on any street, sidewalk, park or other public place in the city.

**PARADE PERMIT.** A permit required by this subchapter.

(Prior Code, § 71.40)

### **§ 71.51 PERMIT REQUIRED.**

(A) No person or persons shall engage in, participate in, aid, form or start any parade unless a parade permit has been obtained from the Chief of Police or other authorized city official.

(B) This subchapter shall not apply to:

- (1) Funeral processions; or
- (2) A governmental agency acting within the scope of its functions.

(Prior Code, § 71.41) Penalty, see § 71.99

### **§ 71.52 APPLICATION FOR PERMIT.**

(A) A person seeking issuance of a parade permit shall file an application with the Chief of Police or other authorized city official on forms provided by the officer.

(B) The application for a parade permit shall be filed not less than five days or not more than 60 days before the date on which it is proposed to conduct the parade.

(C) The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct the parade;
- (2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;
- (3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point and the termination point;
- (6) The approximate number of persons, animals and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
- (7) The hours when the parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;

(9) The location by street of any assembly area for the parade;

(10) The time at which units of the parade will begin to assemble at any assembly area or areas;

(11) The interval of space to be maintained between units of the parade;

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf; and

(13) Any additional information reasonably necessary to a fair determination as to whether a permit should issue.

(D) There shall be paid at the time of filing an application for a parade permit a fee in an amount as established by the City Council.

(Prior Code, § 71.42) Penalty, see § 71.99

#### **§ 71.53 STANDARDS FOR ISSUANCE OF PERMIT.**

The Chief of Police or other authorized city official shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(C) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;

(D) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;

(E) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire; and/or

(F) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(Prior Code, § 71.43) Penalty, see § 71.99

#### **§ 71.54 NOTICE OF REJECTION OF PERMIT.**

The Chief of Police or other authorized city official shall act on the application for a parade permit within three days, Saturdays, Sundays and holidays excepted, after filing thereof. If he or she disapproves the application, he or she shall mail to the applicant within the three days, Saturdays, Sundays and holidays excepted, after the date on which the application was filed, a notice of his or her action stating the reasons for his or her denial of the permit.

(Prior Code, § 71.44)

#### **§ 71.55 APPEAL PROCEDURE WHEN PERMIT DENIED.**

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

(Prior Code, § 71.45)

#### **§ 71.56 ALTERNATIVE PERMIT.**

The Chief of Police or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

(Prior Code, § 71.46)

#### **§ 71.57 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.**

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the following persons:

(A) The Mayor;

(B) The City Attorney;

(C) The Fire Chief; and

(D) The general manager or responsible head of each public utility, the regular routes of whose vehicles will be affected

by the route of the proposed parade.

(Prior Code, § 71.47)

### **§ 71.58 CONTENTS OF PERMIT.**

Each parade permit shall state the following information:

- (A) Starting time;
- (B) Minimum speed;
- (C) Maximum speed;
- (D) Maximum interval of space to be maintained between the units of the parade;
- (E) The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade;
- (F) The maximum length of the parade in miles or fractions thereof; and
- (G) Other information as is reasonably necessary to the enforcement of this subchapter.

(Prior Code, § 71.48) Penalty, see § 71.99

### **§ 71.59 DUTIES OF PERMITTEE.**

(A) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(B) The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

(Prior Code, § 71.49) Penalty, see § 71.99

### **§ 71.60 PUBLIC CONDUCT DURING PARADES.**

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(Prior Code, § 71.50)

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

*Parking on parade routes, see § 72.07*

### **§ 71.61 REVOCATION OF PERMIT.**

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

(Prior Code, § 71.51)

### **§ 71.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

(B) Any person violating the provisions of § 71.06 of this code shall be fined not less than \$100 nor more than \$500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(C) Any person who violates § 71.36 of this code shall be guilty of a misdemeanor and shall be fined not less than \$60 nor more than \$500, or be imprisoned in the county jail for not more than 30 days or both.

(KRS 189.993(8)) (Prior Code, § 71.99)

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## **CHAPTER 72: PARKING REGULATIONS**

Section

*Parking Generally*

- 72.01 Obstructional parking; double parking
- 72.02 Manner of parking
- 72.03 Limitations of stopping and parking
- 72.04 Restrictions and prohibitions on designated streets
- 72.05 Parking restricted to allow street cleaning
- 72.06 Parking in excess of certain number of hours prohibited; towing authorized
- 72.07 Parking on parade route
- 72.08 Parking on off-street facility
- 72.09 Owner responsibility
- 72.10 Parking in parks
- 72.11 Display of parked vehicle for sale
- 72.12 Parking with handicapped permits

### ***Impounding***

- 72.25 Impoundment of vehicles authorized; redemption
- 72.26 Required notice to owner
- 72.27 Sale of vehicle

### ***Snow Emergency***

- 72.40 Announcement of snow emergency
- 72.41 Termination of emergency
- 72.42 Snow emergency routes

- 72.99 Penalty

***Cross-reference:***

*Streets and sidewalks, see Chapter 91*

***Statutory reference:***

*Revenues from fees, fines and forfeitures related to parking, see KRS 65.120*

## ***PARKING GENERALLY***

### **§ 72.01 OBSTRUCTIONAL PARKING; DOUBLE PARKING.**

(A) It shall be unlawful for any person to leave any vehicle or any other thing that may be a nuisance, obstruction or hindrance in or on any street, alley or sidewalk within the city either during the day or night.

(B) It shall be unlawful for any person to stop or park any vehicle on the roadway side of any other vehicle stopped or parked at the edge or curb of a street.

(Prior Code, § 72.01) Penalty, see § 72.99

### **§ 72.02 MANNER OF PARKING.**

(A) It shall be unlawful for the operator of any vehicle to stop or park the vehicle in a manner other than with its right-hand side toward and parallel with the curb, except that where parking is permitted on the left side of a one-way street, the left-hand side shall be so parked, and except for commercial loading and unloading on one-way streets.

(B) No vehicle shall be parked or left standing on any street unless its two right wheels are within six inches of and parallel with the curb, except that on one-way streets where parking is permitted on the left side the two left wheels are to be within six inches of and parallel with the curb.

(C) (1) No vehicle shall be backed to the curb on any street, except that wagons and trucks may do so when loading and unloading provided that the loading and unloading and delivery of property and material shall not consume more than 30 minutes.

(2) The backing of trucks or wagons is prohibited at all times and on all streets in the city where any truck or wagon so backed interferes with the use of the roadway by moving vehicles or occupies road space within ten feet of the center line of

the street.

(D) (1) The city may establish diagonal parking at certain places, requiring the parking of vehicles at a certain angle to the curb and within a certain portion of the roadway adjacent thereto. However, diagonal parking shall not be established where the roadway space required therefor would be within ten feet of the center line of any street.

(2) Diagonal parking places shall be designated by suitable signs, and shall indicate by markings on the pavement the required angle and the width of the roadway space within which the vehicle shall park.

(E) It shall be unlawful for the operator of any vehicle to so park the vehicle that any part thereof shall extend beyond the lines marking the side or the rear of the space assigned for one vehicle.

(Prior Code, § 72.02) Penalty, see § 72.99

### **§ 72.03 LIMITATIONS OF STOPPING AND PARKING.**

(A) It shall be unlawful for the operator of any vehicle to stop or park the vehicle except in a case of real emergency or in compliance with the provisions of this traffic code or when directed by a police officer or traffic sign or signal at any time in the following places:

(1) On the mainly-traveled portion of any roadway or on any other place in the roadway where vehicles stand in any manner other than as specified in § 72.02 of this code;

(2) On a sidewalk;

(3) In front of sidewalk ramps provided for persons with disabilities;

(4) In front of a public or private driveway;

(5) Within an intersection or crosswalk;

(6) At any place where official signs prohibit stopping or parking. This does not apply to police officers when operating properly identified vehicles during the performance of their official duties; or

(7) Within 30 feet of any flashing beacon, traffic sign or traffic-control device.

(B) No person shall move a vehicle not lawfully under his or her control into any prohibited area.

(KRS 189.450(5), (6)) (Prior Code, § 72.03) Penalty, see § 72.99

### **§ 72.04 RESTRICTIONS AND PROHIBITIONS ON DESIGNATED STREETS.**

(A) The provisions of this section prohibiting the stopping and parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control devices.

(B) The provisions of this section imposing a time limit on parking shall not relieve any person from his or her duty to observe other and more restrictive provisions prohibiting or limiting the stopping or parking of vehicles in specific places or at specified times.

(C) When signs are erected in compliance with the provisions of division (F) below giving notice thereof, no person shall park a vehicle at any time on any street so marked by official signs.

(D) When a curb has been painted in compliance with the provisions of division (F) below, no person shall park a vehicle at any time at or adjacent to any curb so marked.

(E) When signs are erected in compliance with the provisions of division (F) below, in each block giving notice thereof, no person shall park a vehicle between the hours specified by official signs on any day except Sundays on any street so marked.

(F) (1) The city shall determine on what streets or portions thereof stopping or parking shall be restricted or prohibited. Whenever under authority of or by this traffic code or any other ordinance any parking limit is imposed or parking is prohibited on designated streets, or parking areas are restricted to handicapped parking, appropriate signs shall be erected giving notice thereof. However, in lieu of erecting the signs or in conjunction therewith, the face and top of a curb or curbs at or adjacent to which parking is prohibited at all times may be painted a solid yellow color.

(2) No regulations or restrictions shall be effective unless the signs have been erected and are in place or the curbs are painted yellow at the time of any alleged offense, except in the case of those parking restrictions which by their very nature would not require the signs and markings.

(G) When signs are erected in compliance with division (F) above in each block giving notice thereof, no person shall park a vehicle for a time longer than specified on official signs any day except Sunday and on any street so marked.

(Prior Code, § 72.04) Penalty, see § 72.99

### **§ 72.05 PARKING RESTRICTED TO ALLOW STREET CLEANING.**



The city is authorized to designate street cleaning areas and shall provide suitable signs and markings on the street to be cleaned, restricting parking on that particular day. It shall be unlawful for the operator of any vehicle to stop on any street so designated.

(Prior Code, § 72.05) Penalty, see § 72.99

#### **§ 72.06 PARKING IN EXCESS OF CERTAIN NUMBER OF HOURS PROHIBITED; TOWING AUTHORIZED.**

(A) It shall be unlawful for anyone to park in any one place any vehicle on any of the public ways or streets of the city for a period of 24 hours or longer.

(B) Any vehicle left parked in any one place on any of the public ways or streets of the city for a period of 24 hours or longer shall be deemed abandoned, and shall be subject to all existing regulations of the city pertaining to abandoned motor vehicles.

(Prior Code, § 72.06) Penalty, see § 72.99

#### **§ 72.07 PARKING ON PARADE ROUTE.**

(A) The Chief of Police or other authorized city official shall have the authority, whenever in his or her judgment it is necessary, to prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the route of a parade or procession, to erect temporary traffic signs to that effect and to prohibit and prevent such parking.

(B) It shall be unlawful to park or leave unattended any vehicle in violation of such signs or directions.

(Prior Code, § 72.07) Penalty, see § 72.99

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

*Parades, see §§ 71.50 through 71.61*

#### **§ 72.08 PARKING ON OFF-STREET FACILITY.**

(A) It shall be unlawful for the driver of a motor vehicle to park or abandon the vehicle or drive on or otherwise trespass on another's property, or on an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of the property or facility.

(B) If at any time a vehicle is parked, abandoned or otherwise trespasses in violation of division (A) above, the owner, lessee or person in charge of the property or facility may have the unauthorized motor vehicle removed in accordance with the provisions of §§ 72.25 through 72.27 of this code.

(C) Every property owner or operator of an off-street parking facility shall post signs stating thereon that the property or parking lot or facility is privately owned and that unauthorized vehicle will be removed at the owner's expense before exercising the authority granted in division (B) above.

(Prior Code, § 72.08) Penalty, see § 72.99

#### **Statutory reference:**

*Removal of vehicles by owners of private parking lots; signs, see KRS 189.725*

#### **§ 72.09 OWNER RESPONSIBILITY.**

If any vehicle is found illegally parked in violation of any provisions of this subchapter regulating stopping, standing or parking of vehicles, and the identity of the driver cannot be determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for the violation.

(Prior Code, § 72.09) Penalty, see § 72.99

#### **§ 72.10 PARKING IN PARKS.**

It shall be unlawful for any person to park any motor vehicle in or on any section of any public park, playground, play lot or tot lot within the city not designed as a parking area or designed and regularly maintained as a roadway. However, nothing contained in this section shall be construed as prohibiting the parking of a motor vehicle parallel to a designated and regularly maintained roadway in any park or playground where at least two wheels of the motor vehicle are resting on such roadway.

(Prior Code, § 72.10) Penalty, see § 72.99

#### **§ 72.11 DISPLAY OF PARKED VEHICLE FOR SALE.**

It shall be unlawful to park a motor vehicle displayed for sale or a motor vehicle on which demonstrations are being made on any street.

(Prior Code, § 72.11) Penalty, see § 72.99

#### **§ 72.12 PARKING WITH HANDICAPPED PERMITS.**

(A) Any other provision to the contrary notwithstanding, a motor vehicle bearing a decal in its front windshield issued by the County Clerk pursuant to appropriate county ordinances for handicapped persons, when operated by a handicapped person or when transporting a handicapped person, may be parked in a designated handicapped parking place, or when parked in a metered parking space may be parked for two hours for no fee, or when parked where any parking limit is imposed may be parked for two hours in excess of the parking limit. The motor vehicle may be parked in a loading zone for the period of time necessary to permit entrance or exit of the handicapped person to or from the parked vehicle, but in no circumstances longer than 30 minutes.

(B) This section shall not permit parking in a "no stopping" or "no parking" zone, nor where parking is prohibited for the purpose of creating a fire lane or to accommodate heavy traffic during morning, afternoon or evening hours, nor permit a motor vehicle to be parked in a manner as to constitute a traffic hazard.

(Prior Code, § 72.12) Penalty, see § 72.99

## **IMPOUNDING**

### **§ 72.25 IMPOUNDMENT OF VEHICLES AUTHORIZED; REDEMPTION.**

(A) The city shall maintain an impound lot for the storage of each automobile, motorcycle, truck and other miscellaneous vehicles impounded within the city.

(B) The lot shall have storage facilities available to house all vehicles towed by contract wreckers.

(C) The impound lot shall be secured in such a manner as to preclude tampering with vehicles stored therein and the city shall be required to take all necessary steps to prevent damage to vehicles while in the custody of the city.

(D) The city shall charge a storage fee of \$25 per day for each day of impoundment.

(E) Per contract with towing company, the city will pay all towing fees.

(F) In addition to storage fees, vehicles released from impoundment by the city shall be subject to an administrative fee payable to the city in the amount of \$25 for each automobile, motorcycle, truck and other miscellaneous vehicle released. In the event that the total amount of towing, storage and administrative fees accumulated for an impounded vehicle under this section exceeds the fair market value of the impounded vehicle, the owner or authorized agent of the owner shall pay the city in an amount equal to the fair market value of said vehicle to release the vehicle from impoundment, subject to the approval of the Mayor.

(G) This fee must be paid in full by cash or credit/debit card before the vehicle will be released from impoundment.

(H) Vehicles will only be released to owner during the business hours of City Hall, Monday through Friday, 8:00 a.m. to 4:00 p.m.

(I) Day one of charges starts the first day of impoundment.

(J) If within ten business days of impoundment the motor vehicle has not been claimed, or a hearing has not been requested pursuant to KRS 82.625, notice shall be mailed by certified mail to the registered owner if known, and to lien holder(s) of record if any, affording the parties the right to claim the vehicle within ten days from the date of notice or request a hearing pursuant to KRS 82.625. The notice shall state that if no hearing is requested, the vehicle shall be deemed abandoned unless the charges thereon are paid within 45 days of receipt of notice. Owner shall pay full amount of tow bill in order to receive belongings from vehicle.

(K) After 45 days from the date of notice required by KRS 186.020, an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to that law enforcement agency.

(L) If the vehicle is judged suitable for use, the law enforcement agency may obtain a certificate of registration and ownership from the County Clerk pursuant to KRS 186.020, and may either use the motor vehicle for governmental purposes or sell the motor vehicle at public auction to the highest bidder. However, if the motor vehicle is not suitable for use, it may be sold for scrap or junk value. If sold to the highest bidder, the seller shall provide to the purchaser documentation confirming that the general notice procedures for public sale in compliance with KRS Chapter 424 were followed.

(Prior Code, § 72.25) (Ord. 2018-15, passed 11-12-2018)

### **§ 72.26 REQUIRED NOTICE TO OWNER.**

(A) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority or private person or business for any reason, or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority or by private person or business, the police, other authority or private person or business shall attempt to ascertain from the state's Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281, and within ten business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle, of the location of the vehicle and of the requirements for securing the release of the motor vehicle.

(B) If a vehicle described in division (A) above is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in division (A) above by certified mail to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten business days of recovery of, or taking possession of the motor vehicle. This notice shall contain the information as to the make, model, license number and identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten business days from the date of tow. This division (B) shall not apply to a tow lot or storage facility owned or operated by the city.

(KRS 376.275(1), (2)) (Prior Code, § 72.21)

#### **§ 72.27 SALE OF VEHICLE.**

Any person engaged in the business of storing or towing motor vehicles in either a private capacity or for the city who has substantially complied with the requirements of § 72.26 of this code shall have a lien on the motor vehicle for the reasonable or agreed charges for storing or towing the vehicle as long as it remains in his or her possession. If after a period of 45 days, the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by certified mail ten days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, transporting and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting and storage charges by the owner or responsible casualty insurer of the vehicle. This lien shall be subject to prior recorded liens.

(KRS 376.275(3)) (Prior Code, § 72.22)

### **SNOW EMERGENCY**

#### **§ 72.40 ANNOUNCEMENT OF SNOW EMERGENCY.**

Whenever the Chief of Police or other authorized city official finds that falling snow, sleet or freezing rain will create a condition which makes it necessary that the parking of motor vehicles on snow emergency routes be prohibited, or whenever he or she finds on the basis of a firm forecast of snow, sleet or freezing rain that the weather conditions so forecasted may create a condition making it necessary that parking be prohibited, he or she is authorized to announce the prohibition, to become effective at a time specified by him or her. After the effective time of the prohibition no person shall park any vehicle or permit any vehicle to remain parked on a snow emergency route. However, if a fall of snow, sleet or freezing rain occurs after 11:00 p.m. and prior to 6:00 a.m., and the Chief of Police or other authorized city official has not announced prior to 11:00 p.m. that parking on snow emergency routes is to be prohibited after a specified time, a vehicle parked on a snow emergency route may remain so parked until 7:00 a.m. following the fall. The prohibition of parking announced by the Chief of Police or other authorized city official under the authority of this section shall remain in effect until he or she announces the termination of the snow emergency, in part or in which the prohibition of parking authorized by this section shall no longer be in effect.

(Prior Code, § 72.35) Penalty, see § 72.99

#### **§ 72.41 TERMINATION OF EMERGENCY.**

Whenever the Chief of Police or other authorized city official shall find that some or all of the conditions which gave rise to the snow emergency prohibition no longer exist, he or she is authorized to declare the termination of the emergency, in part or in whole, effective immediately on announcement. If the announcement is made other than between 6:00 a.m. and 11:00 p.m., it shall be repeated between those hours.

(Prior Code, § 72.36)

#### **§ 72.42 SNOW EMERGENCY ROUTES.**

The term **SNOW EMERGENCY ROUTE** shall mean any route designated by the Chief of Police or other authorized city official. On the street or highway designated as a snow emergency route, special signs shall be posted to this effect.

(Prior Code, § 72.37)

#### **§ 72.99 PENALTY.**

Any person receiving a citation for any parking violation in the city shall be deemed to have committed a violation and shall be fined in an amount not less than \$20 nor more than \$100.

(KRS 189.990(1)) (Prior Code, § 72.99)

## **CHAPTER 73: RECREATIONAL VEHICLES**

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## ***Bicycles and Motorcycles***

- 73.01 Operation of bicycles
- 73.02 Operation of motorcycles and motorscooters
- 73.03 Skating and coasting
- 73.04 Clinging to vehicles

## ***All-Terrain Vehicles***

- 73.15 Purpose
- 73.16 Inspection and permits
- 73.17 Inspection requirements
- 73.18 Operation on city streets; restrictions
- 73.19 Definition

- 73.99 Penalty

### **Cross-reference:**

*Required obedience to traffic directions, see § 70.02*

## **BICYCLES AND MOTORCYCLES**

### **§ 73.01 OPERATION OF BICYCLES.**

(A) No person shall operate a bicycle on the sidewalks of the city.

(B) No person shall operate a bicycle on any section of a public park, playground, play lot or tot lot, except on a roadway or in a parking area.

(C) No operator of any bicycle shall carry another person on the bicycle.

(Prior Code, § 73.01) Penalty, see § 73.99

### **Statutory reference:**

*Bicycles; safety regulations and standards, see KRS 189.287*

### **§ 73.02 OPERATION OF MOTORCYCLES AND MOTORSCOOTERS.**

(A) No operator of any motorcycle, motorscooter or power-driven bicycle shall carry another person except on a seat attached thereto or in a side car attached to the vehicle.

(B) No operator of a motorcycle, motorscooter or power-driven bicycle shall operate the vehicle in any public park, except on a roadway or in a parking area.

(C) No operator of a motorcycle, motorscooter or power-driven bicycle shall operate the vehicle in any play lot or tot lot.

(Prior Code, § 73.02) Penalty, see § 73.99

### **Statutory reference:**

*Regulations for operating and riding on motorcycles, see KRS 189.285*

### **§ 73.03 SKATING AND COASTING.**

Except on streets which may be declared from time to time as "play streets" by the city and protected by barriers or official signs, it shall be unlawful for any person on skates or riding on a coaster sled or toy vehicle of any kind, to go on any roadway except at a crosswalk.

(Prior Code, § 73.03) Penalty, see § 73.99

### **§ 73.04 CLINGING TO VEHICLES.**

(A) No person while riding on a bicycle, coaster sled, roller skates or any other toy vehicle shall cling to any moving vehicle on any street, or fasten or attach the vehicle on which he or she is riding thereto.

(B) No person shall ride on the projection, running board or fenders of any vehicle.

(Prior Code, § 73.04) Penalty, see § 73.99

## **ALL-TERRAIN VEHICLES**

### **§ 73.15 PURPOSE.**

The purpose of this subchapter is to establish rules and regulations to allow for safe and lawful operation of all-terrain vehicles upon city streets within the city as an alternative means of transportation.

(Ord. 2012-07, passed 7-8-2012)

### **§ 73.16 INSPECTION AND PERMITS.**

(A) Any person who intends to operate an ATV on any city street within city limits shall obtain an annually issued, non-transferrable operator's permit from the city's Police Department for a fee of \$10.

(B) (1) All permits expire on April 30 of each year.

(2) New permits are required as of May 1 of each year.

(3) A penalty of \$5 will be charged for all permits not purchased by April 30 of each year.

(C) The city's Police Department shall issue a non-transferrable operator's permit upon completion of a vehicle safety inspection.

(D) (1) No permit shall be issued without proof of state-required minimum liability insurance per KRS 304.39-060, which covers said ATV.

(2) Proof of insurance shall be with the ATV at all times of operation on city streets.

(Ord. 2012-07, passed 7-8-2012)

### **§ 73.17 INSPECTION REQUIREMENTS.**

All ATVs shall be inspected by the city's Police Department to ensure that they comply with the following safety regulations.

(A) (1) A standard noise-reducing muffler shall be used.

(2) No cut-outs or straight pipes will be allowed.

(B) Brakes shall be adequate to control the movement of the ATV and to stop and hold the ATV under any condition of operation.

(C) At least one clear lamp shall be attached to the front with sufficient intensity to reveal a person or vehicle at a safe distance of 100 feet ahead during normal atmospheric conditions while the ATV is operated.

(D) At least one red tail lamp with working brake light, visible during hours of darkness and during normal atmospheric conditions, shall be attached to the ATV.

(E) Any ATV without adequate front and rear lighting must display an orange "slow-moving vehicle" triangle placard.

(F) Tires must have sufficient tread for safe use on city streets.

(Ord. 2012-07, passed 7-8-2012)

### **§ 73.18 OPERATION ON CITY STREETS; RESTRICTIONS.**

(A) The operator of any ATV on any city street shall obey all state motor vehicle traffic rules and regulations (such as stopping at stop signs and obeying speed limits) as well as all manufacturers' recommendations for said ATV.

(B) No person operating an ATV on any city street shall:

(1) Operate an ATV without having a valid driver's license in the operator's possession;

(2) Operate an ATV between sunset and sunrise without approved front and rear lighting;

(3) Carry a passenger except on a seat attached to the ATV;

(4) Operate an ATV on any sidewalk intended for pedestrian travel;

(5) Operate an ATV on the private property of another without the written and dated permission of that property owner;

(6) Operate an ATV on school grounds; or

(7) Operate an ATV in any public park.

(Ord. 2012-07, passed 7-8-2012) Penalty, see § 73.99

### **§ 73.19 DEFINITION.**

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

**CITY STREETS.** Any highway, street, alley or right-of-way owned and maintained by the city (Mulberry Street, Elm Street, Riverview Drive, Short Street, Geoghegan Street, Southview Drive, 15th Street, South Street, North 2nd Street, South 3rd Street, South 4th Street, South 5th Street, South 6th Street, South 7th Street, South 8th Street, South 9th Street, South 10th Street, South 12th Street, South 13th Street, South 14th Street, North 2nd Street, North 3rd Street, North 4th Street, North 5th Street, North 6th Street, North 7th Street, North 8th Street, North 9th Street, North 10th Street, North 11th Street, North 12th Street, North 13th Street, North 14th Street, Salt River Drive and Ft. Duffield Road). (Dixie Highway and Main Street are owned and maintained by the state and are not permitted to travel on.)

(Ord. 2012-07, passed 7-8-2012)

**§ 73.99 PENALTY.**

(A) Any person who violates any provision of this traffic code where no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

(B) Whoever violates any provision of §§73.01 through 73.04 of this code shall be deemed to have committed a violation and shall be fined not more than \$50 for each offense.

(Prior Code, § 73.99)

(C) Whoever violates any provision of §§73.15 through 73.19 of this code for which no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 and not more than \$500.

(Ord. 2012-07, passed 7-8-2012)

## **CHAPTER 74: TRAFFIC SCHEDULES**

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Schedule

**I. Speed limits**

**II. Left turn only**

**III. One-way direction**

**SCHEDULE I. SPEED LIMITS.**

(A) No person shall operate a motor vehicle on the following streets at a speed greater than that indicated.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>
Main Street		35 mph	
Salt River Drive	From 31-W to the Salt River Recreational Area	35 mph	520.2
Salt River Recreational Area	Inside the park	15 mph	520.2
South Street		15 mph	1996-09

(B) Any person violating the provisions of this schedule shall, upon conviction, be fined as set forth and prescribed in KRS 189.394, which is incorporated herein and made a part hereof by reference.

(Prior Code, Ch. 74, Sched. I) Penalty, see § 70.99

**SCHEDULE II. LEFT TURN ONLY.**

On the following streets, left turn only shall be permitted in the locations indicated.

<i>Street</i>	<i>Location Where Turn Permitted</i>	<i>Ord.</i>
South Street	For westbound traffic at Sixth Street	1996-09

(Prior Code, Ch. 74, Sched. II) Penalty, see § 70.99

**SCHEDULE III. ONE-WAY DIRECTION.**

On the following streets, traffic will flow in a one-way direction.



<i>Street</i>	<i>Direction</i>
Geoghegan Street	West to east from 14th Street to 13th Street
Mulberry Street	East to west from 11th Street to 13th Street

(Ord. 2008-01, passed 6-11-2008) Penalty, see § 70.99

## TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. STREETS AND SIDEWALKS**
- 92. UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT**
- 93. FIRE PREVENTION**
- 94. LITTERING**
- 95. HOUSE NUMBERING**
- 96. NUISANCES**
- 97. PUBLIC SAFETY**

### CHAPTER 90: ANIMALS

Section

#### *Care and Control of Animals*

- 90.01 Definitions
- 90.02 Control of dogs
- 90.03 Animals running at large
- 90.04 Owner to provide necessities
- 90.05 Restraint by leash or chain; specifications
- 90.06 Abandonment
- 90.07 Cruelty to animals
- 90.08 Cruelty or exhibition fighting prohibited
- 90.09 Killing dogs, cats for food or fur prohibited
- 90.10 Mutilation of animals
- 90.11 Sexual acts with animals
- 90.12 Dyeing or selling dyed chicks or rabbits

#### *Vicious Dogs*

- 90.25 Alternate opinion of classification as vicious
- 90.26 Control of vicious dogs
- 90.27 Enforcement of restrictions on vicious dogs

#### *Administration and Enforcement*

- 90.40 Impoundment
- 90.41 Removal of animal in immediate danger
- 90.42 Confiscation of victimized animal
- 90.43 Destruction of abandoned and suffering animal

## CARE AND CONTROL OF ANIMALS

### § 90.01 DEFINITIONS.

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

**ABANDON.** To forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his or her agent. The **ABANDONMENT** shall constitute the relinquishment of all rights and claims by the owner to the animal.

(KRS 257.100(4))

**AT LARGE.** Not restrained by leash, cord, chain or otherwise confined in an enclosure.

**DOG.** This term shall be intended to mean both male and female.

**DOG WARDEN.** This term shall be interchangeable with **ANIMAL WARDEN** and **ANIMAL CONTROL OFFICER**.

**ENCLOSURE.** An uncovered fence or structure of at least seven feet in height or a covered fence or structure of sufficient height to allow the dog to stand erect without touching the top or cover forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the vicious dog. Further, the fence or structure shall be sufficiently embedded in the ground to prevent the dog from digging under the fence or structure. The **ENCLOSURE** shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the dog from escaping from the enclosure.

**KEEPER.** Any person to whom a vicious dog is entrusted.

**OWNER.** Any person or persons, firm, association or corporation owning, keeping or harboring a dog.

**RESTRAINT.** A vicious dog shall be deemed to be under **RESTRAINT** if on the premises of the owner or keeper and confined in a secure enclosure as previously defined or under the control of the owner or keeper and securely muzzled and restrained with a chain or braided leather, nylon or manilla lead or leash having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

#### **VICIOUS DOG.**

(1) Any dog which constitutes a physical threat to human beings or other domestic animals by virtue of a known propensity to endanger life by an unprovoked assault or bite so as to cause serious bodily harm;

(2) Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in an attitude of attack upon the streets, sidewalks or any public grounds or places;

(3) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of human beings or domestic animals;

(4) Any dog which bites (to the extent of puncturing or severely bruising skin), inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property;

(5) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;

(6) Any dog which has previously attacked or bitten a human being other than under the type of circumstances that would be justifiable hereunder;

(7) Any dog which has behaved in a manner that the owner or keeper thereof knows or should reasonably know that the dog is possessed of tendencies to attack or to bite human beings other than the type which would be justified hereunder;

(8) Any dog certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life or property if not kept in the manner required by this chapter upon the basis of reasonable medical probability;

(9) Any dog which has been classified as vicious by the county dog warden or a peace officer;

(10) Any dog which has been trained as an attack or guard dog, except dogs which are employed by any police department within the commonwealth; or

(11) An animal shall not be deemed **VICIOUS** solely because:

(a) It bites, attacks or menaces anyone assaulting its owner or keeper or any person or other animal who has tormented or abused it;

(b) It is otherwise acting in the defense of any attack from a person or other animal upon its owner or any other person;

(c) It is protecting or defending its young or the young of any other animal; or

(d) Where a person has broken into or entered, without permission, the enclosure of the dog.

(Prior Code, § 90.01)

#### **§ 90.02 CONTROL OF DOGS.**

(A) It shall be unlawful for any person to keep or harbor within the city any dog that barks or yelps or otherwise makes noise as to disturb the peace and quiet of the people in the neighborhood or area where the dog is kept. Verification of more than one person from at least two different households shall be required, before this provision takes effect.

(B) It shall be unlawful to entice a dog from a yard or enclosure of its owner or keeper or to bring any dog into the city for the purpose of impounding or disposing of the same or to remove a muzzle or license tag from any dog without the consent of the owner, keeper or custodian thereof.

(C) No owner, custodian, possessor or harbinger shall permit any dog to run at large other than on its owner's premises at any time unless under the direct control of the owner, custodian, possessor or harbinger.

(D) The owner, custodian, possessor or harbinger of every dog shall, at all times, keep the dog either:

(1) Confined on the owner's premises within an enclosure which it cannot escape;

(2) Firmly secured by means of a collar or chain or other device so that it cannot escape and stray from the premises on which it is secured; or

(3) Under the immediate control of the person. The term **UNDER IMMEDIATE CONTROL** is defined as the power to manage and direct the dog and is not limited to physical control of the dog.

(Prior Code, § 90.02) Penalty, see § 90.99

#### **§ 90.03 ANIMALS RUNNING AT LARGE.**

(A) No person who is the owner of any animal shall permit it to run at large in any public road, highway, street, lane or alley or upon unenclosed land, or permit it to go on any private yard, lot or enclosure without the consent of the owner of the yard, lot or enclosure.

(B) The owner of an animal who permits it to run at large in violation of this section is liable for all damages caused by the animal upon the premises of another.

(Prior Code, § 90.03) Penalty, see § 90.99

#### **§ 90.04 OWNER TO PROVIDE NECESSITIES.**

No owner shall fail to provide his or her animal with good wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment. Any owner of animals shall maintain a clean and healthful shelter and living area for any animal being kept, which area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any waste or debris. All shelters or living areas must be cleaned and maintained regularly so as to promote proper health for the animals being kept. All living areas shall be constructed and maintained to promote proper drainage of rain water to prevent the accumulation of mud and/or water. Shelters shall be constructed to protect the animal from precipitation and of a material which provides insulation from temperature extremes. In addition to the shelter, a shaded area shall also be provided by means of other structures, trees or awnings. The shelter shall have a floor augmented with resting boards. Insulating bedding materials shall be provided during inclement weather extremes.

(Prior Code, § 90.04) Penalty, see § 90.99

#### **§ 90.05 RESTRAINT BY LEASH OR CHAIN; SPECIFICATIONS.**

If any animal is restricted by a chain, leash or similar restraint, it shall be designed and placed as defined under "restraint" in § 90.01 of this code.

(Prior Code, § 90.05)

#### **§ 90.06 ABANDONMENT.**

(A) No person shall abandon any animal, abandonment consisting of: Leaving an animal for a period in excess of 24 hours, without providing for someone to feed, water and check on the animal's condition; leaving an animal by the roadside or other area; or leaving an animal on either public or private property without the property owner's consent.

(B) In the event that an animal is found so abandoned, the animal may be taken by a county dog warden or peace officer and impounded in a shelter, and there confined in a humane manner.

(C) The animal, if taken from private property, shall be kept for not less than the prescribed period in accordance with the procedures set forth in § 90.40 of this code. In the event that an animal is so abandoned, the owner or keeper, if any, whom he or she has charged with the animal's care, shall be subject to a citation for violation of this section.

(Prior Code, § 90.06) Penalty, see § 90.99

#### **§ 90.07 CRUELTY TO ANIMALS.**

It shall be unlawful for any person to willingly or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal, except as otherwise provided in this chapter, whether the animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious animals or trespassing animals.

(Prior Code, § 90.07) Penalty, see § 90.99

#### **Statutory reference:**

*Cruelty to animals in the second degree, see KRS 525.130*

#### **§ 90.08 CRUELTY OR EXHIBITION FIGHTING PROHIBITED.**

(A) No person shall cause or allow cruelty to be inflicted on an animal.

(B) (1) No person shall cause or permit any dog fight or other combat between animals.

(2) For the purpose of this division (B), **NEGLECT, CRUEL, ILL TREATMENT AND TORMENT OF AN ANIMAL** shall be defined as a failure by a person to adhere to the requirements and provisions of enforcement.

(3) In the event there is a reasonable cause to suspect that an animal is being beaten, cruelly ill-treated, neglected or tormented or involved in dog fight or other combat, custody of an animal may be taken by a county dog warden, peace officer or humane officer and impounded in a shelter or other facility maintained by a humane society. The animal shall be held as evidence and confined in such facility in a humane manner.

(4) Upon finding by a court that the animal has been neglected, beaten, cruelly ill-treated or tormented or involved in a dog fight or other combat between animals, the animal shall become the property of the county.

(C) No person shall own, possess, keep or train any dog with the intent that the dog shall be engaged in exhibition of fighting. In the event that a person shall own, possess, keep or train any animal with the intent that the animal shall be engaged in an exhibition of fighting, he or she shall be liable for citation for violation of this chapter and subject to the penalties under § 90.27 of this code.

(D) No person shall be present at any dog fight or combat between animals. In the event that a person is present at a dog fight or combat between animals, he or she shall be liable for citation for violation of this chapter and subject to the penalties provided in § 90.27 of this code.

(E) Any person who is found present at a dog fight or combat between animals, and who is charged with being a spectator in violation of this chapter, and who is in possession of, and/or is the owner of an animal of the same species as that involved in the animal fight, shall be charged with intent to engage in an exhibition of fighting in violation of this chapter. The animal shall be confiscated if found on the premises or in the immediate area of the dog fight or combat between animals.

(Prior Code, § 90.08) Penalty, see § 90.99

#### **Statutory reference:**

*Cruelty to animals in the first degree, a Class D felony, see KRS 525.125*

#### **§ 90.09 KILLING DOGS, CATS FOR FOOD OR FUR PROHIBITED.**

No person shall raise or kill a dog or cat for food or the skin or fur.

(Prior Code, § 90.09) Penalty, see § 90.99

#### **§ 90.10 MUTILATION OF ANIMALS.**

No person shall mutilate any animal whether dead or alive. This provision does not apply to accepted livestock practices concerning humane slaughter.

(Prior Code, § 90.10) Penalty, see § 90.99

#### **§ 90.11 SEXUAL ACTS WITH ANIMALS.**

No person shall engage or cause or allow any other person to engage in a sexual act with any animal.

(Prior Code, § 90.11) Penalty, see § 90.99

#### **§ 90.12 DYEING OR SELLING DYED CHICKS OR RABBITS.**

No person shall: Sell, exchange, offer to sell or exchange, display or possess living baby chicks, ducklings or other fowl or rabbits which have been dyed or colored; nor dye or color any baby chicks, ducklings or other fowl or rabbits; nor sell,

exchange, offer to sell or exchange or to give away baby chicks, ducklings or other fowl or rabbits, under two months of age in any quantity less than six, except that any rabbit weighing three pounds or more may be sold at an age of six weeks.

(KRS 436.600) (Prior Code, § 90.12) Penalty, see § 90.99

## ***VICIOUS DOGS***

### **§ 90.25 ALTERNATE OPINION OF CLASSIFICATION AS VICIOUS.**

(A) Should any dog be classified as vicious by the county dog warden, a peace officer or by a doctor of veterinary medicine, and should the owner desire to challenge this classification, then the owner/keeper may engage the services of a licensed doctor of veterinary medicine, all costs of which are to be borne by the owner/keeper of the dog in question.

(B) The alternate opinion must be acquired and completed within 48 hours of the initial classification of the dog as being vicious.

(Prior Code, § 90.25)

### **§ 90.26 CONTROL OF VICIOUS DOGS.**

(A) It shall be unlawful for any person, firm or corporation to keep or harbor within the city, a vicious dog that shall bite or fiercely attack any person or domestic animal while outside of its owner's yard or enclosure or real estate. This section shall not apply where a person shall break into or enter without the permission the premises or enclosure of the dog and be pursued therefrom and attacked or bitten by the dog.

(B) All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

(C) It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless the owner or keeper has the vicious dog under proper restraint, and under the direct control and supervision of the owner or keeper of the vicious dog.

(D) The owner or keeper of a vicious dog shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public street. The sign shall be a minimum of two square feet in area.

(E) The owner or keeper shall immediately notify the county dog warden and the Police Department if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died.

(F) The county dog warden or peace officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any county dog warden or peace officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof, subject to the right of the owner or keeper to contest the seizure or impoundment, as provided in this chapter, in the district court.

(G) In the event that the owner or keeper of the dog refuses to surrender the dog to the county dog warden, the county dog warden may obtain a search warrant from a judge of the county district court to seize the dog upon the execution of the warrant.

(H) No person shall walk or exercise a vicious dog within 1,000 feet of a school, day care, day nursery, playground, hospital or fairground.

(I) No more than two vicious dogs may be kept at a singular site or residence. This section shall not apply to duly licensed kennels.

(J) No vicious dog may be kept on a chain tied to a fixed point outside an enclosure.

(Prior Code, § 90.26) Penalty, see § 90.99

### **§ 90.27 ENFORCEMENT OF RESTRICTIONS ON VICIOUS DOGS.**

In the event that a public law enforcement officer or the county dog warden has probable cause to believe that a vicious dog is being harbored in the city in violation of this chapter, he or she may:

(A) Order the violation immediately corrected and cite the owner or keeper to appear in court for the violation; or

(B) (1) If the violation cannot be immediately corrected and the dog is posing an imminent serious threat to human beings or other domestic animals, the dog may be seized and impounded, in which case the owner or keeper will be cited to appear in court for the violation. At the owner's or keeper's request and expense, the impoundment may be at a veterinarian or licensed kennel of the owner's or keeper's choosing.

(2) If the court rules that the dog is not vicious as defined, it will be released to the owner or keeper upon payment to the county dog warden of the expense of keeping the dog, pursuant to a schedule of the costs maintained by the county dog warden.

(3) If the court rules that it is vicious as defined, the dog will be released to the owner or keeper only after payment of any fees and penalties, and upon presentation of proof by the owner or keeper that the dog will now be kept restrained or

confined as specified in this chapter.

(4) If, within seven days following the order regarding a vicious dog, the owner or keeper of a vicious dog fails to either provide proof that the dog will be kept restrained or confined in compliance with the provisions of this chapter or fails to reclaim it after impoundment and pay the fees and penalties, the dog may be humanely euthanized.

(Prior Code, § 90.27)

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 90.40 IMPOUNDMENT.**

(A) Any dog found running at large within the city limits, unless under direct control of the owner, custodian, possessor or harbinger shall be taken up by the county dog warden and/or other proper authority, and impounded in the shelter designated by the county's animal shelter and there confined in a humane manner for a period of not less than five days unless sooner claimed by its owner, custodian or person entitled thereto.

(B) The county dog warden may humanely destroy or transfer title of all animals held after the legal detention period in division (A) above has expired and the animal has not been claimed by its owner, custodian or other person entitled to the possession thereof provided the person to whom title is being transferred licenses the dog according to the laws of the commonwealth and supplies proof of a rabies inoculation for the dog together with the boarding charges levied by the animal shelter, and in addition thereto the pick-up fee payable to the city provided below.

(C) Any owner, custodian or other person entitled to the possession of a dog impounded under division (A) above may be claimed by the owner, custodian or person entitled to possession thereof upon proof that the dog has been or is licensed, according to the laws of the commonwealth, proof that the dog has been inoculated against rabies, payment of boarding charges levied by the county and payment to the county of any fine due.

(Prior Code, § 90.40)

### **§ 90.41 REMOVAL OF ANIMAL IN IMMEDIATE DANGER.**

Any animal observed by a peace officer or county dog warden to be in immediate danger may be removed from the situation by the quickest and most reasonable means available.

(Prior Code, § 90.41)

### **§ 90.42 CONFISCATION OF VICTIMIZED ANIMAL.**

(A) (1) Any animal found involved in a violation of any portion of this chapter may be confiscated by any county dog warden or peace officer and held in a humane manner.

(2) Upon conviction of this charge by a court of law, all animals so confiscated shall become the property of the county, and the owner of the animals shall pay to or reimburse the county all veterinary fees associated with medical treatment provided the animal while it was in custody.

(B) A county dog warden or peace officer shall be allowed reasonable access to inspect the property of anyone found guilty of violation of any of the provisions under this chapter.

(Prior Code, § 90.42) Penalty, see § 90.99

### **§ 90.43 DESTRUCTION OF ABANDONED AND SUFFERING ANIMAL.**

(A) Any county dog warden, peace officer, animal control officer or any officer of the accredited humane society or society for the prevention of cruelty to animals may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased or suffering past recovery for any useful purpose.

(B) Before destroying the animal, the officer shall obtain the judgment to that effect of a veterinarian, of two reputable citizens called by him or her to view the animal in his or her presence or shall obtain consent to the destruction from the owner of the animal.

(C) (1) Any animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which shall be unclaimed by its owner or his or her agent for a period of more than ten days after written notice by registered or certified mail, return receipt requested, is given the owner or his or her agent at his or her last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society or animal shelter or disposed of as the custodian may deem proper.

(2) The giving of notice to the owner, or the agent of the owner of the animal by the licensed veterinarian shall relieve the licensed veterinarian and any custodian to whom the animal may be given of any further liability for disposal.

(KRS 257.100) (Prior Code, § 90.43)

### **§ 90.99 PENALTY.**



Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 90.99) (Ord. 2007-12, passed 11-15-2007)

## CHAPTER 91: STREETS AND SIDEWALKS

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### Section

#### ***Excavations and Construction***

- 91.01 Opening permit required
- 91.02 Application and cash deposit
- 91.03 Sidewalk construction; restoration
- 91.04 Barriers around excavations
- 91.05 Warning lights

#### ***Road and Bridge Projects***

- 91.20 Public hearing required
- 91.21 Notice requirements
- 91.22 Public may testify; effect of testimony
- 91.23 Hearing to be held prior to construction
- 91.24 Separate hearing for each project not required
- 91.25 Exemptions from hearing requirement

#### ***Obstructions***

- 91.40 Unloading on street or sidewalk
- 91.41 Street and sidewalk obstruction
- 91.42 Materials on street or sidewalk
- 91.43 Removal of ice and snow

- 91.99 Penalty

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

*General traffic provisions, see Chapter 70*

*Lots and yards, see 152.060*

*Parking regulations, see Chapter 72*

*Required street frontage, see 152.053*

*Traffic rules, see Chapter 71*

## EXCAVATIONS AND CONSTRUCTION

### § 91.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized city official, to make any opening in any street, alley, sidewalk or public way of the city unless a permit to make the opening has been obtained prior to commencement of the work.

(Prior Code, § 91.01) Penalty, see § 91.99

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

*Utility work on city property, see § 50.05*

## **§ 91.02 APPLICATION AND CASH DEPOSIT.**

(A) Each permit for making an opening shall be confined to a single project and shall be issued by the authorized city official.

(B) Application shall be made on a form prescribed by the legislative body, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated and other facts as may be provided for.

(C) The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized city official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

(Prior Code, § 91.02)

## **§ 91.03 SIDEWALK CONSTRUCTION; RESTORATION.**

(A) Any opening for construction or restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized city official, and in accordance with rules, regulations and specifications approved by the legislative body.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the city may proceed without notice to make such fill and restoration and the deposit referred to in § 91.02 of this code shall be forfeited. Thereupon the deposit shall be paid into the appropriate city fund, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the city for restoration services performed by it. If the amount of the services performed by the city should exceed the amount of the deposit, the Clerk/Treasurer or other proper administrative officer shall proceed to collect the remainder due from the permittee.

(Prior Code, § 91.03)

## **§ 91.04 BARRIERS AROUND EXCAVATIONS.**

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

(Prior Code, § 91.04) Penalty, see § 91.99

## **§ 91.05 WARNING LIGHTS.**

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

(Prior Code, § 91.05) Penalty, see § 91.99

## ***ROAD AND BRIDGE PROJECTS***

### **§ 91.20 PUBLIC HEARING REQUIRED.**

Before the city expends state derived tax revenues on a municipal highway, road, street or bridge, it shall hold a hearing in accordance with the provisions of this subchapter to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(KRS 174.100) (Prior Code, § 91.15)

### **§ 91.21 NOTICE REQUIREMENTS.**

Prior to the contemplated date of expenditure of state derived tax revenues on a road or bridge by the city, the city shall hold a public hearing to take the sense of the public with regard to road and bridge matters within the city. Notice of the hearing shall be given not less than seven days nor more than 21 days before the scheduled date of the public hearing and before beginning work on any project covered by this subchapter.

(KRS 174.100(1)) (Prior Code, § 91.16)

### **§ 91.22 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.**

(A) At the hearing, any person may speak with regard to any proposed project, any project which he or she feels should be built or done which has not been proposed, priorities for completion of projects and any other matter related to road or bridge projects.

(B) The city shall not be bound by the testimony heard at the hearing but shall give due consideration to it.

(KRS 174.100(2), (3)) (Prior Code, § 91.17)

### **§ 91.23 HEARING TO BE HELD PRIOR TO CONSTRUCTION.**

The city shall not begin construction on a road or bridge project wherein state derived tax revenues are involved until the hearing as provided herein has been held.

(KRS 174.100(4)) (Prior Code, § 91.18)

### **§ 91.24 SEPARATE HEARING FOR EACH PROJECT NOT REQUIRED.**

(A) This subchapter shall not be construed to require a separate hearing for each project.

(B) A single hearing encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this subchapter.

(KRS 174.100(5)) (Prior Code, § 91.19)

### **§ 91.25 EXEMPTIONS FROM HEARING REQUIREMENT.**

(A) The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or human-caused disasters, nor to street cleaning or snow removal operations.

(B) The provisions of this subchapter shall not apply to projects which are under construction as of the effective date of this subchapter unless construction is suspended after the effective date of this subchapter and the city desires to reactivate the project.

(KRS 174.100(6), (7)) (Prior Code, § 91.20)

## **OBSTRUCTIONS**

### **§ 91.40 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk or other public way, without first placing some sufficient protection over the pavement.

(Prior Code, § 91.30) Penalty, see § 91.99

### **§ 91.41 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

(Prior Code, § 91.31) Penalty, see § 91.99

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

*Obstruction of drainage or natural watercourse, see §130.03*

### **§ 91.42 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles or substances of any kind, so as to interfere with the free and unobstructed use thereof.

(Prior Code, § 91.32) Penalty, see § 91.99

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

*Littering on streets or sidewalks, see Chapter 94*

### **§ 91.43 REMOVAL OF ICE AND SNOW.**

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his or her premises free and clear of snow and ice, to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, accumulated thereon within a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

(Prior Code, § 91.33) Penalty, see § 91.99

### **§ 91.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then

the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 91.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 92: UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT**

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Section

92.01 Adoption of Landlord and Tenant Act

### **§ 92.01 ADOPTION OF LANDLORD AND TENANT ACT.**

KRS 383.505 through 383.705 are hereby adopted by the city as The Uniform Residential Landlord and Tenant Act and all provisions of KRS 383.505 through 383.705 shall be enacted, and are hereby adopted and made a part of this code, as if set forth in full herein.

(Prior Code, § 92.01)

## **CHAPTER 93: FIRE PREVENTION**

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Section

### ***Fire Prevention***

93.01 Blasting permit

93.02 Storage of flammables and other matter

93.03 Fireworks and pyrotechnics; public use

### ***Smoke Detectors***

93.15 Definitions

93.16 Smoke detectors required

93.17 Type and placement of smoke detectors

93.18 Providing, installing and maintaining smoke detectors

93.19 Enforcement

93.20 Severability; conflict with county regulations

93.99 Penalty

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

*Fees charged to nonresidents for Fire Department services, see § 35.042*

## ***FIRE PREVENTION***

### **§ 93.01 BLASTING PERMIT.**

(A) No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation and receiving a permit to blast from the authorized city official.

(B) The authorized city official, before granting the permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting.

(Prior Code, § 93.01) Penalty, see § 93.99

### **§ 93.02 STORAGE OF FLAMMABLES AND OTHER MATTER.**

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for

such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

(Prior Code, § 93.02) Penalty, see § 93.99

### § 93.03 FIREWORKS AND PYROTECHNICS; PUBLIC USE.

(A) No person shall ignite fireworks between the hours of 11:00 p.m. and 10:00 a.m. unless specifically permitted by the city.

(B) Persons may only use, ignite, fire or explode consumer fireworks on Memorial Day, July 3, July 4 and the Friday and Saturday that are immediately preceding and following the July 4 holiday. Use of fireworks will also be permitted on Labor Day and December 31, between the hours of 9:00 p.m. and 12:00 a.m. (midnight) and on January 1 between 12:00 a.m. (midnight) and 1:00 a.m.

(C) Any person wishing to use, ignite, fire or explode consumer fireworks any other day or time must notify the city and receive express permission. The Mayor, or his or her appointee, shall have approval to grant permission.

(Ord. 2018-07, passed 7-9-2018) Penalty, see § 93.99

## SMOKE DETECTORS

### § 93.15 DEFINITIONS.

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

**DWELLING.** Any building which contains two or more dwelling units or any rooming units, rooms or area designated or used for sleeping purposes either as a primary use or use on casual occasions. **DWELLING** shall include a rooming house, hotels, motels, tourist homes, school dormitories, apartment and/or condominium buildings.

**DWELLING UNIT.** Any group of rooms, located within a building and forming a single housekeeping unit with facilities which are used or designed to be used for living, sleeping, cooking or eating, except single-family residential units.

**OWNER.** Any person, who, alone, jointly or severally with others:

(1) Shall have all or part of the legal title to any dwelling or dwelling unit, without accompanying actual possession thereof, or shall have all or part of the beneficial ownership of any dwelling or dwelling unit and a right to present use and enjoyment thereof, including a mortgage in possession; or

(2) Shall have charge, care or control of any dwelling or dwelling unit as owner, or as executor, administrator, trustee, guardian of the estate or duly authorized agent of the owner. Any person thus representing the actual owner shall be bound to comply with the owner's obligations contained in this subchapter.

**ROOMING UNIT.** Any room which is designed or used for sleeping purposes. **ROOMING UNIT** may include a room in a rooming house, a hotel, a motel, a tourist home, a school dormitory or an apartment building which may or may not have some additional facilities for eating or cooking contained therein.

(Prior Code, § 93.15)

### § 93.16 SMOKE DETECTORS REQUIRED.

(A) In all non-owner occupied single-family and duplex family residential units designed or used for sleeping purposes in existence on or about February 15, 1980, smoke detectors powered by a hard wire AC primary power source or a battery shall be installed and maintained within six months after the effective date of this subchapter (i.e., November 12, 1980).

(B) In all multi-family residential units, rooming houses, tourist homes, dormitories or other dwellings designed or used for sleeping purposes in existence on or about February 15, 1980, smoke detectors powered by a hard wire AC primary power source shall be installed and maintained within one year after the effective date of this subchapter (i.e., November 12, 1980), except for owner-occupied, single-family residential units which may utilize smoke detectors powered by a hard wire AC primary power source or a battery in compliance with this subchapter. Provided, further, an extension of the time period set forth above, not to exceed six months, may be granted by the County Deputy for Code Enforcement upon the showing of a good faith effort by the owner to comply with the provisions of this subchapter. The extensions will be granted in cooperation with the recommendation of the Fire Chief or his or her designated representative for the local fire district wherein the dwellings are located.

(C) Where significant effort has been made by installing battery operated smoke detectors, the mandatory installation period listed in division (B) above may be extended for a period not to exceed five years upon formal request by the affected party to the County Deputy for Code Enforcement, and the approval of any request shall be made in cooperation with the recommendation of the Fire Chief or his or her designated representative for the local fire district wherein the dwelling unit is located.

(D) In all hotels and motels in existence on or about February 15, 1980, battery powered smoke detectors shall be

installed and maintained within one year after the effective date of this subchapter (i.e., November 12, 1980).

(Prior Code, § 93.16) Penalty, see § 93.99

### **§ 93.17 TYPE AND PLACEMENT OF SMOKE DETECTORS.**

(A) In order to comply with this subchapter, only ionization or photoelectric type detectors approved by a nationally recognized testing laboratory shall be installed.

(B) Smoke detectors shall be placed in accordance with the applicable N.F.P.A. standards. Detectors may be ceiling or wall-mounted, provided that if wall-mounted they shall be within 18 inches, but not closer than 12 inches of the ceiling.

(C) In a dwelling unit which contains a well-defined sleeping room separated from the other activity areas of the same unit, the detector shall be located in the corridor within the unit or interior area giving access to the rooms used for sleeping purposes. Where sleeping areas are separated and/or where a single smoke detector will not adequately service all sleeping areas, there shall be a smoke detector installed adjacent to each sleeping area. In a rooming unit, the detector shall be centrally located on the ceiling.

(D) In a dwelling containing two or more dwelling units or any rooming unit, in addition to the requirements for individual smoke detectors in each dwelling unit or rooming unit, detectors shall be placed in centrally located common areas so that smoke detectors will adequately service all sleeping areas.

(E) In multi-family residential dwellings containing four or more units, the smoke detectors installed in the common areas and storage areas shall be installed so that activation of one of the detectors in the common areas or storage areas shall cause all the detectors within the common areas or storage areas contained within exterior perimeter walls or separated by fire or party walls as applicable to be activated to alert.

(Prior Code, § 93.17) Penalty, see § 93.99

### **§ 93.18 PROVIDING, INSTALLING AND MAINTAINING SMOKE DETECTORS.**

(A) The owner of a dwelling shall be responsible for supplying and installing in an operable condition the required detector(s) and for providing the manufacturer's maintenance and testing instruments to a tenant.

(B) The owner of a dwelling shall be responsible for maintenance and testing of detectors, in accordance with the manufacturer's instructions, which are located in common areas and/or detectors in rooming units where the tenant usually has short periods of occupancy (hotels, motels, tourist homes).

(C) The tenant shall be responsible for maintaining and testing the detector, in accordance with the manufacturer's instructions, which are within his or her exclusive control during the life of the tenancy. The tenant shall be responsible for notifying the owner in writing when a detector(s) becomes inoperable, and the owner shall have ten days after receipt of the written notice in which to repair or replace the detector(s) in an operable condition. Battery replacement in smoke detectors shall be the responsibility of the tenant until the conversion to a hard wire AC primary power source has been accomplished as required by § 93.16 of this code.

(D) At every change of tenancy in all multi-family residential units and dormitories, it shall be the duty of the owner to test and ascertain that those detectors contained in the unit are in operable condition, and if not, the owner shall be responsible for placing them in operable condition.

(E) In all hotels, motels, rooming houses or tourist homes it shall be the duty of the owner to test the detectors on a regular basis in accordance with manufacturer's instructions, and the owner shall be responsible for maintaining the units in an operable condition. A log of smoke detector inspections and findings shall be maintained by the owner, and shall be made available to fire inspectors upon request.

(Prior Code, § 93.18) Penalty, see § 93.99

### **§ 93.19 ENFORCEMENT.**

The County Deputy for Code Enforcement, or his or her designated representative, in cooperation with the recommendations of the local fire official, the Fire Chief or his or her designated representative and the officials of other departments of the city and county having jurisdiction is hereby authorized and directed to enforce all provisions of this subchapter and the final determination concerning compliance herewith shall be the sole discretion of the County Deputy for Code Enforcement. Upon the presentation of his or her official credentials, the County Deputy for Code Enforcement may enter any premises covered by these regulations to perform the duties imposed upon him or her by these regulations.

(Prior Code, § 93.19)

### **§ 93.20 SEVERABILITY; CONFLICT WITH COUNTY REGULATIONS.**

(A) If any provision of this subchapter or the application thereof to any person is held invalid, the invalidity shall not affect other provisions or applications of the subchapter, which shall remain in full force and effect; and to this end, the provisions of this subchapter are severable.

(B) In any case where a provision of this subchapter is found to be in conflict with a provision of any fire or safety code of the county, the provision which establishes the higher standard for the promotion and protection of health and safety shall



prevail.

(Prior Code, § 93.20)

### **§ 93.99 PENALTY.**

(A) Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(B) Whoever violates any provision of §93.03 of this code shall be fined no less than \$10 and not more than \$100 for each offense. Each day's continued violation shall constitute a separate offense.

(Prior Code, § 93.99) (Ord. 2007-12, passed 11-15-2007; Ord. 2018-07, passed 7-9-2018)

## **CHAPTER 94: LITTERING**

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### Section

- 94.01 Throwing litter from vehicle
- 94.02 Tracking foreign matter on streets
- 94.03 Hauling loose material
- 94.04 Sweeping litter into gutters
- 94.05 Litter on private property

- 94.99 Penalty

### **§ 94.01 THROWING LITTER FROM VEHICLE.**

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.

(Prior Code, § 94.01) Penalty, see § 94.99

### **§ 94.02 TRACKING FOREIGN MATTER ON STREETS.**

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(Prior Code, § 94.02) Penalty, see § 94.99

### **§ 94.03 HAULING LOOSE MATERIAL.**

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt or loose material of any kind in or upon any street, alley, sidewalk or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown or deposited upon any street, alley, sidewalk or other public place. Any materials which fall from, or which are thrown, blown or deposited from any vehicle upon any street, alley, sidewalk or other public place, shall be removed immediately by the person in charge of the vehicle.

(Prior Code, § 94.03) Penalty, see § 94.99

### **§ 94.04 SWEEPING LITTER INTO GUTTERS.**

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Prior Code, § 94.04) Penalty, see § 94.99

### **Cross-reference:**

*Obstruction of drainage or natural watercourse, see §130.03*

### **§ 94.05 LITTER ON PRIVATE PROPERTY.**

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person

or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks or other public places or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not.

(Prior Code, § 94.05) Penalty, see § 94.99

#### **§ 94.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 94.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 95: HOUSE NUMBERING**

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### Section

- 95.01 Standards of compliance
- 95.02 Single-family dwellings
- 95.03 Apartment buildings
- 95.04 Commercial and industrial structures
- 95.05 Enforcement by county
  
- 95.99 Penalty

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

*Apartment houses, see 152.077*

*Manufactured home parks, see 152.076*

*Manufactured housing, see 152.075*

#### **§ 95.01 STANDARDS OF COMPLIANCE.**

All residential, commercial and industrial property located in the county shall conspicuously display the appropriate street address as assigned by the county's Department of Public Works in accordance with the standards set out in this chapter.

(Prior Code, § 95.01)

#### **§ 95.02 SINGLE-FAMILY DWELLINGS.**

(A) The address shall be placed at the front of the residence or in a manner so as to be visible from the nearest fronting road.

(B) The address shall be clearly visible from the nearest fronting road and kept free and clear of any obstructions hindering reasonable visibility from the fronting road.

(C) The numbers shall be in standard Arabic form of a size at least three inches by two inches, or larger if necessary to be visible from the nearest fronting road, and in a color distinguishable from its background, with the exception that existing posted numerals shall be acceptable hereunder if so visible as to adequately identify each single-family dwelling.

(Prior Code, § 95.02) Penalty, see § 95.99

#### **§ 95.03 APARTMENT BUILDINGS.**

(A) The address shall be placed in a manner to ensure prompt identification of apartment buildings from the nearest fronting road or parking area, depending upon the location and placement of each particular apartment building.

(B) The addresses shall be clearly visible and kept free and clear of any obstructions hindering reasonable visibility from the nearest fronting road or parking area.

(C) The numbers shall be in standard Arabic form of a size at least three inches by two inches, or larger if necessary to be visible from the nearest fronting road or parking area, and in a color distinguishable from its background, with the exception that existing posted numerals shall be acceptable hereunder if so visible as to adequately identify each apartment building.

(D) In the event that apartment buildings located in a complex or elsewhere are not clearly visible from the nearest public thoroughfare, the owner of any apartment buildings shall use a system of identification that is reasonably calculated to be readily identifiable by public service and emergency personnel. The County Code Enforcement Officer or his or her authorized representative shall have the authority to approve any identification system proposed in writing by apartment building owners. The written approval obtained from the County Code Enforcement Officer shall be prima facie evidence of compliance with this chapter.

(Prior Code, § 95.03) Penalty, see § 95.99

#### **§ 95.04 COMMERCIAL AND INDUSTRIAL STRUCTURES.**

(A) The address shall be placed on all commercial and industrial structures so as to ensure visibility from the nearest fronting road, and if the commercial or industrial structure is not visible from the nearest fronting road, the street address shall be posted in a conspicuous manner so as to be visible from the nearest fronting road.

(B) The numbers shall be in standard Arabic form of a size at least five inches by three inches, or larger if necessary to be visible from the nearest fronting road, and in a color distinguishable from its background, with the exception that existing posted numerals shall be acceptable hereunder if so visible as to adequately identify each commercial or industrial structure.

(C) In the event that commercial or industrial structures located in a complex or elsewhere are not clearly visible from the nearest public thoroughfare, the owner of any structures shall use a system of identification that is reasonably calculated to be readily identifiable by public service and emergency personnel. The County Code Enforcement Officer or his or her authorized representative shall have the authority to approve any identification system proposed in writing by owners of commercial or industrial structures. The written approval obtained from the County Code Enforcement Officer shall be prima facie evidence of compliance with this chapter.

(Prior Code, § 95.04) Penalty, see § 95.99

#### **§ 95.05 ENFORCEMENT BY COUNTY.**

The County Code Enforcement Officer or his or her authorized representatives are hereby designated as enforcement personnel for this chapter, and he, she or they are hereby vested with the authority to issue citations for violations of this chapter, which shall be enforced with the intent to ensure that each residential, commercial and industrial structure in the county is clearly identified by its assigned street address in order to enable emergency and other public service personnel to promptly identify the address at all times during the night and day.

(Prior Code, § 95.05)

#### **§ 95.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 95.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 96: NUISANCES**

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### Section

- 96.01 Definitions
- 96.02 Certain conditions declared a nuisance
- 96.03 Violation
- 96.04 Harmonizing
- 96.05 Code Enforcement Officer
- 96.06 Notice
  
- 96.99 Penalty

## § 96.01 DEFINITIONS.

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

**AUTOMOBILE PARTS.** Any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

**DWELLING.** Any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.

**INOPERATIVE CONDITION.** Unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days.

**MOTOR VEHICLE.** Any style or type of motor driven vehicle used for the conveyance of persons or property.

**NUISANCE.** Public nuisance.

**SCRAP METAL.** Pieces or parts of steel, iron, tin, zinc, copper, aluminum or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purposes.

**UNFIT FOR FURTHER USE.** In a dangerous condition, having defective or missing parts or in such a condition generally as to be unfit for further use as a conveyance.

**UNFIT FOR HUMAN HABITATION.** Dangerous or detrimental to life or health because of: Want of repair; defects in the drainage, plumbing, lighting, ventilation or construction; infection with contagious disease; or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

(Ord. 2011-03, passed 6-13-2011)

## § 96.02 CERTAIN CONDITIONS DECLARED A NUISANCE.

(A) *The erection, use or maintenance of a building which is unfit for human habitation.* Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a nuisance to the health of people residing in the vicinity thereof.

(B) *Dangerous buildings adjoining streets.* Any building, house or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb or property of or cause hurt, damage or injury to persons or property using or being upon the streets or public way of the city adjoining the premises, by reason of the collapse of the building, house or structure by the falling of parts thereof or of objects therefrom.

(C) *Dangerous trees or stacks adjoining street.* Any tree, stack or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb or property of or cause hurt, damage or injury to persons or property using or being upon the streets or public way of the city adjoining the premises, by reason of the collapse of the building, house or structure by the falling thereof or parts thereof.

(D) *Dilapidated buildings.* Any building, house or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to lack of adequate maintenance or neglect, endangers the public health, welfare or safety or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.

(E) *Accumulation of rubbish.* An accumulation on any property of filth, refuse, trash, garbage or other waste material which endangers the public health, welfare or safety, makes the property unfit for human habitation or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents or insects or blow rubbish into any street, sidewalk or property of another.

(F) *Noxious odors or smoke.* Emission into the surrounding atmosphere of odor, dust, smoke or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

(G) *Noise.* Emission of noise which is noxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.

(H) *Storage of explosives.* The storage of explosive material which creates a safety hazard to other property or persons in the vicinity.

(I) *Weeds and grass.* The accumulation in piles, bundles or heaps or the excessive growth of weeds, grass, plants or other vegetation other than trees or shrubs, and cultivated flowers and gardens, the existence of thistles, burdock, jimson weeds, ragweed, milkweeds, poison ivy, poison oak, iron weeds and all other noxious weeds and rank vegetation in excess of a height of ten inches.

(J) *Open wells.* The maintenance of any open, uncovered or insecurely covered cistern, cellar, abandoned wells, shafts, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.

(K) *Trees and shrubbery obstructing streets and sidewalks.* The growing and maintenance of trees with less than 14 feet clearance over streets or less than eight feet over sidewalks, or the growing and maintenance of shrubbery in excess of

three feet in height within the radius of 20 feet from the point where the curblineline of any street intersects the curblineline of another street. No shrub shall be planted between the curblineline and the property line of any street within a radius of 20 feet from the point where the curblineline of any street intersects with the curblineline of another street.

(L) *Keeping of animals.* The failure to keep an animal's pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors.

(M) *Junk; scrap metal.* The storage of automobile parts or scrap metal within the city limits except on the premises authorized by the city for such purposes.

(N) *Abandoned, wrecked, dismantled or inoperative vehicles.* The parking, storage, leaving or permitting the parking, storage or leaving of any vehicle of any kind which is in an abandoned, wrecked, dismantled, rusted, junked, partially dismantled or inoperative condition, whether attended or not, within the city limits, except in a completely enclosed building.

(Ord. 2011-03, passed 6-13-2011) Penalty, see 96.99.

**Cross-reference:**

*Animals, generally, see Chapter 90*

**§ 96.03 VIOLATION.**

It shall be an unlawful public nuisance for the owner, occupant or person having control or management of any land within city limits to permit a health hazard or source of filth to develop thereon or the accumulation of litter or solid waste, abandoned, junked, wrecked or inoperative vehicles or parts, machinery or appliances and/or the excessive growth of weeds or grass or to allow any other condition to remain as named in § 96.01 of this code, which the Code Enforcement Officer and/or the Code Enforcement Board shall rule a hazard to public health, safety and/or morals and/or otherwise inimical to the welfare of the residents of city.

(Ord. 2011-03, passed 6-13-2011)

**§ 96.04 HARMONIZING.**

This chapter shall be read to harmonize with § 150.01 of this code, which adopts the 2006 International Property Maintenance Code. Any violation of § 150.01 of this code shall be deemed a violation of this chapter. This chapter shall control in any conflict between this chapter and § 150.01 of this code.

(Ord. 2011-03, passed 6-13-2011)

**§ 96.05 CODE ENFORCEMENT OFFICER.**

(A) The Code Official/Officer shall enforce all provisions of this code.

(B) The Code Enforcement Officer shall issue or cause to be issued all necessary notices or orders to ensure compliance with this code, and as required by state statutes.

(C) The Code Enforcement Officer is authorized to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise opened to the general public, the Code Enforcement Officer shall make a reasonable effort to locate the owner or other person having charge and control of the structure or premises, present proper identification and request entry.

(D) The Code Enforcement Officer shall have the power to enforce this code and issue notices and/or rulings to that effect.

(Ord. 2011-03, passed 6-13-2011)

**§ 96.06 NOTICE.**

(A) The Code Enforcement Officer shall send or cause to be sent notice to the owner or owners of any premises found to be in violation of this chapter, informing him, her or them of the nature of the violation, steps necessary to abate the nuisance, the time period to do so, his, her or their right to appeal the determination of the Code Enforcement Officer/Board within 30 days to the county's district court, as provided in KRS 82.715, and the penalties for violation.

(B) Notice shall be served upon persons by hand delivery or by certified mail, and if the whereabouts of the person is unknown and cannot be ascertained, to exercise reasonable diligence, the city shall make an affidavit to that effect. Serving of notice may be made by publication in the newspaper of general circulation for two consecutive days, and a copy of the notice shall be posted in a conspicuous place on the premises affected by the notice.

(C) If the person so served does not abate the nuisance within the specified time, the city may proceed to abate the nuisance, keeping an account of the expense of the abatement, and the expense shall be charged to and paid by the owner or occupant.

(D) Charges for nuisance abatement shall be a lien upon the premises, as provided in KRS 82.700 through 82.725. Whenever a bill for charges remains unpaid for 60 days after it has been rendered, the City Clerk/Treasurer may file with the County Clerk a statement of lien claims. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated, and a notice that the city claims a lien for this amount. Notice of the lien

claim shall be mailed to the owner of the premises if his or her address is known. However, failure to record the lien claim or to mail the notice, or the failure of the owner to receive the notice, shall not affect the right to foreclose the lien for charges.

(Ord. 2011-03, passed 6-13-2011) Penalty, see § 96.99

#### **§ 96.99 PENALTY.**

(A) Whoever violates any provision of this chapter shall be fined no less than \$10 and not more than \$100 for each offense. Each day's continued violation shall constitute a separate offense.

(B) If no action is taken by the owner to abate the nuisance within 30 days of notice, the city shall continue to impose the fine set, and shall also take reasonable steps to abate the nuisance at owner's expense.

(Ord. 2011-03, passed 6-13-2011)

## **CHAPTER 97: PUBLIC SAFETY**

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### Section

97.01 National Incident Management System (NIMS)

97.02 Lincoln Trail Regional Hazard Mitigation Plan

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

*Police Department, see §§ 35.025 through 35.027*

*Volunteer Fire Department, see §§ 35.040 through 35.042*

#### **§ 97.01 NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS).**

(A) All emergency response agencies shall adopt and utilize the National Incident Management System (NIMS) for all incident management and by all incident response personnel in the city.

(B) The National Incident Management System is hereby adopted by reference to ensure the NIMS is fully incorporated into all emergency response plans, procedures and policies and to ensure that all personnel are appropriately trained in the NIMS.

(C) Training of all emergency responders shall be done in coordination with the NIMS Compliance Officer, as designated for the commonwealth.

(Res. passed 8-8-2005)

#### **§ 97.02 LINCOLN TRAIL REGIONAL HAZARD MITIGATION PLAN.**

(A) The city recognizes the threat that natural hazards pose to people and property within the city.

(B) The city has prepared a multi-hazard and flood mitigation plan, hereby known as the Lincoln Trail Regional Hazard Mitigation and Flood Mitigation Plan in accordance with the Disaster Mitigation Act of 2000.

(C) The Lincoln Trail Regional Hazard Mitigation and Flood Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in the city from the impacts of future hazards and disasters.

(D) Participation in the planning process by the city demonstrates its commitment to the Hazard and Flood Mitigation Plan and updating data, goals and actions in the 2015 Lincoln Trail Regional Hazard and Flood Mitigation Plan Update.

(E) The local governing body will participate in planning for the 2015 Lincoln Trail Regional Hazard Mitigation and Flood Mitigation Plan Update.

(Res. 2015-01, passed 2-9-2015)

## **TITLE XI: BUSINESS REGULATIONS**

### Chapter

**110. OCCUPATIONAL LICENSE FEE**

**111. PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS**

**112. PAWNBROKERS**

**113. PUBLIC AMUSEMENTS**

**114. DETECTIVE AGENCIES**



- 115. TATTOO PARLORS
- 116. FLEA MARKETS AND YARD SALES
- 117. INSURANCE COMPANIES
- 118. ADULT ENTERTAINMENT ACTIVITIES
- 119. ALCOHOLIC BEVERAGES

## **CHAPTER 110: OCCUPATIONAL LICENSE FEE**

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### Section

- 110.01 Levy and imposition of license fee
- 110.02 Income within and without the city
- 110.03 Temporary business permit
- 110.04 Compliance; payment of fee
- 110.05 Duties of Director of Finance
- 110.06 Persons required to file a return and pay a fee; moneys not subject to fee
- 110.07 Board of Control
- 110.08 Late filing penalty
- 110.09 Confidentiality of information
  
- 110.99 Penalty

### **§ 110.01 LEVY AND IMPOSITION OF LICENSE FEE.**

(A) There is hereby levied and imposed an annual license fee upon all persons in any manner, in or from the city, for the privilege of engaging in the occupation, trade, profession or other activity, whether in person, by mail, telephonic or electronic communication.

(B) The license fee shall be measured and equal to 1% of the gross salaries, wages, commissions and/or other compensation earned by individuals for the time period of all work that was done or services performed or rendered in or for the city.

(C) The maximum fee levied will be \$500 per person.

(Prior Code, § 110.01) (Ord. 2012-07A, passed 8-13-2012) Penalty, see § 110.99

### **§ 110.02 INCOME WITHIN AND WITHOUT THE CITY.**

Where income or profits are earned both within or without the city, the license fee shall be measured as a result of the income or profits done or performed in the city but not less than at least 30% of gross salaries or net income is subject to the license fee, should it appear the work or activity is based in the city but conducted outside the city, such as without limitation, sales of goods and incidental services at craft, antique, flea or trade markets.

(Prior Code, § 110.02)

### **§ 110.03 TEMPORARY BUSINESS PERMIT.**

A temporary business permit may be issued for the fee of \$10 good for the one to three continuous days use, to cover festivals or temporary vendors and where there is a sponsoring agency, the organization shall be responsible for each vendor's separate \$10 fee.

(Prior Code, § 110.03)

### **§ 110.04 COMPLIANCE; PAYMENT OF FEE.**

(A) The fee shall be due and payable quarterly based upon the annual gross income reportable for federal income tax purposes and net income from the operation of a business or enterprise of activity similarly after deduction of all costs and expenses incurred in the conduct thereof. The dates when report and remittance shall be due the city shall be thus: April 15, July 15, October 15 and January 31 each year. The report of April 15 of each year shall include a true and complete copy of the business schedule C and/or corporate return and/or K-1, 1099 and/or W-2s.

(B) The fee shall be on forms provided by the office of the City Clerk/Treasurer with the duty that each employee, person,

trade, occupation, profession, business or activity shall obtain and use the form for the report. The concluding fourth quarter report of each year shall contain a comprehensive statement or copy of the entire annual income which would coincide with the income reported for federal income tax purposes, as an easy reference for compliance.

(C) Where the entire earnings for the year are paid by one and the same employer and the license fee has in each instance been withheld or deducted by the employer from the gross amount of compensation to the employee without adjustment for expenses, it shall not be necessary for the employee to file a return unless required or requested to do so by the Director of Finance.

(D) If a licensee shall terminate his or her business or employment for which the license fee has not been withheld or paid, the proper return shall be filed and the fee paid within 135 days after the termination of the business or employment.

(E) It is the duty of each employer, who employs one or more persons, to deduct monthly or more often as the employee may be paid, the license fee due by the employer to the employee. The mere fact such fee is not deducted and/or remitted by employer does not relieve the employee of responsibility for compliance. A nonresident employer is similarly obligated to comply.

(Prior Code, § 110.04)

#### **§ 110.05 DUTIES OF DIRECTOR OF FINANCE.**

(A) The Director of Finance (the City Clerk/Treasurer) is to deposit and confidentially record and maintain records of compliance and date of receipt. No disclosure of amounts or fees paid by individual, general trade or other category shall be revealed except necessarily for enforcement and compliance.

(B) The Director of Finance is to keep an accurate record showing amount and date of receipt. The Director shall have the duty to make inquiry and request from any licensee and/or his or her accountant's compliance and/or certifying documentation of accuracy, and the licensee shall file the auditing materials and compliance within 30 days from the request.

(Prior Code, § 110.05)

#### **§ 110.06 PERSONS REQUIRED TO FILE A RETURN AND PAY A FEE; MONEYS NOT SUBJECT TO FEE.**

(A) The "licensee" is any person required to file a return or to pay a license fee under this chapter.

(B) The following money receipts are not deemed salaries, wages, commissions and other compensations earned for work done or services and not profits within the meaning of this chapter:

- (1) Old age or retirement payments;
- (2) Disability, sickness, accident benefit, unemployment;
- (3) Death benefits;
- (4) Workers' compensation;
- (5) Railroad or bus line transportation employees stopping or passing through;
- (6) Motor freight or similar delivery service personnel from outside the city; and
- (7) Domestic help or yard tender to a private house if employee is not otherwise a business.

(C) Independent contractors, paid professional musicians and entertainers are intended as employees obligated under this chapter whether based upon prime, general or subcontract, rent, royalty commission or otherwise, including real estate sales and auctioneers.

(Prior Code, § 110.06)

#### **§ 110.07 BOARD OF CONTROL.**

(A) (1) There is hereby established a Board of Control consisting of five members, to be appointed by the City Council.

(2) At least two members of the Board of Control shall be employees, and at least two members shall be employers as defined by the section.

(3) The members shall be appointed for two-year terms by the City Council and it shall be their duty to supervise the Director of Finance in the performance of his or her duties. They shall review his or her decisions and make recommendations to him or her from time to time. Any member of the Board of Control shall not have access to any of the confidential records or books of the city or the taxpayer, licensee or person subject to the provisions of this chapter unless the confidentiality is waived in writing by the licensee, taxpayer or person subject to the provisions of this chapter.

(B) Any licensee, taxpayer or other person subject to the tax imposed by this chapter may appeal any decisions made by the Director of Finance to the Board of Control and its decision shall be binding. Any appeal of a decision of the Director of Finance to the Board of Control shall be in writing directed to the Chairperson of the Board of Control within 30 days after notice of the decision of the Director of Finance. Any aggrieved taxpayer, licensee or person subject to the provisions of this chapter may appeal any decision of the Board of Control to the circuit court in this county within 30 days after notification of

the decision of the Board of Control.

(Prior Code, § 110.07)

#### **§ 110.08 LATE FILING PENALTY.**

Failure to comply with payment or audit and subsequent payment request shall be unlawful. A minimum penalty for late filing of 10% of the fee due shall be imposed plus interest of 12% per annum on the unpaid tax plus all costs for accountants, legal representation and incidental costs by the city to achieve compliance until paid.

(Prior Code, § 110.08) Penalty, see § 110.99

#### **§ 110.09 CONFIDENTIALITY OF INFORMATION.**

Any information gained by the Director of Finance or any other city official, agent or employee of the city as a result of returns, investigation or verification shall be confidential except in accordance with proper judicial order and any agent or employee of the city shall upon violation be subject to the penalty provisions of § 110.99 and shall be dismissed from employment by the city upon conviction. Each breach of confidence constitutes a separate offense.

(Prior Code, § 110.09) Penalty, see § 110.99

#### **§ 110.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 110.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 111: PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS**

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### Section

- 111.01 Definitions
- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification
  
- 111.99 Penalty

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

*Flea markets and yard sales, see Chapter 116*

*Occupational license fees, see Chapter 110*

#### **§ 111.01 DEFINITIONS.**

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

**BUSINESS.** The business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this section.

**GOODS.** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

#### **PEDDLER.**

(1) Any person who travels from place to place by any means carrying goods for sale, making sales or making deliveries;

(2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city; or

(3) A person who is a **PEDDLER** is not an "itinerant merchant."

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a **SOLICITOR** is not a "peddler."

**TRANSIENT MERCHANT.** Any person who offers services, products, goods or other materials, whether at retail, wholesale or otherwise where the legal entity offering to sell or provide a service does not by affirmative action indicate an intent to remain in business on a continuous basis for at least one year within the city limits. If the applicant does not have a permanent facility from which to operate the business for which he or she makes application for license, then and in that event, there shall be a presumption that the applicant is a **TRANSIENT MERCHANT**.

(Prior Code, § 111.01)

### **§ 111.02 LICENSE REQUIREMENT.**

(A) Any person who is a transient merchant, peddler or solicitor shall obtain a license before engaging in the activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the legislative body.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.

(E) A transient merchant shall pay a fee for the privilege of doing business in this city of \$1 per day.

(Prior Code, § 111.02) Penalty, see § 111.99

### **§ 111.03 APPLICATION PROCEDURE.**

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk/Treasurer. This application shall be signed by the applicant if an individual, by all partners if a partnership or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of the individual;

(c) The permanent address of the individual; and

(d) The capacity in which the individual will act.

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock; and

(c) If goods, where and by whom the goods are manufactured or grown, and where the goods are at the time of application.

(6) The nature of the advertising proposed to be done for the business; and

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) above has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant; and

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application the following:

(1) If required by the city, copies of all printed advertising proposed to be used in connection with the applicant's business; and

(2) If required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as the representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C) above, a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

(Prior Code, § 111.03) Penalty, see § 111.99

#### **§ 111.04 STANDARDS FOR ISSUANCE.**

(A) Upon receipt of an application, an investigation of the applicant's business reputation shall be made.

(B) The application shall be approved unless the investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude;
- (2) Has made willful misstatements in the application;
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;
- (4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts will constitute valid reasons for disapproval of an application.

(Prior Code, § 111.04)

#### **§ 111.05 REVOCATION PROCEDURE.**

(A) Any license or permit granted under this chapter may be revoked by the City Clerk/Treasurer after notice and hearing, pursuant to the standards in § 111.06 of this code.

(B) Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

(Prior Code, § 111.05)

#### **§ 111.06 STANDARDS FOR REVOCATION.**

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application;
- (B) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the license;
- (C) Any violation of this chapter;
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in a way as to constitute a menace to the health, safety, morals or general welfare of the public.

(Prior Code, § 111.06)

#### **§ 111.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 of this code shall have the right to appeal to the legislative body. The appeal shall be taken by filing with the legislative body, within 14 days after notice of the decision has been mailed to the person's last known address, a written statement setting forth the grounds for appeal. The legislative body shall set the time and place for a hearing, and notice for the hearing shall be given to such person in the same manner as provided in § 111.05 of this code.

(B) The order of the legislative body after the hearing shall be final.

(Prior Code, § 111.07)

#### **§ 111.08 EXHIBITION OF IDENTIFICATION.**

(A) Any license issued to a transient merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk/Treasurer shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "licensed peddler" or "licensed solicitor," the expiration date of the license and the number of the license. The license shall be kept with the licensee during the time as he or she is engaged in the business licensed.

(Prior Code, § 111.08) Penalty, see § 111.99

#### **§ 111.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 111.99) (Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 112: PAWNBROKERS**

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### Section

- 112.01 Definition
- 112.02 License fee; bond
- 112.03 Register to be kept; daily reports
- 112.04 Receipt to be given for each article; sale of article
- 112.05 Maximum interest, resale price
- 112.06 Receipt to be given for payment of loan
- 112.07 Prohibited activities
- 112.08 Enforcement
  
- 112.99 Penalty

#### **§ 112.01 DEFINITION.**

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

**PAWNBROKER.** Any person who loans money on deposit of personal property, deals in the purchase of personal property on condition of selling the property back again at a stipulated price, makes a public display at his or her place of business of the sign generally used by **PAWNBROKERS** to denote their business or who publicly exhibits a sign advertising money to loan on personal property or deposit.

(KRS 226.010) (Prior Code, § 112.01)

#### **§ 112.02 LICENSE FEE; BOND.**

(A) There shall be an annual license fee of \$150 for a pawnbroker's license, which license fee shall be due and payable on January 1 of each year.

(B) Every person to whom a city license is granted to carry on the business of a pawnbroker shall annually enter into bond to the city, with good and sufficient surety to be approved by City Council, in the penal sum of \$1,000. This bond shall be conditioned that he or she will observe the provisions of this chapter and all ordinances and laws in force in the city not inconsistent with this chapter.

(KRS 226.020) (Prior Code, § 112.02)

#### **§ 112.03 REGISTER TO BE KEPT; DAILY REPORTS.**

(A) (1) Every pawnbroker shall keep a register of all loans and purchases of all articles effected or made by him or her.

(2) The register shall show the dates of all loans or purchases and the names of all persons who have left any property on deposit as collateral security or as a delivery or sale. Opposite the names and dates shall be written in plain hand a full description of all property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned and the interest charged. The register shall at all times be open to the inspection of any police officer of the city when in the discharge of his or her official duty.



(KRS 226.040)

(B) If so required by KRS 226.070(1), every pawnbroker shall, by 11:00 a.m. each day, furnish to the Chief of Police a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. The Chief of Police shall furnish blanks for these reports.

(KRS 226.070)

(Prior Code, § 112.03) Penalty, see § 112.99

#### **§ 112.04 RECEIPT TO BE GIVEN FOR EACH ARTICLE; SALE OF ARTICLE.**

(A) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased or upon which money is loaned, having on each a copy of the entries required by § 112.03(A) of this code to be kept in his or her register. He or she shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 90 days from the maturity of the loan. However, not less than ten days before making the sale, the pawnbroker shall give notice to the person by whom the article was pawned by mail addressed to the post office address of that person as shown on the pawnbroker's register, notifying the person that, unless he or she redeems the article within ten days from the date of mailing of the notice, the article will be sold.

(KRS 226.050) (Prior Code, § 112.04) Penalty, see § 112.99

#### **§ 112.05 MAXIMUM INTEREST, RESALE PRICE.**

(A) Any pawnbroker as defined in § 112.01 of this code, may, in loaning money on deposit of personal property, charge, contract for or receive interest at a rate not exceeding 2% per month on the unpaid principal balance of the loan, and may charge, contract for and receive a reasonable fee, not to exceed one-fifths of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers if required by § 112.03 of this code and for other expenses, losses and incidental costs associated with servicing the loans. Further, this fee, when made and collected, shall not be deemed as interest for any purpose of law.

(B) No pawnbroker shall directly or indirectly charge, receive or contract for any interest or consideration greater than that allowed by this section.

(KRS 226.080) (Prior Code, § 112.05) Penalty, see § 112.99

#### **§ 112.06 RECEIPT TO BE GIVEN FOR PAYMENT OF LOAN.**

Every pawnbroker, upon receiving any payment of money from a borrower, shall give to that person a plain and complete receipt for the payment, specifying separately the amount applied to principal and the amount applied to interest. In a case where the pawnbroker has purchased personal property under an agreement to sell it back at a stipulated price, the pawnbroker shall, on receiving any payment of money from the person from whom the property was purchased, give that person a receipt stating the original purchase price, the stipulated resale price and the amount received.

(KRS 226.090) (Prior Code, § 112.06) Penalty, see § 112.99

#### **§ 112.07 PROHIBITED ACTIVITIES.**

No pawnbroker shall receive, by way of either pledge or pawn, any article whatever from a minor at any time nor from any person between 8:00 p.m. and 7:00 a.m.

(KRS 226.030) (Prior Code, § 112.07) Penalty, see § 112.99

#### **§ 112.08 ENFORCEMENT.**

The Police Department shall enforce the provisions of this chapter unless otherwise provided by KRS 226.100. However, county police, for the purpose of locating stolen goods, may carry out the provisions of KRS 226.060 within the city.

(KRS 226.100) (Prior Code, § 112.08)

#### **§ 112.99 PENALTY.**

(A) Any pawnbroker who violates any of the provisions of §§112.02, 112.03(A) or 112.04 through 112.07 of this code shall, upon conviction, be fined not less than \$50 nor more than \$500, and his or her license may be forfeited to the city.

(KRS 226.990(1))

(B) Any pawnbroker who violates any of the provisions of §112.03(B) of this code shall be fined not less than \$20 nor more than \$100.

(KRS 226.990(3))

(Prior Code, § 112.99)

## CHAPTER 113: PUBLIC AMUSEMENTS

Section

### *Coin-Operated Amusement Machines*

- 113.01 Definition
- 113.02 License fee
- 113.03 Penalty and interest

### *Pool Halls*

- 113.15 License required; issuance and fee
- 113.16 Windows and doors to be unobstructed
- 113.17 Minors
- 113.18 Operating hours
- 113.19 Sales of alcoholic beverages prohibited
- 113.20 License revocation for violation
  
- 113.99 Penalty

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

*Adult entertainment activities, see Chapter 118*

## **COIN-OPERATED AMUSEMENT MACHINES**

### **§ 113.01 DEFINITION.**

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

**COIN-OPERATED AMUSEMENT MACHINE.** Any lawful coin- or token-operated machine or device which contains no element of chance and which as a result of depositing a coin, token or other object automatically by or through some mechanical operation affords music or amusement of some character with or without vending any merchandise, but in addition to any merchandise. The **COIN-OPERATED AMUSEMENT MACHINE** shall not include any bona fide merchandise vending machine in which there is incorporated no amusement features.

(Prior Code, § 113.01)

### **§ 113.02 LICENSE FEE.**

(A) Pursuant to KRS 137.410, there is hereby established a license fee of \$10 per annum upon each coin-operated amusement machine and also any electrically operated machine operated as a game or for pleasure and entertainment by the general public.

(B) The aforesaid fee of \$10 shall be due and payable on July 1 annually and shall be paid to the city in cash. The city shall issue a receipt for same indicating the amount paid and the year for which the license is granted.

(Prior Code, § 113.02)

### **§ 113.03 PENALTY AND INTEREST.**

Any person who shall fail to pay the license tax required by this subchapter within 30 days from the date the tax becomes due shall be assessed a penalty of 10% of the tax and 12% per annum interest, which penalty and interest, together with the regular tax shall be paid before the license is issued. In addition, any person who shall violate any provisions of this section shall be fined as set out in § 113.99 of this code. Each day that a coin-operated machine is operated without the license required herein shall constitute a separate offense.

(Prior Code, § 113.03) Penalty, see § 113.99

## **POOL HALLS**

### **§ 113.15 LICENSE REQUIRED; ISSUANCE AND FEE.**

(A) It shall be unlawful for any person, firm or corporation to open, operate, conduct or maintain any public pool room or billiard hall without first obtaining the license herein required. Any person, firm or corporation desiring to open, operate, conduct or maintain a public pool room or billiard hall in the city shall apply to the City Clerk/Treasurer for a license, and the

application shall be accompanied by at least three references as to the applicant's good moral character.

(B) (1) The fee for the license shall be as follows:

- (a) For the first pool or billiard table, per year \$15; and
- (b) For the second and each additional pool or billiard table, per year \$10.

(2) The license shall be issued for one year from January 1 of each year, and no license shall be issued for a period less than one year. No refunds or reimbursements shall be made on the licenses, and no license required by the provisions of this subchapter shall be transferable.

(C) Before the license shall be issued, the applicant shall agree, in writing, to comply with all the provisions of this subchapter.

(Prior Code, § 113.15) Penalty, see § 113.99

#### **§ 113.16 WINDOWS AND DOORS TO BE UNOBSTRUCTED.**

The windows and doors of the pool room or billiard hall licensed shall be kept free from all blinds, screens, paint or other obstructions and the windows or doors shall be so constructed and kept that full and complete view of the room or hall may be had from the street.

(Prior Code, § 113.16) Penalty, see § 113.99

#### **§ 113.17 MINORS.**

It shall be unlawful for the owner, keeper or person having control of any pool room or billiard hall, or of a billiard or pool table in any public place, to suffer or permit a minor under the age of 21 years, without the written permission of the parent or guardian of the minor, or other person having the care, custody or control of the minor to play any game on a pool or billiard table, or to suffer or permit a minor under the age of 21 years to be in or remain in any pool room, billiard hall or public place.

(Prior Code, § 113.17) Penalty, see § 113.99

#### **§ 113.18 OPERATING HOURS.**

It shall be unlawful for any pool room or billiard hall, or place of public resort containing a pool or billiard table or tables to remain open later than 12:00 midnight.

(Prior Code, § 113.18) Penalty, see § 113.99

#### **§ 113.19 SALES OF ALCOHOLIC BEVERAGES PROHIBITED.**

The sale of liquor or beer on the same premises which contain a pool room or billiard hall, when the sale of liquor and the operation of a billiard hall or pool room are conducted jointly, is prohibited.

(Prior Code, § 113.19) Penalty, see § 113.99

#### **§ 113.20 LICENSE REVOCATION FOR VIOLATION.**

Any violation of any of the provisions of this subchapter shall be cause for revocation of the license, in addition to the penalty provided in § 113.99.

(Prior Code, § 113.20)

#### **§ 113.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined not more than \$500 for each offense.

(Prior Code, § 113.99)

## **CHAPTER 114: DETECTIVE AGENCIES**

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### Section

- 114.01 Definition
- 114.02 Permit, bond and liability insurance required
- 114.03 Proof of good character
- 114.04 Information to be provided to Chief of Police
- 114.05 Revocation of permit

114.06 Occupational license required

114.99 Penalty

#### **§ 114.01 DEFINITION.**

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

**DETECTIVE AGENCY** or **SECURITY AGENCY.** A firm or corporation or an individual holding itself, himself or herself out to the public as doing private detective or security work.

(Prior Code, § 114.01)

#### **§ 114.02 PERMIT, BOND AND LIABILITY INSURANCE REQUIRED.**

(A) No person shall carry on the business of doing private detective or security work in the city without having first secured a permit from the City Clerk/Treasurer, upon approval of the permit application by City Council, and executing the bond provided for herein.

(B) Before the permit provided for herein is issued to any person, a bond with surety to be approved by the City Council shall be executed in the sum of \$5,000 payable to the city for the use and benefit of any person who shall be injured or damaged by an illegal act of the detective or security agency, or by its owners, operators, employees or agents in carrying on the business.

(C) When a permit is issued to a detective or security agency, and proper bond has been executed, employees of the agency shall not be required to secure a permit or execute bond.

(D) Personal liability insurance shall also be carried by the agency in the amount of \$10,000 per person, \$300,000 per incident and \$10,000 property damage. The insurance shall also include all agents and employees of the agency. Proof of insurance must be submitted to and approved by the City Council.

(Prior Code, § 114.02) Penalty, see § 114.99

#### **§ 114.03 PROOF OF GOOD CHARACTER.**

Before a permit shall be approved by City Council and issued by the Clerk/Treasurer, the applicant shall furnish the city with satisfactory proof that the person applying for the permit or the chief officers or members of a firm, if the business is to be conducted by a corporation or by partnership, are persons of sobriety and integrity and have been orderly and law-abiding citizens and have never been convicted of a felony or engaged in any unlawful calling.

(Prior Code, § 114.03) Penalty, see § 114.99

#### **§ 114.04 INFORMATION TO BE PROVIDED TO CHIEF OF POLICE.**

All agencies or their agents or employees shall inform the Chief of Police of the exact location of all security jobs and the dates and times that the agents will be at or on the property in advance. This requirement is for the safety of both the public, agency employees and police officials. Failure to so inform may result in suspension or revocation of the agency's permit to operate in the city.

(Prior Code, § 114.04) Penalty, see § 114.99

#### **§ 114.05 REVOCATION OF PERMIT.**

(A) Permits provided for herein may be revoked at any time by the City Council, if any person shall be injured or damaged on account of any illegal act of the detective or security agency or its owners, agents or employees, or any other acts which constitute the conduct as will be detrimental to the community and citizens and for other just causes.

(B) A permit shall not be revoked until written charges have been made or preferred against the holder thereof or until the charges have been examined, heard and investigated by the City Council after reasonable notice. After the City Council has received notice of any charges being placed against a detective or security agency, the City Council shall notify the agency or owners within ten days from receipt of complaint.

(C) The owner or agency shall have 14 days from the receipt of the notice of the complaint to answer the complaint in writing, or to ask that a hearing be set to determine the validity of the charges. The date of the hearing shall not be less than 14 days nor more than 30 days from the date that the request for hearing is received or from the date that the time period for the request for hearing is received or from the date that the time period for the request for hearing or answer would have expired.

(Prior Code, § 114.05)

#### **§ 114.06 OCCUPATIONAL LICENSE REQUIRED.**

Nothing herein shall relieve any detective agency or security agency or private security person from paying to the city the

occupational license tax provided for in Chapter 110 of this code for the carrying on of the business.

(Prior Code, § 114.06)

### **§ 114.99 PENALTY.**

Any person violating any provision of this chapter shall be fined not more than \$500 for each offense. Each day of violation shall be considered a separate offense.

(Prior Code, § 114.99)

## **CHAPTER 115: TATTOO PARLORS**

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### Section

- 115.01 License required; fee
- 115.02 Operating hours
- 115.03 Regulations concerning minors
- 115.04 Obscene drawings
- 115.05 Loitering prohibited

115.99 Penalty

### **§ 115.01 LICENSE REQUIRED; FEE.**

(A) Every owner or operator of a tattoo parlor desiring to establish and locate a tattoo parlor in the city shall apply to the City Clerk/Treasurer for a license therefor.

(B) The fee for the license shall be the sum of \$5,000, payable and renewable annually each calendar year, or fraction thereof, on January 1.

(Prior Code, § 115.01) Penalty, see § 115.99

### **§ 115.02 OPERATING HOURS.**

Tattoo parlors shall be open for business only between the hours of 8:00 a.m. and 8:00 p.m.

(Prior Code, § 115.02) Penalty, see § 115.99

### **§ 115.03 REGULATIONS CONCERNING MINORS.**

(A) No person under the age of 21 years shall be tattooed on any part of his or her body unless the minor obtains and presents to the owner or operator of the tattoo parlor an authorization therefor duly signed by his or her parents, statutory guardian or legal custodian and notarized.

(B) The authorizations shall be kept on permanent file by the owner or operator of the parlor and shall be of public record.

(Prior Code, § 115.03) Penalty, see § 115.99

### **§ 115.04 OBSCENE DRAWINGS.**

No owner or operator of a tattoo parlor or any employee thereof, shall design and draw on any person, any nude or seminude portion of the human body, nor any obscene or lewd words or phrases.

(Prior Code, § 115.04) Penalty, see § 115.99

### **§ 115.05 LOITERING PROHIBITED.**

No owner, operator or employee of a tattoo parlor shall suffer or permit persons to congregate or loiter in or around his or her premises during or after business hours.

(Prior Code, § 115.05) Penalty, see § 115.99

### **§ 115.99 PENALTY.**

In the event any owner, operator or employee of a tattoo parlor located in the city violates any of the provisions of this chapter, the owner, operator or employee shall be prosecuted and, if found guilty, shall be fined not less than \$100 nor more than \$500 or imprisoned for not less than ten days, or both.

## CHAPTER 116: FLEA MARKETS AND YARD SALES

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### Section

#### *Flea Markets*

- 116.01 Definitions
- 116.02 License required; fee
- 116.03 Application for license
- 116.04 Duration of and display of license

#### *Yard Sales*

- 116.15 Definitions
  - 116.16 Yard sale permit required; exceptions
  - 116.17 Limitation on permits; display required
- 
- 116.99 Penalty

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

*Occupational license fee, see Chapter 110*

*Pawnbrokers, see Chapter 112*

*Peddlers, transient merchants and solicitors, see Chapter 111*

### FLEA MARKETS

#### **§ 116.01 DEFINITIONS.**

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

**FLEA MARKET.** Sale or sales of personal property conducted on real property leased daily or weekly by the seller and not a permanent, fixed location for the conduct of the sales.

**PERSON.** Individuals, partnerships, voluntary associations and corporations.

(Prior Code, § 116.01)

#### **§ 116.02 LICENSE REQUIRED; FEE.**

Each person who sells personal property by means of a flea market in the city shall purchase a license from the City Clerk/Treasurer and pay a business privilege license fee of \$50 annually.

(Prior Code, § 116.02) Penalty, see § 116.99

#### **§ 116.03 APPLICATION FOR LICENSE.**

Each person subject to this subchapter shall present to the City Clerk/Treasurer an application showing the applicant's name, business address, business telephone number, residential address, residential telephone number and, if a nonresident of the county, a statement setting forth any previous unpardoned felony convictions. Forms for applications shall be provided by the City Clerk/Treasurer and paid for out of the General Fund.

(Prior Code, § 116.03)

#### **§ 116.04 DURATION OF AND DISPLAY OF LICENSE.**

Each license issued hereunder shall be valid for one year and shall be issued by the City Clerk/Treasurer. The license shall be prominently displayed by the holder of the premises where the sale is conducted, and shall show the name of the holder and the expiration date.

(Prior Code, § 116.04) Penalty, see § 116.99

### YARD SALES



## § 116.15 DEFINITIONS.

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

**GOODS.** Any goods, warehouse merchandise or other property capable of being the object of the sale regulated hereunder.

**PERSON.** Individuals, partnerships, voluntary associations and corporations.

**YARD SALES.** All sales entitled, "garage sale," "lawn sale," "attic sale," "rummage sale," or "yard sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale.

(Prior Code, § 116.15)

## § 116.16 YARD SALE PERMIT REQUIRED; EXCEPTIONS.

(A) It shall be unlawful for any person to conduct a yard sale within the city without first filing with the City Clerk/Treasurer the information herein specified and obtaining from the City Clerk/Treasurer a permit to do so, to be known as a "yard sale permit." The permit shall be issued without charge.

(B) The information to be filed with the City Clerk/Treasurer pursuant to this section shall be as follows:

- (1) The name of the person, firm, group, corporation, association or organization conducting the sale;
- (2) The name of the owner of the property on which the sale is to be conducted, and the consent of the owner if the applicant is other than the owner;
- (3) The location at which the sale is to be conducted;
- (4) The number of days of the sale;
- (5) The date and nature of any past sale; and
- (6) The relationship or connection the applicant may have had with any other person, firm, group, corporation, association or organization conducting the previous sale and the date or dates of the sale.

(C) The provisions of this subchapter shall not apply to or affect the following persons or sales:

- (1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- (2) Persons acting in accordance with their powers and duties as public officials; and
- (3) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

(Prior Code, § 116.16) Penalty, see § 116.99

## § 116.17 LIMITATION ON PERMITS; DISPLAY REQUIRED.

(A) A yard sale permit shall be issued to any one person only two times within a 12-month period and no permit shall be issued for more than three consecutive calendar days.

(B) Each permit issued under this subchapter must be prominently displayed on the premises upon which the yard sale is conducted through the entire period of the permit sale.

(Prior Code, § 116.17) Penalty, see § 116.99

## § 116.99 PENALTY.

Except as otherwise provided, any person violating or failing to comply with any provision of this chapter shall, upon conviction thereof, be fined not more than \$500 for each offense. Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense.

(Prior Code, § 116.99)

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## CHAPTER 117: INSURANCE COMPANIES

### Section

117.01 Imposition of license fee

117.02 Amount of fee for companies issuing life insurance

117.03 Amount of fee for companies issuing policies other than life insurance

117.04 Due date; interest

117.05 Written breakdown of collections

### **§ 117.01 IMPOSITION OF LICENSE FEE.**

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.

(Prior Code, § 117.01)

### **§ 117.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.**

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 7% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of the policies.

(KRS 91A.080(2)) (Prior Code, § 117.02)

### **§ 117.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE INSURANCE.**

The license fee imposed upon each insurance company which issues any insurance policy, which is not a life insurance policy, shall be 12% of the premium actually collected within each calendar quarter, by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which the company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of Workers' Compensation Act, and shall not include premiums received on policies of group, family nor individual health insurance, insurance against flood damage issued under the federal flood insurance program, nor insurance fees paid by municipalities.

(Prior Code, § 117.03) (Ord. 2005-04, passed 6-13-2005)

### **§ 117.04 DUE DATE; INTEREST.**

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(KRS 91A.080(8), (9)) (Prior Code, § 117.04)

### **§ 117.05 WRITTEN BREAKDOWN OF COLLECTIONS.**

Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

- (A) Casualty;
- (B) Automobile;
- (C) Inland marine;
- (D) Fire and allied perils; or
- (E) Life.

(KRS 91A.080(8)) (Prior Code, § 117.05)

## **CHAPTER 118: ADULT ENTERTAINMENT ACTIVITIES**

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### Section

- 118.01 Definitions
- 118.02 Restrictions, requirements and conditions
- 118.03 Licensing
- 118.04 Administration, suspension, revocation
- 118.05 Effect and limitation

118.99 Penalty

### **§ 118.01 DEFINITIONS.**

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

**ADULT AMUSEMENT ARCADE.** An establishment having as one of its principal uses one or more of the following: Customer-operated motion picture devices; peep shows; viewing areas; or similar devices either coin, token or slug operated, or which, in consideration of an entrance fee, display material distinguished or characterized by an emphasis on depictions of sexual activities, as defined in this section, or which offer male or female persons who expose to view of the customer the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, even if partially or completely covered by translucent material or human or simulated male genitals in a discernible turgid state even if completely or opaquely covered.

**ADULT BOOK STORE.** An establishment having as one of its principal uses the sale, rent or display of pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on depiction of sexual activities as hereinafter defined or an establishment with a substantial segment or section devoted to the sale, rental or display of the material.

**ADULT ENTERTAINMENT PROVIDER.** A commercial establishment, such as a hotel or motel, which in addition to providing as the major part of its business services unrelated to depiction of sexual activities as herein defined, makes entertainment, either live or on film or video tape, available to its customers, which entertainment has as a dominant theme or is characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, if the establishment advertises the availability of the adult entertainment at its establishment. The advertisement of the materials shall not include the posting of a card or handbill on or near a television set in a hotel or motel room advising room guests that the adult movies are available upon request of the guest, or advertising informing the public of the availability of commercial cable channels.

**ADULT MOTION PICTURE THEATER.** An establishment having or advertising as having as one of its principal uses the presentation of motion pictures, slide projections and other similar material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as defined in this section, for observation by persons therein.

**ADULT STAGE SHOW THEATER.** An establishment having as one of its principal uses the presentation of live performances of humans or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as defined in this section, for observation by persons therein.

**CABARET.** An establishment which features, as a principal use of its business, entertainers, waiters, bartenders, male or female impersonators or persons, either male or female, who expose to public view of the patrons of the establishment at any time the bare female breast below a point immediately above the top of the areola, human genitals, pubic region or buttocks, even if partially or completely covered by translucent material, or human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

**COMMERCIAL SEXUAL ENTERTAINMENT CENTER.** Any commercial establishment not otherwise described in this section which makes available material, services or entertainment appealing to adult sexual interests, including but not limited to a bath house, swingers club or similar establishment if the establishment or its entertainment, services or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to the adult sexual interests.

**EMPLOYEE.** Any person hired by or suffered or permitted to work in an establishment engaging in adult entertainment activities whether that person receives remuneration or compensation directly from the operator or owner of the establishment, from patrons of the establishment or from any other source, whether by contract of employment or otherwise.

**ESTABLISHMENT.** A business entity or endeavor, fixed, mobile or traveling, including its owners, operators, directors, shareholders, partners, employees and possessions.

**LICENSEE.** A person who is the holder of a valid license under this chapter, also including an agent, servant or employee of or other person acting on behalf of a **LICENSEE** whenever a **LICENSEE** is prohibited from doing a certain act under this chapter.

**OPERATOR.** Any individual, partnership, corporation or business entity who establishes or maintains a business as its owner or manager and shall also mean **LICENSEE** as defined in this section.

**OWNER.** Any individual, partnership, corporation or business entity who has legal title to real estate, with or without accompanying actual possession thereof, or has all or part of the beneficial ownership of any real estate and a right to present use and enjoyment thereof, including a mortgagee in possession.

**PERSON.** Any individual, partnership, corporation or business entity.

**PRINCIPAL USE.** A substantial or significant use. Evidence that an establishment maintains more than 10% of its stock in trade in material distinguished or characterized by an emphasis in sexual activities; or that it devotes more than 15% of its floor space which is open to either the public generally or to members of the public other than minors or more than a total of 160 square feet to the display of material distinguished or characterized by an emphasis on sexual activities; or that it provides entertainment, either live or on film or video tape, and that said entertainment more than 10% of the time is distinguished or characterized by an emphasis on sexual activities; or that it advertises in a manner visible from the outside of the business premises the availability of material or entertainment distinguished or characterized by an emphasis on sexual activities shall establish that the establishment is engaging in an adult entertainment activity as a **PRINCIPAL USE**.

**SELF-DESIGNATED ADULT ENTERTAINMENT CENTER.** Any establishment which designates all or a portion of its premises as for adults only, or has a policy of excluding minors from its premises or from a portion of its premises and which makes available services, entertainment or goods at the premises or at the portion of the premises designated for adults only which are characterized or distinguished by depictions of sexual activities as defined in this section.

**SEXUAL ACTIVITIES.**

- (1) Depiction of human genitals in a state of sexual stimulation;
- (2) Acts of human masturbation, sexual intercourse, sodomy or arousal bestiality necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
- (3) Holding or other erotic touching of human genitals, pubic region, buttocks or female breasts.

**SPECIFIED ANATOMICAL AREAS.**

- (1) Less than complete and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if opaquely covered.

(Prior Code, § 118.01)

**§ 118.02 RESTRICTIONS, REQUIREMENTS AND CONDITIONS.**

(A) An establishment engaging in an adult entertainment activity, except as otherwise provided by laws which may be more restrictive, may not have more than one outside flush to the wall, fascia style sign, not to exceed in size ten feet in length (horizontal to the ground) and three feet in width (vertical to the ground) with no flashing lights and with no lettering, wording or pictorial or representational matter which is distinguished or characterized by an emphasis on depictions of sexual activities, as defined in § 118.01 of this code.

(B) An establishment engaging in an adult entertainment may not display its stock in trade or matter depicting, describing or relating to sexual activities in such manner as to be subject to public view from outside the establishment, including but not limited to view from public sidewalks, streets, arcades, hallways or passways.

(C) (1) An operator of an establishment engaging in an adult entertainment activity or his or her employee shall not permit a person under 18 years of age to be employed by or to enter his or her establishment, provided, however, that a licensed adult entertainment establishment which devotes only a portion of its business premises to adult entertainment or material may permit the public generally including minors, to enter the portions of the premises within which no adult entertainment or material is visible or on display.

(2) This division (C) shall not be construed to be an exemption from or in conflict with any requirement found in any statute, ordinance, regulation or other provision of law applicable to a licensee or potential licensee hereunder which is more stringent in terms of an age requirement for employees.

(D) An operator engaging in an adult entertainment activity shall, at all times, cause the entrance of his or her establishment to be so attended as to ensure compliance with the requirements contained in division (C) above.

(E) (1) The public entrance to an adult entertainment establishment shall not be located nearer than 500 feet from any residential zone, single- or multi-family dwelling, school, church or park.

(2) The distance shall be measured along a straight line from the nearest property line of the real estate on which that building or park area is located to the entrance to the establishment engaging in an adult entertainment activity.

(F) An establishment engaged in adult entertainment shall be closed from 1:00 a.m. to 4:00 a.m. Monday through Saturday and all day on Sunday.

(G) (1) The public entrance to an adult entertainment establishment shall not be located nearer than 500 feet from the public entrance of another adult entertainment activity establishment.

(2) The distance shall be measured in a straight line from the nearest entrance to a building containing an existing adult entertainment establishment to the entrance or proposed entrance to the building containing the proposed new adult entertainment establishment.

(Prior Code, § 118.02) Penalty, see § 118.99

**§ 118.03 LICENSING.**

(A) The owner or operator of an establishment intending to engage, or engaging, under a previously issued license, in an adult entertainment activity shall make application for a license with the City Clerk/Treasurer in accordance with this section.

(B) The application shall be in writing, under oath and shall be in the form prescribed by the City Clerk/Treasurer and shall contain the following information together with further information as the City Clerk/Treasurer may require:

- (1) The name and location of the establishment and the name and business address of the applicant;
- (2) The name, address, date of birth, Social Security number and photograph of a natural person with an ownership

interest in the licensee, the natural person to be determined as follows:

(a) If the licensee is one or more natural persons, then all natural persons shall comply, or any one natural person may comply for the licensee upon certification that he or she owns a greater share of the licensee than any other person;

(b) If the licensee is a partnership, then the natural person designated as the managing general partner in the partnership agreement, a copy of which is to be attached to the license application, shall comply, but if the partnership agreement designates no natural person as a managing general person, then the natural person who by virtue of his or her interest or holding in the partnerships or corporations which have formed the partnership owns a greater share of the licensee than any other single natural person shall comply; and

(c) If the licensee is a corporation, the natural person, if any, who owns a greater number of shares than any other person shall comply, but if the person owning the greatest number of shares is not a natural person, then the natural person who by virtue of his or her interests or holdings in one or more partnerships or other corporations which own shares in the licensee, owns a greater portion of the shares in the licensee than any other individual natural person shall comply.

(3) The name and address of all directors and officers of any licensee or applicant which is a corporation, and the name and address of the licensee's designated agent for service of process;

(4) In the event the applicant or licensee is not the owner of record of the real property on which the licensed establishment is located or to be located, the application shall include a notarized statement from the owner of record of the real property acknowledging that an adult entertainment establishment is to be located on the real property upon issuance of the license. The application shall furnish the name and the address of the owner of record of the real property and a copy of the lease or rental agreement or memorandum thereof;

(5) The name, address, date of birth, Social Security number and photograph of the individual designated by the applicant to undertake to keep the applicant, if licensed, at all times in compliance with the restrictions, requirements and conditions of this chapter and with the rules and regulations promulgated by the City Clerk/Treasurer as stated herein below together with the sworn affidavit of that individual stating that he or she has received a copy of this chapter, that he or she understands the conditions of this chapter and that he or she willfully undertakes on behalf of the applicant to comply therewith;

(6) The name, address, date of birth, Social Security number and photograph of the individual designated by the applicant or licensee to be responsible for keeping the information required hereunder current at all times together with a sworn affidavit of that individual stating that he or she has received a copy of this chapter, that he or she understands the requirements hereto pertaining to disclosure of information and that he or she willfully undertakes on behalf of the applicant to comply therewith;

(7) The name and addresses of any rental agent of the property on which the establishment is located;

(8) The nature of the activity or activities to be engaged in at the location;

(9) The name and address of any person to whom the applicant wants mailed notice to be given in case of violation of other matters affecting the license hereunder;

(10) A photograph or drawing of any signs displayed or proposed to be displayed on the exterior of the establishment and a statement of the dimensions of the signs;

(11) Proof of compliance with city occupational license fee laws;

(12) A certificate of occupancy where required and, in all other cases, a letter of compliance issued by the Zoning Inspector certifying that the business is in compliance with applicable zoning laws or has nonconforming use rights and that the proposed use will not constitute an enlargement or expansion of the scope of the nonconforming rights;

(13) A certificate from the Fire Chief or his or her designee that all applicable fire regulations have been met;

(14) A statement from the Building Inspector that the premises comply with applicable provisions of the state's Uniform Building Code, as adopted by the city; and

(15) A statement from the county's Board of Health that the premises are adequately ventilated and contain public restrooms, which satisfy the requirements of 902 KAR 10:010.

(C) The information required shall be at all times current even after the granting of a license by the City Clerk/Treasurer. It shall be the responsibility of the operator or other person designated in the license application to notify the City Clerk/Treasurer no later than the close of the first business day of the City Clerk/Treasurer after the effective date of any changes, alterations or modifications in any information contained in the application including, but not limited to: Name of establishment; any change in the corporate information required for the application; names and addresses of the owners of the property on which the establishment is located; names and addresses of any rental agents of the property on which the establishment is located; name and address of designated agent for service of process, nature of the activity or activities to be engaged in at the establishment; and the name and address of any person the applicant wants mail notice to be given in case of violation or other matters affecting the license.

(D) The City Clerk/Treasurer will cause the premises to be inspected after the application has been received and all application requirements have been complied with. The City Clerk/Treasurer shall then issue a license forthwith if all restrictions, requirements, conditions and all applicable requirements of this chapter and other applicable laws have been

met. Provided, however, the granting of a license does not certify compliance with all applicable laws nor does it stop the city from enforcement of all applicable laws or ordinances. If inspection reveals failure to comply with any restrictions, requirements or conditions herein, the City Clerk/Treasurer shall notify the applicant in writing of that fact, stating what failures have been discovered, allowing a reasonable time to correct the defects and informing the applicant of the appeal procedure if the applicant does not agree with the City Clerk/Treasurer's decision.

(E) Any license granted according to this section shall at all times be conspicuously posted and displayed in a public area so as to be open to view of the patrons and proper public authorities.

(F) Application for or granting of a license according to this section is deemed to permit periodic inspections of the public areas of any establishment requiring a license under this chapter for the purpose of verifying compliance with the terms and conditions of this chapter.

(G) No operator shall maintain, operate or conduct an establishment engaging in adult entertainment activities defined under this chapter unless the person has made an application for a license, and thereafter no operator shall own, operate or be employed at an establishment engaging in adult entertainment activities which has sought and been denied a license according to this section.

(H) No person shall operate, own or be employed at an unlicensed adult entertainment activity defined under this chapter.

(I) No person shall permit himself or herself to be an operator or an employee at an adult entertainment activity which has not been validly licensed according to this section.

(J) No owner shall permit adult entertainment activities to be conducted on his or her property unless and until he or she is properly licensed according to this section.

(Prior Code, § 118.03) Penalty, see § 118.99

#### **§ 118.04 ADMINISTRATION, SUSPENSION, REVOCATION.**

The City Clerk/Treasurer may refuse to renew any establishment license or may suspend any license granted under this chapter if the City Clerk/Treasurer finds on the basis of substantial evidence presented at a hearing that a licensee, applicant, owner or operator:

(A) Has failed to comply with the restrictions, requirements and conditions of this chapter or with the material regulations as may be enacted by the City Clerk/Treasurer pursuant to this section;

(B) Has knowingly provided false information to gain or to maintain a license, or has willfully failed to keep the information required current; or

(C) Has engaged in a consistent pattern of conduct which has resulted in the licensed premises being used for or the site of illegal activities, whether under this chapter, state or federal law or by the licensee or its agents, employees or patrons.

(Prior Code, § 118.04)

#### **§ 118.05 EFFECT AND LIMITATION.**

It is not the purpose of this chapter to establish community standards on obscenity nor to permit persons to engage in any activity which is in violation of law, including but not limited to state laws pertaining to the advertising, promotion, distribution or sale of obscene matter or matters portraying a sexual performance by a minor, state laws pertaining to the use of a minor in a sexual performance or promotion of a sexual performance by a minor or the use of a minor to distribute material portraying sexual performance by a minor.

(Prior Code, § 118.05) Penalty, see § 118.99

#### **§ 118.99 PENALTY.**

Violation of this chapter shall be deemed a violation, misdemeanor and upon conviction the violator shall be fined not less than \$20 nor more than \$250 plus court costs. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be not less than \$20 nor more than \$250. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with this chapter or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 118.99)

## **CHAPTER 119: ALCOHOLIC BEVERAGES**

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Section

*By the Drink*

119.01 Purpose



- 119.02 Definitions
- 119.03 Incorporation of state law
- 119.04 Scope
- 119.05 Food service requirement
- 119.06 Alcoholic Beverage Control Administrator
- 119.07 Mandatory responsible beverage training
- 119.08 License required
- 119.09 License application
- 119.10 Periodic information to be provided by licensee
- 119.11 License renewal
- 119.12 Regulatory license fee imposed
- 119.13 Additional restrictions on sale by licensee
- 119.14 Cause for refusal to issue or renew license and for suspension and revocation of license
- 119.15 Revocation or suspension of license
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- 119.17 Transfer or assignment of license

***Alcoholic Beverage Control***

- 119.30 General provisions
- 119.31 License requirements
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- 119.34 Hours for sale
- 119.35 Conditions, prohibitions and restrictions
- 119.36 Minors
- 119.37 Consumption on premises prohibited
- 119.38 Malt beverage keg registration
- 119.39 Enforcement
- 119.40 Mandatory responsible beverage service training
- 119.41 Signs and advertising
- 119.42 Patio and outdoor sales
- 119.43 Implementation of ordinance provisions
  
- 119.99 Penalty

***BY THE DRINK***

**§ 119.01 PURPOSE.**

It is the purpose of this subchapter to promote economic development and tourism within the city by making provision for the sale of alcoholic beverages by the drink at certain restaurants and dining facilities in a manner consistent with the local option election heretofore conducted pursuant to KRS Chapter 242.

(Ord. 2011-06, passed 9-12-2011)

**§ 119.02 DEFINITIONS.**

For the purpose of this subchapter, the definitions contained in KRS Chapters 241, 242, 243 and 244 are hereby adopted as part of the alcoholic beverage control law of the city and shall apply unless the context clearly indicates or requires a different meaning.

(Ord. 2011-06, passed 9-12-2011)

### **§ 119.03 INCORPORATION OF STATE LAW.**

The provisions of the state alcoholic beverage control law contained in KRS Chapters 241, 242, 243 and 244, pertaining to licenses and regulations of the state's Alcoholic Beverage Control Board as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control law of the city, except as otherwise lawfully provided herein.

(Ord. 2011-06, passed 9-12-2011)

### **§ 119.04 SCOPE.**

This subchapter shall be construed to apply to the sale of alcoholic beverages by the drink at restaurants and dining facilities within the city which seat a minimum of 50 persons and derive a minimum of 70% of their gross receipts from the sale of food.

(Ord. 2011-06, passed 9-12-2011)

### **§ 119.05 FOOD SERVICE REQUIREMENT.**

All license holders under this subchapter shall be required to maintain food service during all hours that alcohol is served.

(Ord. 2011-06, passed 9-12-2011)

### **§ 119.06 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

(A) The Alcoholic Beverage Control Administrator (the "ABC Administrator") shall be appointed by the Mayor with the consent of a majority of the members of the City Council, and may be removed by the Mayor with or without cause. No conflict of interest shall be deemed to arise if the individual appointed as ABC Administrator is also employed by the city in some other capacity.

(B) The ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this subchapter, pursuant to KRS 241.190 and KRS 241.060.

(C) The functions of the ABC Administrator shall be the same with respect to the city's Alcoholic Beverages Licenses and Regulations as the functions of the state's Alcoholic Beverage Control Board with respect to state alcoholic beverages licenses and regulations, as provided in KRS 241.190, except that no amendments of proposed by the ABC Administrator shall be more stringent than the statutes relating to alcoholic beverage control, or than the regulations of the state ABC Board. Regulations of the ABC Administrator shall only become effective upon the appropriate approval of such by the City Council.

(D) The ABC Administrator and his or her assistants and investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the city. They, and any city law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked without first obtaining a search warrant.

(E) (1) The ABC Administrator and his or her assistants and investigators are authorized to examine and inspect, at any reasonable time, all books and records required to be maintained by licensees under KRS 244.150.

(2) In addition to the reports otherwise required by this subchapter, the licensee shall submit to the ABC Administrator a copy of all reports which the licensee is required or elects to submit to or file with the state's Alcoholic Beverage Control Board.

(F) The ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the state's Alcoholic Beverage Control Board has with respect to state license under KRS 241.060, The ABC Administrator, on his or her own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this subchapter.

(Ord. 2011-06, passed 9-12-2011)

### **§ 119.07 MANDATORY RESPONSIBLE BEVERAGE TRAINING.**

(A) All licensees, employees or persons involved in the selling and serving of alcoholic beverages shall be at least 20 years of age. They must all participate in and complete a city-approved responsible beverage service training program, approved by the ABC Administrator. Before approval of the program, the ABC Administrator shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents, as well as the human characteristics of alcohol and/or drug intoxication.

(B) The city will not require enrollment in any particular classes, but only that the training be obtained from a recognized training program meeting the goals expressed in this subchapter.

(C) The training person or agency must reasonably instruct upon and certify the participant's competence in pertinent federal, state and local laws related to the sale of alcohol, verification of age, forms of identification and usual documents of false or misleading identification, the effect of alcohol intoxication. This training must be completed within 90 days of the date on which the person first becomes subject to the training requirement.

(Ord. 2011-06, passed 9-12-2011) Penalty, see § 119.99

#### **§ 119.08 LICENSE REQUIRED.**

(A) No alcoholic beverages shall be sold in the city except as permitted by state statutes and except by a duly authorized licensee in compliance with the terms and conditions of this subchapter.

(B) Restaurants and dining facilities shall be eligible for the license for which provision is made herein if they comply with all of the following requirements:

(1) Such restaurants and dining facilities shall seat a minimum of 50 persons; and

(2) Restaurants and dining facilities licensed under this subchapter shall have articulated and convincing reasons to anticipate that they will derive a minimum of 70% of their gross receipts from the sale of food as certified by periodic documentation as herein required.

(C) The city licenses shall be issued and the fees collected by the City Clerk/Treasurer. That official shall report and pay to the Treasurer at the end of each month such license fees as he or she has collected.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.09 LICENSE APPLICATION.**

(A) Representatives of restaurants and dining facilities seeking the license for which provision is made herein shall submit a completed application to the ABC Administrator. The form provided shall be the same form utilized by the state's Alcoholic Beverage Control Commission (ABC).

(B) Applicants for a license under this subchapter shall pay a license fee of \$800, unless otherwise specified by §119.31.

(C) A verified statement of the applicant shall accompany the application, containing the affirmation of the applicant that the applicant anticipates that the gross receipts at the licensed premises through the sale of food shall be equal to or greater than 70% of its total gross receipts.

(D) The applicant for a city license shall tender with its application a consent document, which shall state: "The undersigned applicant hereby grants its irrevocable consent to the Alcoholic Beverage Control Administrator, and his or her duly appointed agents, to come upon and inspect and search the licensed premises at any reasonable time."

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.10 PERIODIC INFORMATION TO BE PROVIDED BY LICENSEE.**

(A) Every licensee under this subchapter shall keep and maintain on the licensed premises adequate records and books of transactions of all sales in the same manner as required by the Rules and Regulations of the state's ABC Board. Such books and records shall be available at all reasonable times for inspection by the ABC Administrator and any such city employees who may assist the ABC Administrator in his or her review.

(B) Applicants to whom a license is issued authorizing the sale of alcoholic beverages pursuant to this subchapter shall provide periodic information demonstrating compliance with the continuing requirement that 70% of the applicant's gross income is earned from the sale of food. Such information shall be provided on or before March 31 and on or before September 30 of each year, and shall consist of a certificate from a certified public accountant familiar with the applicant's pertinent business records, which shall state: "I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of, licensee under City of West Point Ordinance No. \_\_\_\_ and certify that the licensee earned at least 70% of its gross receipts from the sale of food during the half year ending (March 1 or September 1)."

(C) The certificate shall contain a brief description of the methodology used in the determination of the certified percentage.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.11 LICENSE RENEWAL.**

The license issued pursuant to this subchapter shall authorize the sale of alcoholic beverages until the next following June 30. The license may be renewed annually thereafter upon a showing that the criteria therefore have been met, the filing and approval of a renewal application and the payment of a renewal fee.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.12 REGULATORY LICENSE FEE IMPOSED.**

(A) For the purpose of full reimbursement to the city of the cost of any police, regulatory, legal or administrative expenses related to the sale of alcoholic beverages in a manner consistent with this subchapter, a regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued pursuant to this subchapter. The amount of this fee shall be adjusted from time to time by ordinance so that the same shall be reasonably estimated to ensure full reimbursement to the city of the police, regulatory, administrative or legal expenses herein referred to. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law.

(B) Until adjusted by ordinance as hereinbefore required, the regulatory license fee shall be 5% of all sales of alcoholic beverages.

(C) Payment of the regulatory license fee shall accompany tax returns approved for use by the ABC Administrator, submitted to the City Clerk/Treasurer by the twentieth day of each month for the preceding month's sales. There shall be a monthly credit of \$66.66, representing the pro rata portion of the initial license cost for which provision is made in this subchapter.

(D) Failure to pay the monthly remittance within ten days after the due date shall constitute a violation of this subchapter, and in addition, shall constitute grounds for an immediate 30 day suspension of the license for which provision is made herein.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.13 ADDITIONAL RESTRICTIONS ON SALE BY LICENSEE.**

At no time shall any alcoholic beverage be sold between the hours of 12:00 a.m. (midnight) and 6:00 a.m., Monday through Saturday, not between 12:00 a.m. (midnight) on Saturday and 6:00 a.m. on Monday.

(Ord. 2011-06, passed 9-12-2011) Penalty, see § 119.99

#### **§ 119.14 CAUSE FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION AND REVOCATION OF LICENSE.**

Causes for the refusal to issue or renew a license or for the suspension or revocation of a license shall be the same as provided for state licenses according to KRS 243.450, 234.490 and 243.500, and in addition thereto shall include the following:

(A) The failure to obtain or retain a state license;

(B) The failure to comply with the provisions of this subchapter regarding gross receipts from the sale of food or the provisions of this subchapter regarding periodic certification from a certified public accountant;

(C) The failure to pay the regulatory license fee when due; and

(D) The failure to pay any fine for which provision is made herein.

(Ord. 2011-06, passed 9-12-2011) Penalty, see § 119.99

#### **§ 119.15 REVOCATION OR SUSPENSION OF LICENSE.**

(A) Upon the occurrence of one or more of the causes for revocation and suspension, the Alcoholic Beverage Control Administrator may, upon his or her own initiative or upon complaint, give notice requiring the licensee to show cause why a revocation or suspension should not occur and give notice of the time and place of a hearing on possible revocation or suspension. Upon the licensee's failure to show cause, such a suspension or revocation may be ordered by the ABC Administrator. The licensee shall be afforded the right to:

(1) Reasonable notice of the charge;

(2) Representation;

(3) Presentation of such evidence and witnesses as in its discretion are appropriate to the issues; and

(4) A finding reasonably supported by the evidence.

(B) The ABC Administrator may designate a city employee or other person to act as a hearing officer to conduct the hearing for which provision is hereinbefore made. In the event of such a designation, the Hearing Officer's determination shall be in the form of a recommendation upon which the ABC Administrator shall determine appropriate action.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.16 APPEAL.**

Appeals from determination of the ABC Administrator with respect to orders of that officer, including denial of applications or orders suspending or revoking the same, shall be addressed to the state's Alcoholic Beverage Control Board in a manner consistent with KRS 241.200.

(Ord. 2011-06, passed 9-12-2011)

#### **§ 119.17 TRANSFER OR ASSIGNMENT OF LICENSE.**

No license issued under this subchapter shall be transferred or assigned, either as to the licensee or to the location except with prior approval of the ABC Administrator and payment of a \$400 fee made payable to the city.

(Ord. 2011-06, passed 9-12-2011)

### § 119.30 GENERAL PROVISIONS.

(A) This subchapter shall be known as the “Alcoholic Beverage Control Ordinance of the City of West Point, Kentucky.”

(B) The purpose of this subchapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Chapters 241 through 244.

(C) The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS Chapters 241 through 244) of the state and all amendments and supplements thereto.

(D) This subchapter shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this subchapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the city, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(E) The provisions of the alcoholic beverage control law of the state (KRS Chapters 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this subchapter except as otherwise lawfully provided herein.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

### § 119.31 LICENSE REQUIREMENTS.

(A) For the privilege of causing, permitting and engaging in the actions, business and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the schedule set forth below. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

<i>License Type</i>	<i>Fee</i>
<i>License Type</i>	<i>Fee</i>
Authorized public consumption license, per annum (if want to allow)	\$250
Bottling house or bottling house storage license, per annum	\$1,000
Brewer's license, per annum	\$500
Caterer's license, per annum	\$800
Distiller's license, per annum	\$500
Extended hours supplement license, per annum	\$2,000
Limited golf course license, per annum	\$1,200
Limited restaurant license, per annum	\$1,200
Malt beverage distributor's license, per annum	\$400
Microbrewery license, per annum	\$500
Non-quota retail malt beverage package license, per annum	\$200
Non-quota type 1 retail drink license, per annum (includes distilled spirits, wine, and malt beverages)	\$2,000
Non-quota type 2 retail drink license, per annum (includes distilled spirits, wine and malt beverages)	\$1,000
Non-quota type 3 retail drink license, per annum (includes distilled spirits, wine and malt beverages)	\$300
Non-quota type 4 retail malt beverage drink license, per annum	\$200
Quota retail drink license, per annum	N/A
Quota retail package license, per annum	\$1,000
Rectifier's license	
Class A, per annum	\$3,000
Class B (craft rectifier), per annum	\$960
Special Sunday retail drink license, per annum	\$300
Special temporary alcohol auction license, per event	\$200
Special temporary license, per event	\$166
Wholesaler's license, per annum	\$3,000

(B) The fee for each of the first five supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five to the same licensee at the same premises.

(C) The holder of a non-quota retail malt beverage package license may obtain a non-quota type 4 malt beverage drink license for a fee of \$50. The holder of a non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license for a fee of \$50.

(D) Certain special licenses are defined as follows.

(1) *Limited restaurant license.* A limited restaurant license may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a "limited restaurant" as set forth in KRS 241.010(31) it is a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its gross income from the sale of food, and which maintains seating capacity of either 100 or 50 persons for dining. If the limited restaurant only maintains seating capacity for 50 persons, it shall not have open bar and all alcoholic beverages shall be sold in conjunction with the sale of a meal. Distilled spirits, wine and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine and malt beverages are served after the meal is ordered and no more than one-half hour after the meal is completed.

(2) *Limited golf course license.* A limited golf course license may be issued pursuant to KRS Chapter 243 if an establishment meets the following conditions: A golf course with nine or 18 holes that meets United States Golf Association criteria as a regulation golf course. A limited golf course license shall authorize the license to purchase, receive, possess and sell distilled spirits, wine and malt beverages at retail by the drink for consumption on the licensed premises.

(3) *Non-quota type 1 retail drink license.* A non-quota retail drink license may be issued to and in the following as defined by Kentucky Revised Statutes to:

- (a) A convention center or a convention hotel complex;
- (b) A horse racetrack;
- (c) An automobile racetrack;
- (d) A railroad system;
- (e) A commercial airlines system or charter flight system;
- (f) A qualified historic site; or
- (g) A state park.

(4) *Non-quota type 2 retail drink license.* A non-quota retail drink license may be issued pursuant to and as defined by KRS to the following:

- (a) A hotel that contains at least 50 sleeping units, contains minimum dining seating for at least 50 persons, and which maintains 50% of its gross food and drinks sales are from the sale of food;
- (b) A restaurant that contains minimum dining seating for at least 50 persons, and which maintains 50% of its gross food and drinks sales are from the sale of food;
- (c) An airport; or
- (d) A riverboat.

(5) *Non-quota type 3 retail drink license.* A non-quota 3 retail drink license may be issued pursuant to and defined by KRS to the following:

- (a) A private club in existence for longer than one year prior to the license application and which excludes the general public;
- (b) A dining car;
- (c) A distiller; or
- (d) A bed and breakfast.

(6) *Non-quota type 4 retail malt beverage drink license.* A non-quota type 4 retail malt beverage drink license may be issued pursuant to and as defined in KRS to the following; a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only. A non-quota retail malt beverage drink license shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory for sale on the premises at retail not less than \$5,000 of food, groceries and related products valued at cost.

(7) *Special temporary license.* A special temporary license may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. Such a license may be issued to any regularly organized fair, exposition, racing association, organized civic or community-sponsored event or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a quota retail drink licensee and a non-quota type 4 malt beverage drink licensee at designated



premises for a specified and limited time, which shall not exceed 30 days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink license or a non-quota retail malt beverage drink license shall apply also to a special temporary licensee as described in this section.

(E) All city licenses, except temporary licenses, shall begin on February 1 of any year and shall expire on January 31 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after August 1 (six months from normal license begin date) of any year shall be assessed a fee which is one-half the amount of the full fee for an annual license of that type.

(F) (1) No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full.

(2) The fee for renewal of any license shall be paid with the renewal application.

(3) Failure to pay any license fee within ten days after it becomes due shall result in a penalty equal to 10% of the license fee.

(4) Any licensee failing to pay the fees, including penalties, within ten days after such fees are due may be subject to revocation of the license and to other penalties as provided in this subchapter.

(G) (1) Should any licensee under this subchapter be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the state with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City Alcohol Beverage Administrator ("ABC Administrator") that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(2) In the event a violation of this subchapter occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

(H) The City ABC Administrator shall transmit all fees and any other types of payment made to the city, upon collection, to the City Clerk/Treasurer, or his or her designee, for deposit into the appropriate designated account.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

## **§ 119.32 ALCOHOLIC BEVERAGE ADMINISTRATOR.**

### *(A) Alcoholic Beverage Control Administrator.*

(1) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the City Alcoholic Beverage Control Administrator.

(2) The Mayor of the city appoints himself or herself, an employee of the city to serve as the City Alcohol Beverage Administrator, pursuant to KRS 241.170.

(3) The City Alcohol Beverage Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this subchapter.

(4) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the state (hereinafter referred to as "ABC Board") with respect to state licenses and regulations.

(5) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(6) The City ABC Administrator shall have authority delegated by the Mayor, and as authorized under KRS Chapters 241 to 244. The City ABC Administrator, and his or her investigators, shall have jurisdiction co-extensive with the boundaries of the city.

(7) The City ABC Administrator and his or her investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150, and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

(8) The City ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Ky. Const. § 228 and shall execute a bond with a good corporate surety in the penal sum of not less than \$1,000. Any employee delegated or assigned to the ABC Administration may also be asked to execute a similar bond in such penal sum as the city deems necessary unless said person is already covered under the city's active bonds as required under KRS in regards to officials and employees of the city.

### *(B) Appeals Board.*

(1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC by filing with the Board within 30 days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(2) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A final order of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the final order is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

### **§ 119.33 APPLICATION AND MAINTENANCE OF LICENSE.**

(A) *Advertisement.* Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Chapter 424, including the following.

(1) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication is provided in KRS 424.170.

(B) *Form of application.*

(1) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the State ABC Board and/or the city, both of which may be amended and supplemented from time to time by each respective agency.

(2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the state revised statutes, the State ABC Board and the city, including as follows:

(a) Name and address;

(b) Nature of interest;

(c) Whether or not a citizen of the United States;

(d) Date of birth;

(e) Date of residence was established in the state, if a resident of the state;

(f) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this subchapter;

(g) Extent of stock or company ownership; and

(h) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.

(3) Each application shall be accompanied by a certified check, cashier check or money order for the amount of the license fee, less the \$50 application fee.

(4) In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within this subchapter to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable or appropriate to the consideration of the application.

(C) *Other conditions.* In addition to any other inquiries, conditions or considerations required or permitted by law.

(1) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by a licensed building inspector, and any and all other inspections required by the state's Building Code or other applicable law.

(2) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(3) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the city, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due

and owing to the city. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

(4) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of the city's staff, or any State ABC Administrator or staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this subchapter. Nothing in this subchapter shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the subchapter and applicable statutes allow for such payments in settlement.

(D) *Form of license.* All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license; and
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(E) *Change of information.*

(1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator with ten days of the change.

(2) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures 10% of the outstanding ownership or stock. Transfer of more than 10% of the total ownership or stock shall require a new license.

(4) The following information shall be required concerning any new manager, partner or LLC member, new director, officer or person securing any interest in alcoholic beverage license:

- (a) Name and address;
- (b) Nature of interest;
- (c) Whether or not a citizen of the United States;
- (d) Date of birth;
- (e) Date residence was established in the state, if a resident of the state. If a city resident, indicate when residence was established;
- (f) Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
- (g) Extent of stock or company ownership; and
- (h) Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(5) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten days of any change of required information.

(F) *Renewal of license.*

(1) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC Administrator no less than 30 days prior to the expiration of the license for the preceding

license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than 20 days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of (he former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

(2) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(G) *Lost or destroyed license.* When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of \$10 for the duplicate license.

(H) *Revocation or suspension.*

(1) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of other provisions of KRS Chapters 241 through 244, or any rule or regulation of the ABC Board, or of the state's Department of Revenue, relating to the regulation of the manufacture, sale and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this subchapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(2) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(3) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

(a) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed;

(b) Making any false, material statements in an application for a license;

(c) If within a period of two consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapter 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one such felony and one such misdemeanor;

(d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this subchapter, or acts of Congress relative to taxation or for a violation of any rules or regulations of the state's Department of Revenue made in pursuance thereof; and

(e) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(I) *Proceedings for revocation or suspension of license.*

(1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this subchapter. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(2) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in the state's Administrative Procedure Act (KAR Chapter 13B).

(3) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

(4) Within three days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(5) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(6) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

(7) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

(J) *Transfer or assignment.* No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of \$100 shall be made to the City ABC Administrator.

(K) *Refusal of license; guidelines for approval of quota licenses.*

(1) The City ABC Administrator may refuse to issue a license for any of the following reasons:

(a) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof;

(b) If the applicant has done any act for which a revocation of license would be authorized under local, state or federal law; or

(c) If the applicant has made any false material statement in his or her application.

(2) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

(L) *Review of license; books, records and reports.*

(1) Applicants to whom a license is issued pursuant to this subchapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one year in determining whether or not the food sale percentage requirement has been met.

(2) Every licensee under this subchapter shall keep and maintain, upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

(3) For the purpose of assisting the City ABC Administrator in enforcement of this subchapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

(M) *Dormancy.*

(1) It is necessary that a licensee actually conduct the business authorized by such a license, or else the license will be declared dormant and become null and void after 90 days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(2) Any license under which no business is transacted during a period of 90 days shall be deemed inactive and, unless the conditions set forth in division (M)(3) below are proved to the satisfaction of the City ABC Administrator, the license shall

be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(3) The provisions of division (M)(2) above hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of 90 days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within 12 months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date, but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

#### **§ 119.34 HOURS FOR SALE.**

(A) An alcoholic beverages licensee shall be permitted to sell or dispense alcoholic beverages between the hours of 6:00 a.m. until 12:00 a.m. (midnight) Monday through Saturday.

(B) A licensee for alcoholic beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages on Sunday between the hours of 1:00 p.m. to 12:00 a.m. Licensees must obtain a Sunday retail drink license in order to sell distilled spirits or wine by the drink on Sunday.

(C) A licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that, the appropriate licenses have been obtained from both the City and the State ABC Board.

(D) Licensees which operate as a private club (golf courses, private clubs, distilleries and the like) shall be allowed to sell alcoholic beverages by the drink on Sunday between the hours of 1:00 p.m. until 12:00 a.m.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

#### **§ 119.35 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.**

(A) *Gambling.* No gambling or game of chance unless otherwise authorized by the state shall be permitted in any form on such licensed premises. Dice, slot machines, quarter pushers, prize redemption machines with programmable payouts or any device of chance is prohibited and shall not be kept on such premises.

(B) *Radio receiving apparatus.*

(1) It shall be unlawful for any licensee licensed under this subchapter to have, or maintain, any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the county as it is now, or may hereafter be operated.

(2) In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(C) *Security.*

(1) The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises.

(2) Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(D) *Prizes and premiums prohibited.* It shall be unlawful for a licensee to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

(E) *Treating prohibited.* It shall be unlawful for the licensee under this subchapter to give away any alcoholic beverage in any quantity for free or for less than a full monetary consideration unless the licensee holds a sampling license or its license type permits limited free samples (e.g., small farm winery, microbrewery, brewers) or products are sampled at educational event authorized by 804 KAR 1:110 and 804 KAR 11:030.

(F) *Drunkness.*

(1) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkness as many as three times within the most recent 12-month period.



(2) No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

(G) *Underage sales.* The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(H) *Sign requirements; notice to persons under the age of 21.* Per state law, the licensee shall display at all times in a prominent place a sign at least eight inches by 11 inches in 30-point or larger type font which states as follows:

Persons under the age of 21 are subject to a fine of up to \$100 if they:

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(I) *License to be displayed.*

(1) Pursuant to the requirements set forth in KRS 243.895, the licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the state's Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(J) *Legal transactions for wholesalers, distributors and retail.* No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.

(K) *Employment restrictions.* No licensee shall knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two years unless permitted by KRS 244.090(2);
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years unless permitted by KRS 244.090(2);
- (3) Is under the age of 20 years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted by KRS 244.090 or KRS 244.087; and/or
- (4) Within two years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

(L) *Lavatory facilities required.* All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(M) *Nudity and adult entertainment activities prohibited.* No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, Jell-O wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premises in the city.

(N) *Cause for revocation.* Violation of this section and any other section shall subject the licensee to penalties provided in this subchapter and shall be cause for revocation or suspension of city licenses.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

## **§ 119.36 MINORS.**

(A) Except as specifically authorized under KRS Chapters 241 through 244, no person under the age of 21 may possess

alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

(B) (1) As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21 may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(6). For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window.

(2) The prohibition contained in this section shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore or similar establishment.

(C) No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this subchapter, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

(D) No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

(E) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090 or KRS 244.087.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

### **§ 119.37 CONSUMPTION ON PREMISES PROHIBITED.**

(A) *Consumption at package store prohibited.*

(1) No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

(B) *Habitual congregating.*

(1) In addition to the definitions contained in KRS Chapters 241 through 244, as used in this section, the following terms are defined as follows.

**HABITUAL.** Consistent, that is, by frequent practice or use, but not necessarily constant or exclusive.

**PACKAGE LIQUOR STORE.** A retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes.

**PUBLIC NUISANCE.** Any activity that endangers or interferes with the general use and enjoyment of neighboring property, passersby or the health, safety and welfare of the public.

(2) No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(3) It shall be a defense to any prosecution under this section, if a licensed vendor or property owner shall permit the city to post and maintain a legible, painted or printed sign in at least two separate prominent places in such area, in letters of not less than three inches in height, stating that the congregating of persons is prohibited, and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

### **§ 119.38 MALT BEVERAGE KEG REGISTRATION.**

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

**KEG.** A container designed and capable of holding six or more gallons of malt beverage.

(B) *Malt beverage keg identification tag.* All retail licensees (herein after referred to as "licensee") operating within the city who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

(1) The purchaser is of legal age to purchase, possess and use the malt beverage;

(2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of 21 to consume the malt beverage;

- (3) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
- (4) The purchaser will state the property address where the keg will be consumed and physically located; and
- (5) The purchaser is aware of his or her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

(C) *Keg registration.*

(1) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.

(2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

(3) The keg registration form shall be forwarded to the city within five working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

(4) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

(D) *Unlawful sales.* It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this subchapter. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

#### **§ 119.39 ENFORCEMENT.**

City police officers and the City ABC Administrator and his or her investigator(s) are hereby authorized to enforce this subchapter in full.

(Ord. 2017-01, passed 2-16-2017)

#### **§ 119.40 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.**

(A) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Department of Alcoholic Beverage Control's Server Training in Alcohol Regulations ("STAR") program or other Responsible Beverage Serving ("RBS") program approved by the department.

(B) All persons required to complete training under division (A) above shall complete the training within 30 days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

(C) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premises licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(D) All persons completing the training required by this section shall be re-certified not less than once every three years thereafter.

(Ord. 2017-01, passed 2-16-2017)

#### **§ 119.41 SIGNS AND ADVERTISING.**

(A) All signage shall be in compliance with any and all other existing rules, regulations, and ordinances of the city, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this subchapter.

(C) Any advertising by any licensee under this subchapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

(D) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or

display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as “high test,” “high proof” or “extra strong”) or depicting activities that tend to encourage excessive consumption.

(E) No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.

(F) Any off premises signage advertising the sale of alcoholic beverages is prohibited. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages.

(G) Signage which refers directly or indirectly to alcoholic beverages will be limited to one sign not over two square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches in size, setting forth the price at which the licensee offers alcoholic beverages for sale.

(H) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium of advertising alcoholic beverages.

(I) No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

### **§ 119.42 PATIO AND OUTDOOR SALES.**

(A) *Patio and outdoor sales regulations.*

(1) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(2) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee’s premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafés, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this section and shall be subject to the regulation of local zoning authorities as well as code enforcement and public safety officers.

(3) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC Administrator.

(4) Unless exempted by the following provisions of this subchapter, and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this subchapter. Sidewalk café seating areas must comply with this subchapter and with local zoning laws and other public safety requirements noted in this subchapter, or in other local ordinances, statutes or regulations.

(B) *Exception(s) to screening requirements for outdoor sales and service of alcoholic beverages, specifically, permitted sidewalk cafés in the city’s downtown business area.*

(1) Licensees in the downtown business district/area may request an exception from the outdoor screening of patio provision in order to permit seasonal sidewalk cafés that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafés, they shall be deemed part of the licensed premises.

(2) Any food establishment which operates a restaurant and is licensed under this subchapter and the provisions of the state’s ABC code, may, upon application to the local ABC Administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as “sidewalk café”). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

(C) *Conditions for sidewalk café permit.* The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may, without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing.

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of 36 inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs and other portable appurtenances shall be

confined to the area shown on the approved permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including, but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance.

(7) Dancing shall not be permitted or allowed in the sidewalk café.

(8) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises.

(9) The permit for sidewalk café may not be assigned or transferred.

(D) *Other requirements applicable to sidewalk cafés.*

(1) No sidewalk café permit shall be effective unless the licensee has filed with the City Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the City Attorney and the City's Safety Coordinator.

(2) The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten days' written notice (or more) filed with the ABC Administrator and the City Attorney.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

#### **§ 119.43 IMPLEMENTATION OF ORDINANCE PROVISIONS.**

The City Council may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this subchapter. Such will be done as according to local, state and federal law.

(Ord. 2017-01, passed 2-16-2017) Penalty, see § 119.99

#### **§ 119.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The sale of alcoholic beverages within the city not in conformity with §§119.01 through 119.17 shall constitute a violation, punishable by fine of up to \$500 for each offense, to be prosecuted as all other municipal ordinance violations are prosecuted. Each day of each violation shall constitute a separate offense.

(C) (1) In addition to any criminal prosecution instituted in the County District Court against an alleged violator, the City ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk/Treasurer for deposit in the appropriate designated account.

(2) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a misdemeanor, and subject to prosecution in the County Court system, as follows: for the first offense, be fined not less than \$100 nor more than \$200 nor more than \$500, or imprisoned for not more than six months, or both. The penalties provided for in this division (C) shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(3) A person who violates § 119.34 shall be subject to a fine of not less than \$10, nor more than \$50.

(Ord. 2011-06, passed 9-12-2011; Ord. 2017-01, passed 2-16-2017)

## **TITLE XIII: GENERAL OFFENSES**

Chapter

### **130. GENERAL OFFENSES**



## CHAPTER 130: GENERAL OFFENSES

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### Section

- 130.01 Curfew
- 130.02 Discharging high-powered weapons
- 130.03 Obstruction of drainage or natural watercourse
  
- 130.99 Penalty

### § 130.01 CURFEW.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALLOW.** Either permit or neglect to refrain or prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know about the child violating this section, or the circumstances must be such that a reasonable, prudent parent or guardian should have known the child was violating this section.

**MINOR.** Any person under the age of 18, or, as may be otherwise phrased, any person of the age of 17 or under.

**PARENT.** Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person to whom legal custody has been given by order of the court.

**REMAIN.** To stay behind, to tarry or to stay unnecessarily upon or in any public assembly, building, place, parking lot, street or highway.

(B) *Curfew times.*

(1) It shall be unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, parking lot, street or highway within the city at night during the following periods:

- (a) 11:00 p.m. Monday to 6:00 a.m. Tuesday;
- (b) 11:00 p.m. Tuesday to 6:00 a.m. Wednesday;
- (c) 11:00 p.m. Wednesday to 6:00 a.m. Thursday;
- (d) 11:00 p.m. Thursday to 6:00 a.m. Friday;
- (e) 12:00 a.m. Friday to 6:00 a.m. Saturday;
- (f) 12:00 a.m. Saturday to 6:00 a.m. Sunday; and
- (g) 11:00 p.m. Sunday to 6:00 a.m. Monday.

(2) It shall be unlawful for any parent or guardian having legal custody of a minor to allow the minor to be or remain in or upon any public assembly, building, place, parking lot, street or highway in the city under circumstances not constituting an exception as enumerated in division (C) below during the time periods contained in division (B)(1) above.

(C) *Exceptions.* In the following exceptional cases, a minor in or upon any public assembly, building, place, parking lot, street or highway in the city during the nocturnal hours provided for in division (B)(1) above shall not be considered in violation of this section:

- (1) When a minor is accompanied by his or her parent or guardian;
- (2) When accompanied by an adult authorized by a parent or guardian of the minor;
- (3) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, provided that written notice signed by the minor and countersigned by a parent is in the possession of the minor specifying when, where and in what manner the minor will be exercising such First Amendment rights;
- (4) In case of reasonable necessity, but only after the minor's parent has communicated to the Police Department the facts establishing the reasonable necessity;
- (5) When returning home, by a direct route from and within one hour of the termination of a school activity, or any



activity of religious or other voluntary association, provided that justification indicating the place and time of termination of the event can be given to any investigating officer of the Police Department;

(6) When attending an official school, religious or other recreational activity supervised by adults and sponsored by the school system, any duly accredited private school system, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor;

(7) When engaged in business or occupation which state laws authorized a person under 18 years of age to perform;

(8) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver while the vehicle is traveling on a public street or highway;

(9) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the city for the purpose of passing through, by a direct route, from one location to another either within or out of the city, including all minors that may also be within the vehicle; and/or

(10) When the minor is involved in an emergency.

(D) *Enforcement.*

(1) A police officer, upon finding or being notified of any minor in or upon any public assembly, building, place, parking lot, street or highway reasonably believed to be in violation of this section, shall follow the duties of a police officer set forth in KRS 610.200 through 610.280, which governs the taking or receiving of a child into custody on a charge of committing an offense. All other provisions of the Unified Juvenile Code shall apply.

(2) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in division (C) above is present.

(3) A police officer, upon finding or being notified of any minor in or upon any public assembly, building, place, parking lot, street or highway, whose parent is believed to be in violation of this section, shall confront the minor and request the information as his or her name, age and address of his or her parent.

(4) This section is not exclusive of KRS 405.025.

(Prior Code, § 130.01) Penalty, see § 130.99

**§ 130.02 DISCHARGING HIGH-POWERED WEAPONS.**

(A) It shall be unlawful for any person or organization to discharge a high-powered weapon within the populated city limits of the city.

(B) It shall be lawful to discharge a shotgun on any land zoned agriculture by the Planning and Zoning Department of the city, providing the land does not violate division (A) above.

(C) The term **HIGH-POWERED WEAPON** shall mean any rifle .22 caliber or above. The term "person" or "organization" shall exclude all law enforcement officials in the course of the performance of their duty.

(Prior Code, § 130.02) Penalty, see § 130.99

**§ 130.03 OBSTRUCTION OF DRAINAGE OR NATURAL WATERCOURSE.**

It shall be unlawful for any person to obstruct any drainage or natural watercourse so as to cause the drainage or water to overflow or to cause the water to stand or become stagnant and it shall be unlawful to place any obstruction in a street or alley of the city which in any manner prevents the proper drainage of the street or alley.

(Prior Code, § 130.03) Penalty, see § 130.99

**§ 130.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 130.99) (Ord. 2007-12, passed 11-15-2007)

**TITLE XV: LAND USAGE**

- 150. BUILDING REGULATIONS
- 151. COMPREHENSIVE PLAN
- 152. ZONING CODE
- 153. FLOOD DAMAGE PREVENTION
- 154. SHORT-TERM RENTALS
- 155. TELECOMMUNICATIONS

## CHAPTER 150: BUILDING REGULATIONS

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### Section

150.01 Adoption of Kentucky Building Code, Standards of Safety and the International Property Maintenance Code; enforcement agents

150.02 Application

150.03 Appeals

150.99 Penalty

### **§ 150.01 ADOPTION OF KENTUCKY BUILDING CODE, STANDARDS OF SAFETY AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE; ENFORCEMENT AGENTS.**

(A) The most current version of the state's Building Code, as contained in 815 KAR 7, the state's Plumbing Code, as contained in 815 KAR 20, the state's Standards of Safety, as contained in 815 KAR 10, together with any amendments, are hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above codes and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer, where they shall be available for public inspection during normal business hours.

(B) The most current version of the International Property Maintenance Code, regulating and governing the conditions and maintenance of all property, buildings and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures in the city, providing for the issuance of permits and collection of fees therefore.

(Prior Code, § 150.01) (Ord. 2009-01, passed 4-13-2009)

### **§ 150.02 APPLICATION.**

The application of the state's Building Code shall be extended to all construction and remodeling, including single-family and multi-family dwellings, commercial buildings, industrial buildings, public buildings, sheds, garages, barns and mobile and modular homes within the city.

(Prior Code, § 150.02) (Ord. 2009-01, passed 4-13-2009)

### **§ 150.03 APPEALS.**

Appeals from decisions made by the Building Inspector under this chapter may be taken to the state's Board of Housing, Buildings and Construction unless and/or until a local Board of Housing Appeals, as set forth in KRS Chapter 198B, is established to hear the appeals.

(Prior Code, § 150.03)

#### **Statutory reference:**

*Appeals procedure, see KRS 198B.070*

### **§ 150.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Prior Code, § 150.99) (Ord. 2007-12, passed 11-15-2007)

## CHAPTER 151: COMPREHENSIVE PLAN

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### Section

151.01 Adoption of Comprehensive Plan

#### **§ 151.01 ADOPTION OF COMPREHENSIVE PLAN.**

The city's Comprehensive Plan is adopted as the official plan to stand until amended or until a successor plan is adopted.  
(Prior Code, § 151.01)

## CHAPTER 152: ZONING CODE

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### Section

#### ***General Provisions***

- 152.001 Enacting clause
- 152.002 Title; map adopted
- 152.003 Purpose
- 152.004 Interpretation
- 152.005 Conflict of ordinance
- 152.006 Plans and construction in progress
- 152.007 Definitions

#### ***Zoning Districts***

- 152.020 Zoning district map
- 152.021 Map amendment identification
- 152.022 Interpretation of zone and district boundaries
- 152.023 Application of zoning district regulations
- 152.024 Conversion of dwelling structures
- 152.025 Agricultural land use exemptions
- 152.026 Governmental use exemptions
- 152.027 Establishment of zoning districts
- 152.028 A Agricultural District
- 152.029 R-1 Single-Family Low Density District
- 152.030 R-2 Single-Family Medium Density District
- 152.031 R-3 Single-Family Manufactured District
- 152.032 R-4 Two-Family and Multi-Family District
- 152.033 R-5 Single-Family Manufactured Home Parks District
- 152.034 B-1 Neighborhood Business District
- 152.035 B-2 Central Business District
- 152.036 C-1 Highway Commercial District
- 152.037 L-1 Light Industrial District

#### ***General Regulations***

- 152.050 Coordination with subdivision regulations
- 152.051 Conditional use regulations
- 152.052 Nonconforming uses and structures
- 152.053 Required street frontage

- 152.054 Height restrictions
- 152.055 Rear dwellings, reduction in lot area prohibited
- 152.056 Approved sewerage disposal for buildings
- 152.057 Regulation of principal buildings
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- 152.060 Lots and yards
- 152.061 Signs and outdoor advertising
- 152.062 Vehicles; parking requirements

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- 152.075 Manufactured housing
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- 152.095 Administrative duties of Planning Commission
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- 152.100 Building permit issuance and fee
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- 152.102 Certificate of occupancy
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- 152.104 Complaints regarding violations
- 152.105 Map amendment procedures
- 152.106 Zoning text amendments
- 152.107 Zoning district for annexed territory
- 152.108 Schedule of fees, charges and expenses
- 152.109 Violations
  
- 152.999 Penalty

**GENERAL PROVISIONS**

**§ 152.001 ENACTING CLAUSE.**

By adoption of this chapter, the city wishes to exercise the authority granted by the Kentucky Constitution, and KRS 100.201 through 100.271 to a legislative body to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, that the city be divided into districts as hereinafter described, and that the regulations, restrictions and boundaries of districts shall be established, enforced and amended as provided in this regulation.

(Prior Code, § 152.001)

**§ 152.002 TITLE; MAP ADOPTED.**

This regulation shall be known as the "Zoning Ordinance for West Point, Kentucky." The map herein referred to, which is identified by the title "West Point Zoning District Map," dated January 14, 1998 thereon, is hereby adopted and made a part of this regulation.

(Prior Code, § 152.002)

#### **§ 152.003 PURPOSE.**

The zoning regulations and districts as herein set forth have been made in accordance with the Comprehensive Plan for the purpose of promoting the public health, safety, goals and convenience, order, prosperity and general welfare of the community. They have been designed to lessen congestion in the streets to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage control, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(Prior Code, § 152.003)

#### **§ 152.004 INTERPRETATION.**

(A) The provisions herein shall be interpreted broadly and liberally so as to implement and protect the purposes for which they are enacted.

(B) In the interpretation and application of this chapter, the provisions herein shall be held to be of the minimum or maximum requirements (as stated); adopted for the promotion of the health, safety, morals, comfort, prosperity, well-being and general welfare.

(C) It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any private restrictions placed upon property such as covenants, deeds or recorded plats; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires greater lot areas, larger yards or other open spaces, than are imposed by such private restrictions, the provisions of this chapter shall control.

(Prior Code, § 152.004)

#### **§ 152.005 CONFLICT OF ORDINANCE.**

(A) (1) Whenever this chapter, or subdivision plats or development plans approved in conformance with these regulations, are in conflict with applicable state statutes, or other local ordinances, regulations or laws, the more restrictive statute, ordinance, regulation, plat or plan shall govern and shall be enforced by the appropriate local agency.

(2) When subdivision and development plans, approved by the Planning Commission, contain setbacks or other features in excess of the minimum ordinance requirements, the features as shown on the approved plans shall govern and shall be enforced by the Planning Commission or authorized enforcement agent. Private deed restrictions or private covenants for a subdivision do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the city's Planning Commission.

(B) In case of conflict between this regulation, and any part thereof, and the whole or part of any existing or future ordinance of the city or the whole or part of any existing or future private covenants of deeds, the most restrictive in each case shall apply.

(Prior Code, § 152.005)

#### **§ 152.006 PLANS AND CONSTRUCTION IN PROGRESS.**

(A) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building or premises on which an application for a permit was filed with the Planning Commission prior to the date of adoption of this chapter or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of the application.

(B) The permit issued pursuant to applications made before the date of adoptions of this chapter shall be valid only if it is exercised within one year of the date of issuance of the permit. **EXERCISED**, as set forth in this section, shall mean that a binding contract for the construction of the main building or other main improvements are under construction, or that prerequisite conditions involving substantial investments shall be under contract, in development or completed. When construction is not a part of the use, **EXERCISED** shall mean that the use is in operation in compliance with the conditions set forth in the permit.

(Prior Code, § 152.006)

#### **§ 152.007 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the

singular number include the plural, words in the plural number include the singular.

**ABANDONED SIGN.** An on-premises sign, the use for which it represents having been discontinued for a period of 30 consecutive days.

**ACCESSORY USE OR STRUCTURE.** A use or structure subordinate to the principal use or building on a lot and serving a purpose customarily incidental thereto, including structures such as satellite antennas.

**ADMINISTRATIVE OFFICIAL.** Any department, employee or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations and, if delegated, any provision of any housing or building regulation or any other land use control regulation.

**AGRICULTURE USE.** The use of a tract of land of at least five contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provisions for dwellings for persons and their families who are engaged in the above **AGRICULTURAL USE** on the tract, but not including residential building development for sale or lease to the public.

**ALLEY.** A public or private vehicular way which affords a means of access to the rear or side of properties adjacent to it and not intended for general traffic circulation.

**ALTERATIONS.** Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

**APARTMENT HOUSE.** For the purpose of this regulation an apartment house means any building which is designed, built, rented, leased, let or hired out to be occupied or which is occupied as the home or residence of more than two families living independently of each other with cooking facilities for each family.

**ASSEMBLY.** A joining together of completely fabricated parts to create a finished product.

**BASEMENT.** An area below the first floor, having part but no more than one-half of its height above grade, used for storage space by occupants of the building, janitor quarters or other utilities common to the rest of the building. A **BASEMENT** used for the above purposes shall not be counted as a story.

**BASIC MANUFACTURE.** The first operation or operation which transforms a material from its raw state to a form suitable for fabrication.

**BED AND BREAKFAST.** An establishment providing lodging and meals in a residential setting for overnight guest.

**BILLBOARD.** Any notice or advertisement, pictorial or otherwise, with an area of 300 or more square feet, and also all those used as an outdoor display for the purpose of making anything known, the origin or place of sale of which is not on the plot with the display, except that governmental notices shall not be considered as **BILLBOARDS**.

**BUFFER AREA.** A strip of land which is located along the perimeter of a piece of property and is a minimum of five feet wide and contains all perimeter landscaping as specified in this chapter, such as open spaces, landscaped areas (including screen trees), fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances.

**BUILDING.** Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property. Include fences.

**BUILDING PERMIT.** A document issued by the administrative official authorizing the use of lots and structures, uses of land and structures and the characteristics of the uses.

**BUILDING SETBACK LINE.** A line in the interior of a lot which is generally parallel to, and a specified distance from, the street right-of-way line or lines. No building shall then be placed in the space between the **BUILDING SETBACK LINE** and the right-of-way.

**CAMPGROUND.** A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units such as temporary living quarters for recreation, education or vacation purposes.

**CARPORIT.** Space for the housing or storage of motor vehicles, camper trailers or boats and enclosed on not more than two sides by walls.

**CENTER LINE OF A STREET.** The center of the surfaced roadway or the surveyed center line of the street, as defined by the City Engineer or authorized representative.

**CHILD CARE CENTER.** A facility providing direct care and protection of five or more infants, preschool and school age children outside of their own homes, during a portion of a 24-hour day.

**CHURCH.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CLUB, PRIVATE.** Buildings and facilities, the purpose of which is to render a social, educational or recreational service to members and their guests and not primarily to render a service customarily carried on as a business or to render a profit. **PRIVATE CLUB** shall include country club.



**COMMERCIAL WAREHOUSE.** A building or portion thereof used for storage of any property not permitted in a residential storage warehouse. This shall not be deemed to include the storage area in connection with a purely retail business when located on the same property.

**COMMISSION.** The West Point Planning Commission.

**COMPREHENSIVE PLAN.** A comprehensive, long-range plan intended to guide the growth and development of a community or region that typically includes inventory and analytic sections leading to recommendations for the community's future economic development, housing, recreation and open space, transportation, community facilities and land use, all related to the community's goals and objectives for these elements.

**CONDITIONAL USE.** A use which is essential to or would promote the public health, safety or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent and character of performance are imposed in addition to those imposed in the zoning regulation.

**CONDITIONAL USE PERMIT.** A legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the Board of Adjustment, consisting of two parts:

- (1) A statement of the factual determination by the Board of Adjustments which justifies the issuance of the permit; and
- (2) A statement of the specific conditions which must be met in order for the use to be permitted.

**DETACHED STRUCTURE.** A structure having no common wall with another structure except an accessory structure.

**DIRECTIONAL SIGN.** A noncommercial sign of an instructional nature, such as parking, exit or entrance, displayed solely for the convenience of the public. No more than 25% of the sign shall be devoted to the name or logo of the property, business of profession on the site and containing no business advertising, product trade name identification or listing of any product sold or offered on the premises.

**DWELLING UNIT.** One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the **DWELLING UNIT** for the exclusive use of a single-family maintaining a household.

**FABRICATION.** Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. **FABRICATION** relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

**FAMILY.** One or more persons occupying a premises and living as a single, non-profit housekeeping unit.

**FENCE.** An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

**FLAT SIGN.** Any sign painted on or affixed to a building and which sign does not project more than six inches from the building.

**FLASHING SIGN.** Any sign having a conspicuous and/or intermittent variation in the illumination.

**FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces on the exterior walls or from the center line of walls separating two buildings, but not including:

- (1) Attic space providing headroom of less than seven feet; and
- (2) Basement space.

**GARAGE, PRIVATE.** A space or structure, including a carport, on the same lot with or in the buildings to which it is accessory, primarily for storage only of automobiles of the residents of the premises.

**HEIGHT OF BUILDING.** The vertical distance from the established average sidewalk grade, street grade or finished grade at the building line, whichever is highest, to the highest point of the building.

**HEIGHT OF SIGN.** The vertical distance measured from the highest point of the sign including the frame and any embellishments whichever is greater.

**HOME OCCUPATION.** Occupations of dressmaking, handicrafts, millinery, laundering, preserving, home cooking, sales or professional services, but excluding barber shops and beauty parlors, but only when the permitted occupations are performed under all of the following conditions:

- (1) The use is clearly incidental and secondary to use for dwelling purposes;
- (2) The use is conducted entirely within a dwelling unit and not in any accessory building;
- (3) The use is carried on only by residents of the dwelling;
- (4) The use does not require external alteration of the dwelling; and
- (5) The use does not adversely affect the uses permitted in the immediate neighborhood and does not substantially increase traffic generation or noise.

**HIGHWAY.** See **STREET**.

**HOTEL** or **MOTEL.** A building in which lodging or boarding are provided and offered to the public for compensation. As it is open to the public in contradiction to a boarding house, rooming house, lodging house or dormitory which is herein separately defined.

**ILLUMINATED SIGN.** Any sign designed to emit or brightly reflect artificial light from any source fixed or incidental.

**INCIDENTAL SIGN.** A small sign, not exceeding two square feet, limited to information and directions related to the permitted use on the lot or building on which the sign is located and containing no direct illumination. Examples of **INCIDENTAL SIGNS** would include no smoking, restroom, no solicitors, no trespassing, self service, vacancy, credit card acceptance signs, signs indicating hours of business and similar information.

**INDUSTRY.** A specific branch of business that obtains its salable items through the assembly of parts into a complete product or through the transformation of a raw material into a finished product.

(1) **HEAVY INDUSTRY.** Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes or glare, odors, noise or vibration which may be heard or felt off the premises, and those industries which constitute a fire or explosion hazard. Due to the confined topography of the city, all heavy industrial uses are prohibited within the corporate limits of the city.

(2) **LIGHT INDUSTRY.** Those industries whose processing of products results in none of the above conditions.

**INSTITUTION FOR CHILDREN OR THE AGED.** An establishment providing residence and care for children or the aged.

**JUNK.** Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed or other use or disposition. Examples of which include tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood and lumber. More than two unregistered or inoperable vehicles constitute **JUNK**.

**JUNK YARD.** Any area, lot, land or parcel where junk is kept as defined herein or waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, handled, including auto wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking structural steel materials and equipment. A **JUNK YARD** is a prohibited use within the corporate limits of the city.

**LABORATORY.** A building or part of building devoted to the testing and analysis of any product or animal (including humans). No manufacturing is conducted on the premises except for experimental or testing purposes.

**LOADING SPACE.** Logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicle expected to be used and accessible to the vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street, parking in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

**LOT.** Includes plot or parcel.

**LOT, CORNER.** A lot abutting upon two or more streets or abutting upon two adjoining and deflected lines of the same street and thereby forming an interior angle of less than 135 degrees. **CORNER LOTS** shall be construed to have front yards along each abutting street, one rear yard and one side yard.

**MANUFACTURING, HEAVY.** Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character, require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary. Due to the confined topography of the city, all heavy industrial uses are prohibited within the corporate limits of the city.

**MANUFACTURING, LIGHT.** Manufacturing or other industrial uses which are usually controlled operations, relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust, operating and storing within enclosed structures and generating little industrial traffic and no nuisance.

**MANUFACTURED HOUSING.** A manufactured building or portion of a building designed for long-term residential use having the following features or characteristics:

- (1) Mass produced in a factory;
- (2) Designed and constructed for transportation to a site for installation and use when connected to required utilities; and
- (3) Either an independent, individual building or a module for combination with other elements to form a building on the site.

**MAY.** Is permissive.

**MOBILE HOME.** A manufactured building or portion of a building designed for one family, long-term residential use having the following features or characteristics:

- (1) It was built in a factory;

(2) It was designed and constructed for transportation to a site for installation and use when connected to the required utilities; and

(3) Consisted of either an independent, individual building or module for combination with other elements to form a building on the site, i.e., any structure fabricated in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it was built in compliance with the Federal Manufactured Home Construction and Safety Standards Code as set forth in 24 C.F.R. parts 3280, 3282 and 42 U.S.C. § 5401, and as mandated by the United States as administered by the United States Department of Housing and Urban Development and commonly referred to as the HUD Code. Single-family structures must meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. §§ 5401 et seq.) commonly known as the HUD (United States Department of Housing and Urban Development) code, as well as the state's Building Code structural and installation requirements, found at 815 KAR 7.

**MOBILE HOME PARK.** Any site, or tract of land under single ownership, upon which three or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of the park. A mobile home park may only be located in an R-5 District.

**MOBILE SIGNS.** A sign which is affixed to a frame having wheels or capable of being moved, or otherwise portable, which does not have a permanent foundation. The mere removal of wheels or temporary securing of a sign to a surface of real estate shall not prevent its being a mobile sign within this definition.

**MODULAR HOUSING UNIT.** A single-family residential unit that is built in sections off-site and transported to the site for assembly to become a permanent fixture upon that property site. This type of housing includes a set of standards which clarify the difference between mobile homes and modular units, such as:

- (1) Has more than 950 feet of occupied space and is composed of more than one section;
- (2) Is placed onto a permanent under floor support system in accordance with specified installation standards;
- (3) Is placed onto a permanent perimeter enclosure, in accordance with certain installation standards;
- (4) Has wheels, axles and hitch mechanisms removed;
- (5) Has siding material of a type customarily used on site-constructed homes, such as board siding, plywood or presswood siding, vinyl, stucco, brick, non-reflective aluminum and the like; and
- (6) Has roofing material of a type customarily used on site-constructed homes, such as wood, tile, composition shingles or other materials compatible with the conventionally built residential structures in the neighborhood which shall be installed on a surface pitched at a minimum slope of 3:12.

**MUSEUM.** A non-profit, noncommercial establishment operated as a repository or a collection of nature, scientific or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the objects collected.

**NONCONFORMING USE OR STRUCTURE.** Nonconforming use or structure means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertains to the zone in which it is located.

**NURSERY, NURSING HOME.** A home or facility for the care and treatment of babies, children, pensioners or elderly people.

**OCCUPIED.** Includes arranged, designed or intended to be occupied.

**OFFICE.** A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment. A professional office business establishment is considered to lie within an office building for the purposes of signage regulations when three or more of the following occur:

- (1) The establishments are within one building;
- (2) The establishments are on the same lot;
- (3) The establishments share parking;
- (4) When the establishments are within more than one building, the buildings have similar setback; and
- (5) The establishments share an ingress or egress.

**OFF-PREMISES SIGN.** A sign that advertises goods, products, services or facilities or directs persons to a different location from where the sign is installed.

**ON-PREMISES SIGN.** Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

**OPEN SPACE.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests of land adjoining or neighboring the open space.

**PARISH HOUSE.** A residence for a minister, priest or rabbi in connection with the operation of a church or synagogue.

**PARKING LOT OR AREA.** An off-street area used for the parking of any type of vehicle, whether moving or at rest, including but not limited to, parking lots, loading and unloading areas, mobile home parks and sales and services areas. Driveways, access ways, aisles and maneuvering areas are also considered a part of the parking lots or areas.

**PARKING SPACE.** A space on private land, accessible from a street or alley, not less than nine feet wide and 18 feet long exclusive of passageways.

**PERMITTED STRUCTURE.** A structure meeting all the requirements established by this chapter for the district in which the structure is located.

**PERMITTED USE.** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**PERSON.** Includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual.

**PRESCHOOL.** Day care and education of five or more children under legal age to attend public or private grammar school.

**PRINCIPAL STRUCTURE.** A building in which is conducted a principal or conditional use. In any Residential Zone, any structure containing a dwelling unit shall be deemed a principal structure on the lot on which the same is located. Where a nonconforming use is the primary use on the property, the building in which it is located shall be deemed a principal structure.

**PUBLIC USES.** Public parks, schools and administrative, and cultural, buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

**RECREATION FACILITIES.** Public or private facilities that may be classified as either extensive or intensive depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing and riding clubs, and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadium and bowling alleys.

**RECREATIONAL VEHICLE.** A vehicle that is built on a single chassis designed to be self-propelled or permanently towable by a light-duty truck and designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel and seasonal use.

**RECREATIONAL VEHICLE PARK.** Any lot or parcel of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. See **CAMPGROUND**.

**RESIDENTIAL STORAGE WAREHOUSE.** A building or portion thereof designed or used exclusively for storing the excess personal property of an individual or family when it is not located on the lot with the residence, such as passenger motor vehicle, house trailer, motorcycle, boat, camper and other items of personal property generally stored in residential accessory structures. This shall not include the storage of any merchandise, stock furnishings or vehicles of a business of any kind.

**RESTAURANT.** An establishment where food and drink are prepared, served and consumed primarily within the principal building. See **RESTAURANT, TAKE-OUT** and **RETAIL FOOD ESTABLISHMENT**.

**RESTAURANT, TAKE-OUT.** An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

**RETAIL FOOD ESTABLISHMENT.** Any fixed facility in which food or drink is offered or prepared primarily for retail sale.

**RETAIL SALES.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption.

**RETAIL SALES, OUTDOOR.** The display and sale of products and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials and lumber yards.

**RIGHT-OF-WAY.** A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities and may include special features, (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

**ROAD.** See **STREET**.

**ROADWORTHY.** Fit to be driven or towed in a safe condition on public roads.

**SEAT.** For the purposes of determining the number of off-street parking spaces for certain uses, the number of **SEATS** is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews or space for loose chairs.

**SETBACK LINE.** That line that is the required minimum distance from any lot line and that establishes the area within

which the principal structure must be erected or placed.

**SHALL.** Is always mandatory and not merely directive.

**SIDEWALK.** The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

**SIGN.** Any writing, pictorial representation, form, emblem, trademarks, flag, banner, decoration (including material used to differentiate the **SIGN** copy from the background) or any figure which is written, printed, projected, painted, constructed or otherwise displayed upon or designed into a building, board, plate, canopy, awning, window, vehicle or upon any object or device which by reason of form, color, wording, symbol, design, illumination, motion or other characteristic is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, announcement or of illustrating products.

**SIGHT TRIANGLE.** A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

<b>Requirement by Road Classification</b> <i>(measured along R.O.W.)</i>		<b>Local</b>	<b>Collector</b>	<b>Arterial</b>
<b>"A" Distance in Feet</b>		<b>"B" Distance in Feet</b>		
<b>130-150</b>	<b>Arterial road</b>	<b>30</b>	<b>100</b>	<b>130-150</b>

**SPOT ZONING.** Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the Comprehensive Plan. Unreasonable **SPOT ZONING** results in the following:

- (1) A small parcel of land is singled out for special and privileged treatment;
- (2) The singling out is not in the public interest but only for the benefit of the land owner; and
- (3) The action is not in accord with the Comprehensive Plan.

**STREET.** Any public or private way set aside for public travel 20 feet or more in width. The word **STREET** shall include the words, road, highway and thoroughfare.

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location as the ground. Among other things, **STRUCTURES** include buildings, mobile homes, walls, fences, billboards and poster panels.

**TRAVEL TRAILER.** A non-self-propelled vehicle intended for recreational purposes only. Not allowed or intended to be used as a permanent or temporary residence such as a mobile home.

**USE.** The specific purposes for which land or a building is designated, arranged or intended, or for which it is or may be occupied or maintained.

**USED.** Includes arranged, designed or intended to be used.

**VARIANCE.** A departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where the departure will not be contrary to the public interest, and where owing to conditions peculiar to the property because of its size, shape or topography and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

**VEHICULAR USE AREA (VUA).** Any open or unenclosed area containing more than 1,800 square feet of area and/or used by five or more of any type of vehicle, whether moving or at rest, including but not limited to, parking lots, loading and unloading areas, mobile home parks and sales and service areas. Driveways are considered to be vehicular use elements described in this chapter (and intervening curbs, sidewalks, landscape strips and the like, do not eliminate adjacency).

**WALL.** One of the sides of a room or building connecting floor and ceiling or foundation and roof.

**YARD, FRONT.** An open space extending the full width of the lot between a principal structure and the front lot line; unoccupied and unobstructed from the ground upward. The depth of a **FRONT YARD** is the shortest distance measured perpendicularly between any part of a building and the front lot line.

**YARD, REAR.** An open extending the full width of a lot between a principal structure and the rear lot line, unoccupied and unobstructed from the ground upward. The depth of a **REAR YARD** is the shortest distance measured perpendicularly between any part of a building and the rear lot line.

**YARD, SECONDARY FRONT.** An open space extending the full width of the lot between a principal structure and the secondary front lot line of a corner lot, unoccupied and unobstructed from the ground upward. The **SECONDARY FRONT YARD** will be that front yard that is parallel to the side exposure of the principal structure, or the rear exposure of the principal structure in the case of lot with three front yards. The depth of the **SECONDARY FRONT YARD** is the shortest distance measured perpendicularly between any part of a building and the secondary front lot line.

**YARD, SIDE.** An open space between a principal structure and a side lot line, unoccupied and unobstructed from the ground upward. The width of a **SIDE YARD** is the shortest distance measured perpendicularly between any part of a building and the nearest side lot line.

(Prior Code, § 152.008) (Ord. 2007-09, passed 9-10-2007)

## **ZONING DISTRICTS**

### **§ 152.020 ZONING DISTRICT MAP.**

The city is hereby divided into zones and districts as provided herein and as shown on the zoning map dated January 14, 1998, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The zoning district map is composed of one or two map sheets, each of which represents a different geographic area and/or subject matter of the city. Each map shall be identified as part of the city's zoning district map, and shall be kept on file in the City Hall, and shall be known herein as the "zoning district map."

(Prior Code, § 152.020)

### **§ 152.021 MAP AMENDMENT IDENTIFICATION.**

Amendments to the zoning map shall be promptly posted on the map by the Planning Commission. Each amendment shall be identified on the map by a numerical designation referring to the Planning Commission record of the amendment proceedings.

(Prior Code, § 152.021)

### **§ 152.022 INTERPRETATION OF ZONE AND DISTRICT BOUNDARIES.**

Where uncertainty exists as to the exact boundaries of zones and districts as shown on the zoning district map, the following rules shall be used to interpret the exact location of the zoning district boundaries shown.

(A) Where a zoning district boundary approximately follows a street, alley or railroad, the center line of the street or railroad right-of-way is the boundary of the district.

(B) Where a zoning district boundary approximately follows a property line or a series of property lines, the line or lines is the boundary of the district.

(C) Where a zoning district boundary approximately follows a stream or shore line of a body of water, that stream or shore line at pool, as defined on the date this regulation is enacted, is the boundary of the district.

(D) Where a zoning district boundary does not clearly follow any of the features mentioned above, its exact location on the ground shall be determined by measurement according to the zoning district map scale.

(E) In any case, where the exact location of a boundary is not clear, the Board of Adjustments shall use these rules to determine the exact location upon application by the Planning Commission or Administrator for an original interpretation.

(F) Where a designated zone is a line along a roadway, street or railroad, the center line of the roadway, street or railroad shall also be the center line of the zone extending approximately 150 feet in each direction.

(G) When a zone or district boundary line divides a lot which was in single ownership at the time and passage of this chapter, the Board of Zoning Adjustment may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the zone or district line into the remaining portion of the lot.

(Prior Code, § 152.022)

### **§ 152.023 APPLICATION OF ZONING DISTRICT REGULATIONS.**

(A) The regulations set by this chapter, within each zone shall be the minimum or maximum limitations as appropriate to the case and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(B) No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zone and district in which it is located unless otherwise specifically permitted in this subchapter.

(C) No building or other structure shall hereinafter be erected or altered:

(1) To exceed the height, bulk or floor area ratio;

(2) To accommodate or house a greater number of families;

(3) To occupy a greater percentage of lot area;

(4) To have narrower or smaller rear yards, front yards, side yards or other open spaces; and/or

(5) To have less perimeter and interior lot landscaping for vehicular use area and noncompatible land uses than herein required, or in any other manner contrary to the provisions of these zoning regulations.



(D) No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land for the purpose of complying with this chapter shall be included as a part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted by this chapter.

(E) No yard or lot existing at the time of the adoption of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this zoning regulation shall meet at least the minimum requirements established by this chapter.

(F) Except as hereinafter prohibited, there shall be no more than one principal structure and its accessory structures on any lot or parcel of land unless a development plan is approved by the Planning Commission.

(G) Only those uses specifically named as principal, accessory or conditional use or substantially similar to principal, accessory or conditional uses are permitted in each zone or district and all uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include but not be limited to those specifically named as prohibited.

(Prior Code, § 152.023) Penalty, see § 152.999

#### **§ 152.024 CONVERSION OF DWELLING STRUCTURES.**

(A) The conversion of any structure or structures either residential or nonresidential so as to accommodate an increased number of dwelling units or families, or another permitted use, shall be permitted only within the zone of which a new building for similar occupancy would be permitted under this chapter.

(B) The resulting occupancy shall comply with all requirements governing new construction in the zone including, but not limited to, floor area, dimension or yards, open space and off-street parking. The aforesaid shall apply if the conversion involves no exterior structural changes to a principal building but shall apply if any accessory building is converted to a principal building.

(Prior Code, § 152.024)

#### **§ 152.025 AGRICULTURAL LAND USE EXEMPTIONS.**

Notwithstanding any other provisions of this chapter, land which is used solely for agricultural use as defined herein shall be regulated in conformance with KRS Chapter 100.

(Prior Code, § 152.025)

#### **§ 152.026 GOVERNMENTAL USE EXEMPTIONS.**

Notwithstanding any other requirements of KRS Chapter 100, the commonwealth and its political subdivisions shall be exempt from complying with any and all requirements of this chapter.

(Prior Code, § 152.026)

#### **§ 152.027 ESTABLISHMENT OF ZONING DISTRICTS.**

These regulations establish the following zoning districts within the city as a means to implement the stated purpose of this chapter:

- (A) A: Agricultural;
- (B) R-1: Single-Family Low Density;
- (C) R-2: Single-Family Medium Density;
- (D) R-3: Single-Family Manufactured;
- (E) R-4: Multi-Family;
- (F) R-5: Manufactured Home Parks;
- (G) B-1: Neighborhood Business;
- (H) B-2: Central Business District;
- (I) C-1: Highway Commercial; and
- (J) LI: Light Industrial.

(Prior Code, § 152.027)

#### **§ 152.028 A AGRICULTURAL DISTRICT.**

(A) *Description.* This district is derived of certain large open areas used for agricultural purposes. The regulations of this district are designed to retain the open character and certain other compatible uses.

(B) *Permitted primary uses.*

(1) Growing and harvesting of field, tree or bush crops including flowers; the keeping of poultry, bird and egg farms, provided that pens, buildings and other enclosures, other than open pasture, are not closer than 200 feet to any residence, residential district or commercial district; the commercial breeding, raising, training and grazing of horses, cattle, sheep, goats, ostriches and other livestock, provided that the site contains not less than five contiguous acres, and the number of animals shall be limited to not more than ten head per acre of land, and pens, buildings and other enclosures, other than open pasture, are not closer than 200 feet to any residence, residential district or commercial district;

(2) Single-family detached site-constructed dwellings;

(3) Corrals, stables, pens, barns and similar structures for keeping of livestock;

(4) Plant nurseries and greenhouses for the propagation, cultivation and distribution of plants produced on the premises;

(5) Schools for academic instruction and associated facilities;

(6) Churches, nursery schools and childcare centers for four or more children; and

(7) Government operated parks and playgrounds.

(C) *Permitted accessory uses.*

(1) Private garages, private storage sheds and private parking areas;

(2) Private swimming pools and tennis courts;

(3) Private noncommercial parks and open space;

(4) Living quarters with cooking facilities and not rented for guests and employees of the premises;

(5) Keeping of not more than two roomers or boarders without kitchen facilities;

(6) Barns and related farm structures; and

(7) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

(1) Kindergartens, nursery schools and childcare centers for four and not more than 12 children when accessory to and located in the same structure with a single-family residential use. A fence and screened play area shall be provided which shall contain not less than 25 square feet per child and shall be located to the rear of and directly adjacent to the principal structure or use;

(2) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first;

(3) Cemeteries;

(4) Outdoor commercial recreation facilities such as golf courses, zoological gardens, sporting farms, riding stables, fishing lakes, swimming pools, tennis courts and campgrounds;

(5) Riding and boarding stables;

(6) Animal hospitals, clinics and boarding kennels; and

(7) Sales stands for the sale of farm or ranch products.

(E) *Yard area minimum requirements.*

(1) Lot area is 217,800 square feet;

(2) Lot width is 250 feet;

(3) Front yard setback is 50 feet;

(4) Rear yard setback is 50 feet; and

(5) Side yard setback is 35 feet on both sides of each lot.

(F) *Maximum requirements.*

(1) Lot coverage is 35%; and

(2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems or on-site septic treatment facilities are used, if the minimum lot area required by the Health Department is greater than the minimum listed within this code, then the Health Department required lot size shall be the required size.

(Prior Code, § 152.028)

**§ 152.029 R-1 SINGLE-FAMILY LOW DENSITY DISTRICT.**

(A) *Description.* This district is composed of low density single-family detached site-constructed homes in certain areas of the city, as well as certain open areas where similar residential development is appropriate. The regulations for this district are designed to stabilize and protect the essential characteristics desired in the district, to promote and encourage a suitable environment for family life, and to promote orderly planning and development of land uses by limiting activities other than residential in nature from this district. Public and private parks and schools are permitted within the district provided that they serve the residents of the district. More than one permitted principal structure per lot or parcel of land shall not be permitted.

(B) *Permitted primary uses.*

- (1) Single-family detached site-constructed dwellings;
- (2) Schools for academic instruction and associated facilities;
- (3) Churches, nursery schools and childcare centers for four or more children; and
- (4) Government operated parks and playgrounds.

(C) *Permitted accessory uses.*

- (1) Private garages, private storage sheds and private parking areas;
- (2) Private swimming pools and tennis courts;
- (3) Agricultural uses excluding commercial stock raising;
- (4) Private noncommercial parks and open space;
- (5) Living quarters with cooking facilities and not rented for guests and employees of the premises;
- (6) Keeping of not more than two roomers or boarders without kitchen facilities; and
- (7) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

(1) Kindergartens, nursery schools and childcare centers for four and not more than 12 children when accessory to and located in the same structure with a single-family residential use. A fence and screened play area shall be provided which shall contain not less than 25 square feet per child and shall be located to the rear of and directly adjacent to the principal structure or use;

(2) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first;

(3) Cemeteries; and

(4) Outdoor commercial recreation facilities such as golf courses, zoological gardens, sporting farms, riding stables, fishing lakes, swimming pools, ball fields, tennis courts and campgrounds.

(E) *Yard area minimum requirements.*

- (1) Lot area is 12,000 square feet;
- (2) Lot width is 100 feet;
- (3) Front yard setback is 25 feet;
- (4) Rear yard setback is 25 feet;
- (5) Side yard setback is 15 feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *R-1 maximum requirements.*

- (1) Lot coverage is 35%; and
- (2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems or on-site septic treatment facilities are used, if the minimum lot area required by the Health Department is greater than the minimum listed within this chapter, then the Health Department required lot size shall be the required size.

(Prior Code, § 152.029)

## § 152.030 R-2 SINGLE-FAMILY MEDIUM DENSITY DISTRICT.

(A) *Description.* This district is composed of medium density single-family detached site-constructed homes in certain areas of the city, as well as certain open areas where similar residential development is appropriate. The regulations for this district are designed to stabilize and protect the essential characteristics desired in the district, to promote and encourage a suitable environment for family life, and to promote orderly planning and development of land uses by limiting activities other than residential in nature from this district. Public and private parks and schools are permitted within the district provided that they serve the residents of the district. More than one permitted principal structure per lot or parcel of land shall not be permitted.

(B) *Permitted primary uses.*

- (1) Single-family detached site-constructed dwellings;
- (2) Schools for academic instruction and associated facilities;
- (3) Churches, nursery schools and childcare centers for four or more children;
- (4) Government operated parks and playgrounds; and

(5) A resident shall only house 12 non-crowing and no more than two crowing poultry. All crowing and non-crowing poultry shall be kept in a fence or structure of sufficient height and construction to prevent the animals from leaving the owner's property. The fence or structure must be in good repair. The fence or structure shall have at least three square feet of space of shelter per crowing or non-crowing poultry and six square feet of space of run per crowing or non-crowing. All gates or doors to the fence or structure shall fit properly and shall be locked or secured by latch. The structure shall be 50 feet away from any house or dwelling, except that of the poultry owner, and free from odors and rodents. All feed shall be kept in plastic or metal containers with a lid sufficient enough that the feed will be kept dry and free from rodents.

(C) *Permitted accessory uses.*

- (1) Private garages, private storage sheds and private parking areas;
- (2) Private swimming pools and tennis courts;
- (3) Agricultural uses excluding commercial stock raising;
- (4) Private noncommercial parks and open space;
- (5) Living quarters with cooking facilities and not rented for guests and employees of the premises;
- (6) Keeping of not more than two roomers or boarders without kitchen facilities; and
- (7) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

(1) Kindergartens, nursery schools and childcare centers for four and not more than 12 children when accessory to and located in the same structure with a single-family residential use. A fence and screened play area shall be provided which shall contain not less than 25 square feet per child and shall be located to the rear of and directly adjacent to the principal structure or use;

(2) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first;

(3) Cemeteries; and

(4) Outdoor commercial recreation facilities such as golf courses, zoological gardens, sporting farms, riding stables, fishing lakes, swimming pools, ball fields, tennis courts and campgrounds.

(E) *Yard area minimum requirements.*

- (1) Lot area is 7,500 square feet;
- (2) Lot width is 80 feet;
- (3) Front yard setback is 20 feet;
- (4) Rear yard setback is 25 feet;
- (5) Side yard setback is ten feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *Maximum requirements.*

- (1) Lot coverage is 35%; and

(2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems or on-site septic treatment facilities are used, the minimum lot area and rear yard setbacks shall be those required by the Health Department.

(Prior Code, § 152.030) (Ord. 2021-04, passed 6-14-2021)

**§ 152.031 R-3 SINGLE-FAMILY MANUFACTURED DISTRICT.**

(A) *Description.*

(1) This district is composed of medium density single-family detached site-constructed homes and manufactured homes in certain areas of the city, as well as certain open areas where similar residential development is appropriate.

(2) The regulations for this district are designed to stabilize and protect the essential characteristics desired in the district, to promote and encourage a suitable environment for family life and to promote orderly planning and development of land uses by limiting activities other than residential in nature from this district. Public and private parks and schools are permitted within the district provided that they serve the residents of the district. More than one permitted principal structure per lot or parcel of land shall not be permitted.

(B) *Permitted primary uses.*

- (1) Single-family detached site-constructed homes or dwelling;
- (2) Single-family manufactured homes or dwellings;
- (3) Schools for academic instruction and associated facilities;
- (4) Churches, nursery schools and childcare centers for four or more children; and
- (5) Government operated parks and playgrounds.

(C) *Permitted accessory uses.*

- (1) Private garages, private storage sheds and private parking areas;
- (2) Private swimming pools and tennis courts;
- (3) Agricultural uses excluding commercial stock raising;
- (4) Private noncommercial parks and open space;
- (5) Living quarters with cooking facilities and not rented for guests and employees of the premises;
- (6) Keeping of not more than two roomers or boarders without kitchen facilities; and
- (7) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

(1) Kindergartens, nursery schools and childcare centers for four and not more than 12 children when accessory to and located in the same structure with a single-family residential use. A fence and screened play area shall be provided which shall contain not less than 25 square feet per child and shall be located to the rear of and directly adjacent to the principal structure or use;

(2) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first;

(3) Cemeteries; and

(4) Outdoor commercial recreation facilities such as golf courses, zoological gardens, sporting farms, riding stables, fishing lakes, swimming pools, ball fields, tennis courts and campgrounds.

(E) *Yard area minimum requirements.*

(1) Lot area is 7,500 square feet, except in Health Department approved mobile home parks where the state's lot standards for area and setbacks shall apply;

(2) Lot width is 80 feet;

(3) Front yard setback is 20 feet;

(4) Rear yard setback is 25 feet;

(5) Side yard setback is ten feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *Maximum requirements.*

- (1) Lot coverage is 35%; and
- (2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems or on-site septic treatment facilities are used, the minimum lot area and rear yard setbacks shall be those required by the Health Department.

(Prior Code, § 152.031)

#### **§ 152.032 R-4 TWO-FAMILY AND MULTI-FAMILY DISTRICT.**

(A) *Description.* This district is composed of higher density multi-family and duplex site-constructed dwelling units in certain areas of the city, as well as certain open areas where similar residential development is appropriate. The regulations for this district are designed to stabilize and protect the essential characteristics desired in the district, to promote and encourage a suitable environment for family life and to promote orderly planning and development of land uses by limiting activities other than residential in nature from this district. Public and private parks and schools are permitted within the district provided that they serve the residents of the district.

(B) *Permitted primary uses.*

- (1) Two-family site-constructed homes or dwellings;
- (2) Multiple-family dwellings;
- (3) Schools for academic instruction and associated facilities;
- (4) Churches, nursery schools and childcare centers for four or more children; and
- (5) Government operated parks and playgrounds.

(C) *Permitted accessory uses.*

- (1) Private garages, private storage sheds and private parking areas;
- (2) Private swimming pools and tennis courts;
- (3) Agricultural uses excluding commercial stock raising;
- (4) Private noncommercial parks and open space;
- (5) Living quarters with cooking facilities and not rented for guests and employees of the premises;
- (6) Keeping of not more than two roomers or boarders without kitchen facilities; and
- (7) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

(1) Kindergartens, nursery schools and childcare centers for four and not more than 12 children when accessory to and located in the same structure with a single-family residential use. A fence and screened play area shall be provided which shall contain not less than 25 square feet per child and shall be located to the rear of and directly adjacent to the principal structure or use;

(2) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first;

(3) Cemeteries; and

(4) Outdoor commercial recreation facilities such as golf courses, zoological gardens, sporting farms, riding stables, fishing lakes, swimming pools, tennis courts and campgrounds.

(E) *Yard area minimum requirements.*

(1) Lot area is 6,000 square feet with 3,500 square feet added for each additional dwelling unit over two units (three units require 9,500 square);

(2) Lot width is 80 feet;

(3) Front yard setback is 20 feet;

(4) Rear yard setback is 25 feet;

(5) Side yard setback is ten feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.



(F) *Maximum requirements.*

- (1) Lot coverage is 35%; and
- (2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems or on-site septic treatment facilities are used, the minimum lot area and rear yard setbacks shall be those required by the Health Department.

(Prior Code § 152.032)

#### **§ 152.033 R-5 SINGLE-FAMILY MANUFACTURED HOME PARKS DISTRICT.**

(A) *Description.* This district is composed of high density manufactured home parks in certain areas of the city, as well as certain open areas where similar residential development is appropriate. The regulations for this district are designed to promote and encourage a suitable environment for affordable housing areas and family life, and to promote orderly planning and development of land uses by limiting activities other than residential in nature from this district.

(B) *Permitted primary uses.* Manufactured home parks that meet state regulations regarding mobile home parks and have a permit from the state's and county's Health Department to operate as such.

(C) *Permitted accessory uses.*

- (1) Private garages, private storage sheds and private parking areas;
- (2) Private swimming pools and tennis courts;
- (3) Agricultural uses excluding commercial stock raising;
- (4) Private noncommercial parks and open space;
- (5) Keeping of not more than two roomers or boarders without kitchen facilities; and
- (6) Home occupations.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations:

- (1) Temporary real estate sales office for the sale of lots located only within the subdivision section in which lots are located, to be removed at the end of one year or when all the lots are sold, whichever comes first; and
- (2) Cemeteries.

(E) *Yard area minimum requirements.*

- (1) Required lot areas, setbacks as required by the state's mobile home park regulations; and
- (2) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(Prior Code, § 152.033)

#### **§ 152.034 B-1 NEIGHBORHOOD BUSINESS DISTRICT.**

(A) *Description.* The purpose of the Neighborhood Business District is to allow for the continuance of and encourage the establishment of relatively small areas for businesses that minimally impact surrounding residences, and which tend to meet the daily needs of the residents in an immediate neighborhood or as characterized by low volume daily customers. The districts shall be strategically located with access to a collector street. The primary intent of this District is to ensure compatibility with adjoining residential neighborhoods, while satisfying some of their daily commercial and service business needs.

(B) *Permitted primary uses.*

- (1) Beauty shops and barber shops;
- (2) Gift shops and antique shops;
- (3) Establishments for the retail sale of food products, such as supermarkets, no greater than 3,000 square feet in building area and provided that no drive through facilities are provided;
- (4) Schools for academic instruction and associated facilities;
- (5) Community centers;
- (6) Nursing and rest homes;
- (7) Restaurants, no greater than 3,000 square feet in building area and no drive-in or drive-through service facilities are provided;
- (8) Bed and breakfast establishments; and

(9) Banks, credit agencies, security and commodity brokers and exchanges, savings and loan companies and holding and investment companies.

(C) *Permitted accessory uses.*

(1) Parking areas; and

(2) One dwelling unit for owners, operators or employees of a permitted use provided that the dwelling unit shall be a part of the building and shall have a separate entrance.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations and the Comprehensive Plan: None.

(E) *Yard area minimum requirements.*

(1) Lot area is 7,500 square feet;

(2) Lot width is 80 feet;

(3) Front yard setback is 20 feet;

(4) Rear yard setback is 25 feet;

(5) Side yard setback is ten feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *Maximum requirements.*

(1) Lot coverage is 40%; and

(2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Where private sewage systems of on-site septic treatment facilities are used, the minimum lot area and rear yard setbacks shall be those required by the Health Department.

(Prior Code, § 152.034)

#### **§ 152.035 B-2 CENTRAL BUSINESS DISTRICT.**

(A) *Description.* The purpose of the Central Business District is to protect and encourage limited renewal while maintaining the existing character and overall appearance of the historical core residential and business area of the community. A variety of business, institutional, public, quasi-public, cultural, residential and other related uses are encouraged in an effort to provide the mix of activities necessary to maintain the historical and cultural significance inherent in the area. Compatibility with the historic structures and uses is the primary goal of the district, while enhancing the overall appearance and function as a historic as well as actively used district.

(B) *Permitted primary uses.*

(1) Beauty shops and barber shops;

(2) Gift shops and antique shops;

(3) Establishments for the retail sale of food products, such as supermarkets, no greater than 3,000 square feet in building area;

(4) Schools for academic instruction and associated facilities;

(5) Community centers;

(6) Nursing and rest homes;

(7) Banks, credit agencies, security and commodity brokers and exchanges, savings and loan companies and holding and investment companies, provided, however, building is no greater than 3,000 square feet;

(8) Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations;

(9) Libraries, museums, art galleries and reading rooms;

(10) Medical and dental offices, clinics and laboratories;

(11) Studios for working and teaching the fine arts;

(12) Churches and Sunday schools;

(13) Computer and data processing centers;

(14) Ticket and travel agencies;

- (15) Business colleges or technical schools;
- (16) Restaurants with no drive-in or drive-through facilities provided;
- (17) Bed and breakfast establishments;
- (18) Indoor amusements such as billiard or pool halls, skating rinks or bowling alleys;
- (19) Indoor theaters; and
- (20) Establishments for the retail sale of merchandise.

(C) *Permitted accessory uses.*

- (1) Parking areas; and
- (2) One dwelling unit for owners, operators or employees of a permitted use provided that the dwelling unit shall be a part of the building and shall have a separate entrance.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations and the Comprehensive Plan: None.

(E) *Yard area minimum requirements.*

- (1) Lot area is 7,500 square feet;
- (2) Lot width is 80 feet;
- (3) Front yard setback is 20 feet;
- (4) Rear yard setback is 25 feet;
- (5) Side yard setback is ten feet on both sides of each lot; and
- (6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *Maximum requirements.*

- (1) Lot coverage is 40%; and
- (2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Wherever private sewage systems or on-site septic treatment facilities are used, the minimum lot area and the rear yard setbacks shall be those required by the Health Department.

(Prior Code, § 152.035)

**§ 152.036 C-1 HIGHWAY COMMERCIAL DISTRICT.**

(A) *Description.* The purpose of the Highway Commercial District is to encourage the establishment of areas for highway business uses only. This district is specifically designed to service the motoring public. Highway Commercial Districts are generally associated with areas along major highways.

(B) *Permitted primary uses.*

- (1) The primary uses in the B-2 District;
- (2) Establishment and lot for the display, rental, sales, service and repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items;
- (3) Restaurants;
- (4) Motels or hotels;
- (5) Wholesale establishments;
- (6) Garden centers;
- (7) Kennel, animal hospitals or clinics, including offices of veterinarians, provided that the structure or use not including accessory parking area shall be at least 200 feet from any residential zoning district;
- (8) Funeral homes;
- (9) Hospitals;
- (10) Automobile service stations; and
- (11) Car washes, provided surface water from the establishments shall not drain onto adjacent property and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.

(C) *Permitted accessory uses.*

(1) Parking areas; and

(2) One dwelling unit for owners, operators or employees of a permitted use provided that the dwelling unit shall be a part of the building and shall have a separate entrance.

(D) *Permitted conditional uses.* Uses permitted only with Board of Adjustment approval after consideration of the intent and purpose of these regulations and the Comprehensive Plan: Recycling centers.

(E) *Yard area minimum requirements.*

(1) Lot area is 7,500 square feet;

(2) Lot width is 80 feet;

(3) Front yard setback is 20 feet;

(4) Rear yard setback is 25 feet;

(5) Side yard setback is ten feet on both sides of each lot; and

(6) On a corner lot or a lot fronting on two streets, the required front yard setback shall be required on the side yard facing the street.

(F) *Maximum requirements.*

(1) Lot coverage is 40%; and

(2) Building height is two stories or 30 feet.

(G) *Private sewage systems.* Wherever private sewage systems or on-site septic treatment facilities are used, the minimum lot area and the rear yard setbacks shall be those required by the Health Department.

(Prior Code, § 152.036)

#### **§ 152.037 L-I LIGHT INDUSTRIAL DISTRICT.**

(A) *Purpose.* The purpose of this district is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare, which operate primarily within enclosed structures and generate little industrial traffic.

(B) *Permitted uses.* Wholesale, storage, warehouse, animal hospital, bakery, bottling works, building material yard, optical goods, printing, publication or engraving, cabinet making, clothing manufacturers, dyeing and dry cleaning, ice plants and laundry. These permitted uses to include manufacturing, treatment, altering, finishing or assembling incidental thereto.

(C) *Accessory uses permitted.*

(1) Signs identifying the industrial activity on the same premises in accordance with §152.061 of this code; and

(2) Garages and other buildings and uses accessory to the principal use.

(D) *Conditional uses.* Junk yards and other light industrial uses not listed above which can be classified as light industry according to § 152.007 of this code shall be considered conditional uses and will require the approval of the Board of Zoning Adjustment. Heavy industrial uses as defined in § 152.007 of this code are not permitted in the city limits as the city intends to preserve the existing character and quietness in the city, as illustrated by the Comprehensive Plan.

(Prior Code, § 152.037)

### **GENERAL REGULATIONS**

#### **§ 152.050 COORDINATION WITH SUBDIVISION REGULATIONS.**

In all cases where land is divided for the purpose of eventual development, of lots of any kind, the provisions of the subdivision regulations of the city or county shall apply in addition to the provisions of this chapter.

(Prior Code, § 152.050)

#### **§ 152.051 CONDITIONAL USE REGULATIONS.**

Conditional uses may be permitted in districts as designated under each zoning district, but only when specifically approved by the Board of Zoning Adjustment. All conditional uses must meet the following: such a use must be essential to or would promote the public health, safety or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent and character of performance are imposed in addition to those imposed in the zoning ordinance.

(Prior Code, § 152.051) Penalty, see § 152.999

#### **§ 152.052 NONCONFORMING USES AND STRUCTURES.**

(A) The lawful use of a building or premises, existing at the time of adoption of this chapter may be continued, except as otherwise provided herein, although the use does not conform to the provisions of such regulations.

(B) Nonconforming structures remain subject to the following regulations.

(1) *Extension.* A nonconforming structure, or structure containing a nonconforming use, shall not be enlarged, replaced or structurally altered.

(2) *Alteration.* No structure containing a nonconforming use shall hereafter be altered in a manner that would tend to prolong the nonconforming use except for ordinary repairs, except in accordance with §§ 152.095 through 152.107 of this code.

(3) *Discontinuance.* No nonconforming use may be reestablished after it has been discontinued for a period of 12 months. Vacating of premises or building, or nonoperative status shall be evidence of a discontinued use.

(4) *Prior approval.* Proposed structures for which permits have been issued prior to their designation as nonconforming by the adoption or amendment of this chapter maybe completed and used as originally intended provided they are completed and in use one year after the date on which the permit was issued.

(5) *Use change.* No nonconforming use may be changed to any other nonconforming use unless the Board of Zoning Adjustment shall find, that the proposed nonconforming use is less detrimental to the district than the existing nonconforming use of the property. The Board of Zoning Adjustment may specify the appropriate conditions and safeguards as may be required in connection with the change and shall require the owner to meet all other specifications of this regulation. This section does not allow for the expansion of a nonconforming structure containing old or new nonconforming uses.

(6) *Travel trailers and recreational vehicles in place and being used as a dwelling.* As of January 1, 2007, these vehicles will be allowed to remain in their current state, but are required to obtain a conditional use permit on an annual basis. All conditional use permits will expire on June 30 of each year. The Travel trailer/recreational vehicle must be licensed, roadworthy and tow able, and must be moved a minimum of one mile every 180 days. The existing vehicle may not be replaced, extended, or modified without application for a new permit.

(Prior Code, § 152.052) (Ord. 2007-06, passed 7-9-2007) Penalty, see § 152.999

#### **§ 152.053 REQUIRED STREET FRONTAGE.**

All lots shall front on an improved, publicly maintained street or road for the minimum distance except that lots which front on turn-arounds of permanent dead-end streets or on curves, the required frontage shall be measured at the building setback line.

(Prior Code, § 152.053) Penalty, see § 152.999

#### **§ 152.054 HEIGHT RESTRICTIONS.**

No building shall exceed two stories or 30 feet in height, unless each side yard is increased over the required minimum by five feet for every five feet, or fraction thereof, of additional height over 30 feet. In no case shall the height exceed 50 feet. This section shall not apply to the Light Industrial District where the building height shall not exceed 50 feet. There shall be no height restrictions in Heavy Industrial and Agricultural Districts.

(Prior Code, § 152.054) Penalty, see § 152.999

#### **§ 152.055 REAR DWELLINGS, REDUCTION IN LOT AREA PROHIBITED.**

(A) *Rear dwelling prohibited.* No building in the rear of a main building on the same lot may be erected for residential purposes.

(B) *Reductions in lot area prohibited.* No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area or other requirements of this regulation are not maintained.

(Prior Code, § 152.055) Penalty, see § 152.999

#### **§ 152.056 APPROVED SEWERAGE DISPOSAL FOR BUILDINGS.**

It shall be unlawful to construct any building for human occupancy and use without sewerage disposal facilities approved by the county's Health Department. Wherever sewer mains are accessible (within 500 feet), buildings shall be connected to the mains. In every other case, individual sewerage disposal must meet the requirements set by the state's Plumbing Inspector. The county's Health Officer's certificate approving proposed and completed sewerage facilities must accompany applications for zoning permits and certificates of compliance.

(Prior Code, § 152.056) Penalty, see § 152.999

#### **§ 152.057 REGULATION OF PRINCIPAL BUILDINGS.**

Unless a plat has been approved for a multi-building project, only one principal building and authorized accessory

structures are permitted, except as stated in this chapter.

(Prior Code, § 152.057) Penalty, see § 152.999

#### **§ 152.058 SINKHOLES.**

Sinkholes and other similar depressions and the area within 50 feet horizontally from the rim of the sinkhole or that area subject to periodic flooding, whichever is greater, shall be preserved in its natural state for the purpose of providing drainage of the surrounding area. No building, street or any other improvement shall be made within the given area around a sinkhole. The Planning Commission shall have the power to increase the area around the sinkhole if drainage conditions warrant such action. The sinkhole may be punched or otherwise altered to improve drainage.

(Prior Code, § 152.058) Penalty, see § 152.999

#### **§ 152.059 FLOODPLAINS.**

The Administrative Official shall administer the city's flood damage prevention ordinance.

(Prior Code, § 152.059)

#### **§ 152.060 LOTS AND YARDS.**

(A) *Obstruction to vision at street intersections on corner lots.* Corner lots in all districts shall be free from all obstructions to traffic visibility according to the sight triangle standards in § 152.007 of this code. The requirements of § 152.007 of this code shall not be deemed to prohibit any necessary retaining wall.

(B) *Building setback lines.* A building setback line shall be established to provide a front yard for all buildings and structures at the minimum distance.

(C) *Setback requirements for corner lots.* In residential districts, if the required building setback is greater than 25 feet from the street right-of-way, a corner building either along its front or side, shall not be closer than the distance established for the building setback line in that district.

(D) *Regulations for double frontage lots.* Double frontage lots shall, on both adjacent streets, meet the front yard requirements of the district in which they are located.

(E) *Application of yards to one building only.* No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.

(F) *Use of yards for accessory buildings.* No accessory buildings are permitted in front yards. They are permitted only in rear or side yards according to the dimension and area regulations.

(Prior Code, § 152.060) Penalty, see § 152.999

#### **§ 152.061 SIGNS AND OUTDOOR ADVERTISING.**

Outdoor advertising shall be classified as a business use and shall be permitted in all Agriculture, Business and Industrial Districts.

##### **(A) Location.**

(1) *Industrial, General Business and Agricultural Districts.* No outdoor advertising sign or display shall be erected, placed, painted or repainted or hung nearer to any street right-of-way line upon which the display faces the building lines provided in zones where the use is permitted except that one sign advertising the primary nature of the business or industry conducted on the premises may be placed not closer than six feet to the street right-of-way line, but in no case be permitted to obstruct the view of traffic.

(2) *Neighborhood Business District.* Only signs attached to the structure shall be permitted in Neighborhood Business Districts. Projection signs should not project more than three feet from the building, measured from the building line or point at which the sign is attached, whichever is greater from the street right-of-way or lot line.

##### **(B) Size and placement.**

(1) *Industrial, General Business and Agricultural Districts.* A single sign, billboard or other advertising device containing no more than 200 square feet (including border) shall be permitted in Industrial, General Business or Agriculture Zones. No more than four signs may be erected together containing no more than 200 square feet total. The signs shall be erected within 50 feet of a common point. Any other sign, or signs, shall be at least 1,000 feet from this point. No sign, billboard or other device shall be built at a height greater than the maximum building height permitted in the district in which it is located.

(2) *Neighborhood Business.* All outdoor advertising signs shall have no more than 50 square feet or have a height greater than three feet.

(C) *Lighting and noise.* Signs or other outdoor advertising which involve lighting or motion resembling traffic or directional signals, warnings such as "stop" or "danger" or any other similar signs which are normally associated with highway safety regulations, are prohibited. Additionally, no sign or outdoor commercial advertising device constituting a nuisance because of light, glare, focus, animation or flashing or any illuminated signs of such intensity or illumination as to unduly disturb the



use of residential property, shall have devices which eliminate noise or sound. Excessive glare and other nuisance producing signs shall be prohibited from affecting residential areas.

(D) *Maintenance and compliance.* Outdoor advertising structure shall be adequately maintained. The maintenance shall include proper alignment of structures, continued readability of the structure and preservation of the structure with paint and other preservative. If an outdoor advertising structure is not maintained, nor complies with the provisions of this chapter, written notice of any disrepair shall be issued by the Planning Commission to the owner of the structure. If the disrepair or violation is not corrected within 60 days of issuance of the notice, the structure shall be removed at the owner's expense.

(E) *Nonconforming signs and advertising structures.* Any advertising sign, billboard, commercial advertising structure or statuary which is existing and maintained at the time this chapter becomes effective, which does not conform with the provisions hereof, shall not be structurally altered except to comply with this chapter.

(Prior Code, § 152.061) Penalty, see § 152.999

## **§ 152.062 VEHICLES; PARKING REQUIREMENTS.**

(A) *Parking requirements for change in the principal use.* When the principal use is changed to a use for which additional parking space is required under the provisions of this chapter, it shall be unlawful to begin or maintain such altered use until such time as the required off-street parking is required.

(B) *Minimum design and maintenance requirements for parking areas.* Every parcel of land hereafter used as a parking area shall be designed and maintained in accordance with the following requirements.

(1) Off-street parking areas shall equal or exceed the number of spaces required and shall be of usable shape and surface and have convenient ingress and egress. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering wholly upon the property being served.

(2) All driveways shall be a minimum of five feet from a property line except single-family residential units or as otherwise provided for in this chapter.

(3) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining Residential Zone or uses or private rights-of-way.

(4) Any off-street parking area having more than 1,800 square feet of area and/or used by eight or more vehicles shall be landscaped and screened as required by this chapter.

(5) All parking areas shall be paved and drained so as to dispose of all surface water within the parking area without carrying the water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.

(6) Where parking areas are provided for eight or more vehicles or contain more than 1,800 square feet of area or are enlarged or expanded to provide eight or more vehicles or contain more than 1,800 square feet of area, they shall be paved with an asphalt, concrete, brick or other properly bound surface, so as to be durable and dustless. Each parking space shall be physically delineated on the surface of the parking area. All driveway aprons shall be paved.

(7) All parking spaces located along the perimeter of a parking area or adjacent to any structure on the lot shall be provided with concrete or other wheel protection for any landscape materials and sidewalk.

(8) Fire lanes shall be at least 20 feet in width with the road edge closest to the building at least ten feet from the building. The designation, use and maintenance of fire lanes on private property shall be accomplished as specified by the Fire Department.

(C) *Off-street parking space requirements for automobiles.*

(1) *Existing parking space.* Existing off-street parking space provided for any building or use at the time of the enactment of this chapter shall not thereafter be reduced unless it exceeds the requirements of this chapter. Any existing building or use not providing off-street parking space in conformance with this chapter shall at the time of any structural alteration of the building or expansion of the use, provide the required parking.

(2) *Required off-street parking space.* Off-street parking space shall be provided on the premises so that there will be no generation of automobile parking on any street. For purposes of computing the number of spaces available in a given area, a standard vehicle parking space shall be computed as an area measuring ten by 20 feet. Additional area will be required in order to provide vehicle maneuvering space, access and egress.

(3) *Off-street parking standards.* The following standards comprise the minimum off-street parking requirements for the several common types of buildings and uses listed. Where more than one use occupies a building, the total of the combined standards shall be required:

- (a) *Single-family residences.* Two spaces per dwelling unit;
- (b) *Apartment house.* One and one-half spaces per unit;
- (c) *Boarding houses and rooming houses.* One space for the first two rooms and one space for each additional two rooms;
- (d) *Hotels and motels.* One space per unit plus one space for each three employees;

(e) *Auditorium, theater or stadium or other similar use.* One parking space for each five seats available at maximum capacity;

(f) *Church.* One space for each three seats available at maximum capacity;

(g) *Restaurant.* One space for each three seats available at maximum capacity. Employee parking shall be provided at the ratio of one space for each three employees;

(h) *Commercial or business building.* Four spaces for the first 1,000 square feet of floor space used and usable in the sale of merchandise, and one additional space for each additional 250 square feet of floor space; and

(i) *Manufacturing and warehousing.* One parking space for each two employees at maximum employee on a single shift plus one car space for each truck operated by the business. The Planning Commission may require additional space if it deems necessary.

(4) *Off-street loading and unloading regulations for trucks.*

(a) All buildings and uses which generate regular trucking traffic shall be provided with sufficient off-street loading and unloading space on the premises so that they will generate no loading or unloading activity on their required parking spaces or on any street.

(b) The Planning Commission shall interpret the amount of loading and unloading space required for any building or use whenever it is unable to apply this standard literally.

(D) *Additional parking, loading and unloading regulations.*

(1) *Arrangement of off-street parking space.* Off-street parking space required for any building or use may be located within 200 feet from the premises it serves, but detached therefrom, or may be consolidated into a large parking area serving other buildings and uses. Either arrangement must be approved by the Planning Commission. The parking space, if allowed, shall be deemed required space associated with the permitted use and shall not hereafter be reduced or encroached upon in any manner.

(2) *Proof of availability.* The Planning Commission may require a plat, deed or any other proof necessary to show that the required parking space, if located off the premises it serves, is controlled by and available to the applicant prior to the granting of a zoning/building permit.

(Prior Code, § 152.062) Penalty, see § 152.999

## **SPECIAL REGULATIONS**

### **§ 152.075 MANUFACTURED HOUSING.**

(A) *Permitted.* Single-family manufactured housing occupied by a resident not solely engaged in agricultural activity shall be allowed in the A-1, A-2 and R-3 districts. Mobile home parks shall be authorized in the R-3 district.

(B) *Foundation.* All manufactured housing must be placed either on concrete foundations or mortared concrete blocks. The bottom of the manufactured housing unit must not be more than four feet above the ground at any point. A solid form of permanent material must be built between the ground and the bottom outside edge of the manufactured housing unit.

(C) *Anchorage and tie-down.* Every space for manufactured units shall be provided with devices for anchoring the unit to prevent overturning or uplift. The owner shall be responsible for causing the unit to be anchored. Where concrete platforms are provided for the parking of mobile units, anchorage shall be provided with eyelets embedded in the concrete with adequate anchor plates or hooks or other suitable means. The anchorage shall be adequate to withstand wind forces and uplift as required by the state's Building Code.

(Prior Code, § 152.075) Penalty, see § 152.999

### **§ 152.076 MANUFACTURED HOME PARKS.**

(A) *Mobile home parks.* No mobile home park shall be permitted on an area of less than two acres in size. The developer may be permitted to develop the park, in stages as long as he or she complies with the overall approved plan for the entire tract. The number of manufactured housing units permitted in the park shall not exceed a density of ten manufactured housing units per net acre. A net acre being the land to be subdivided into lots after streets and other required improvements have been installed.

(B) *Lot requirements.* Individual lots within a mobile home park shall not be less than 4,000 square feet in area and on a Health Department approved sewage disposal system and in no instance shall more than one manufactured housing unit be permitted on a single lot. The minimum lot width shall be 50 feet.

(C) *Setback.* No manufactured housing unit or structure shall be located closer to any public street than the minimum front yard setback for permanent residential structures in the Residential Zone in which the park is located. No manufactured housing unit shall be located closer than 25 feet to any building or street within the park or to any property line of the park.

(D) *Frontage.* All mobile home parks shall front on a public street or road for at least 100 feet.

(E) *Spacing.* No manufactured housing unit shall be located within 25 feet of another manufactured housing unit except that a minimum end-to-end clearance of not less than 15 feet shall be permitted, and in instances where the sides opposite the entrance of two manufactured housing units may be reduced to not less than 20 feet.

(F) *Streets.* All manufactured housing spaces shall abut upon a street within the trailer park and shall have a right-of-way of not less than 25 feet and a pavement of not less than 20 feet. Each park shall have at least one street which gives access to a public street. The access streets in either a single mobile home park or parks, shall not be less than 100 feet apart nor be less than 125 feet from an intersection of two or more public streets. All streets within the park shall be paved, hard-surfaced, well-drained and well-lighted. No street right-of-way within the mobile home park shall be within five feet of the property line. The owner of the mobile home park shall maintain the streets within the mobile park.

(G) *Parking.* One paved automobile parking area shall be provided on every manufactured housing lot, plus one-half parking space for each mobile home lot. This additional parking may be in a central location, but in no case more than 300 feet from the manufactured housing unit for which it is provided.

(H) *Utilities.* All lots within the mobile home park shall be provided with water, sewer and electrical facilities meeting the standards specified by county and state regulations, and each manufactured housing unit shall be properly connected with the utilities.

(I) *Accessory structures.* No accessory structure including patios and pads shall be located within five feet from any manufactured housing lot line. The maximum floor area shall be 100 square feet and the maximum height shall be no greater than ten feet.

(J) *Foundation.* All manufactured housing must be placed either on concrete foundations or mortared concrete blocks.

(K) *Anchorage and tie-down.* Every space for manufactured units shall be provided with devices for anchoring the unit to prevent overturning or uplift. The owner shall be responsible for causing the unit to be anchored. Where concrete platforms are provided for the parking of mobile units, anchorage shall be provided with eyelets embedded in the concrete with adequate anchor plates or hooks or other suitable means. The anchorage shall be adequate to withstand wind forces and uplift as required by the state's Building Code.

(L) *Connecting structures.* Only porches, stairs and other open structures may be attached to a manufactured housing unit. No structure for human occupancy shall be built to the mobile home.

(M) *Procedure.* In applying for a zoning permit for a mobile home park, the applicant shall submit his or her plan to the Planning Commission for its approval in accordance with the preliminary plat approval of the county's subdivision regulations. The plan shall show the following information:

- (1) Plat of the entire park property;
- (2) Subdivision of the property, including all streets, dimensions of streets and lots, access to public streets and public areas such as visitors parking spaces, recreational areas, swimming pools and the like, if the areas are proposed;
- (3) Location and layout of all utilities, including pipe sizes, meter locations, valves, fire hydrants, sanitary sewer connections, manholes and connections to the existing public utilities;
- (4) Typical layout of one mobile home lot, showing manufactured housing unit location automobile parking spaces, patio garbage can receptors and the like; and
- (5) Location of planting to be provided for landscaping purposes, or as required for protective buffer.

(N) *Issuance of zoning permit.* The Planning Commission may attach reasonable special conditions to its approval of a mobile home park and may direct the Administrative Officer to issue a zoning permit when the applicant presents a valid construction permit from the state's Department of Health, as required by KRS Chapter 219. The Administrative Officer shall not issue the zoning permit until he or she has received written authorization from the Planning Commission, or Board of Adjustment, and until the valid construction permit is presented.

(O) *Issuance of certificate of compliance.* The Administrative Officer shall issue a certificate of compliance only after he or she has determined that the mobile home park has been prepared according to all applicable state regulations and special conditions and only after the applicant presents a valid permit to operate from the state's Department of Health as required by state statutes.

(P) *Enforcement.* The Administrative Officer shall ensure that all mobile home parks maintain valid permits to operate and maintain conformance with all applicable regulations of this chapter and all special conditions.

(Q) *Existence.* All existing manufactured housing units within the planning unit which complied with all existing regulations at the time of passage of this chapter shall be allowed to remain in their present location. No future manufactured housing unit in a new site shall be permanently located outside of an approved park, except as provided in Agricultural and Residential Districts.

(R) *Conflict of regulations.* All parts of any existing regulation in conflict herewith are hereby repealed.

(Prior Code, § 152.076) Penalty, see § 152.999

## **§ 152.077 APARTMENT HOUSES.**

(A) *Permitted.* Apartment houses shall be permitted in the R-4 Residential Districts.

(B) *Area and density requirements.* An apartment house shall have a minimum lot area of 13,500 square feet for the first three units. For each additional unit, there shall be an additional 3,000 square feet. The minimum required lot width at the building line shall be 100 feet. If municipal sewers are not available for an apartment complex, the required Health Department dimensions shall apply.

(C) *Yard requirements.*

(1) Front yard: 25 feet;

(2) Rear yard: ten feet;

(3) Side yard: 15 feet; and

(4) Corner lots shall meet the applicable requirements of §152.037(C) of this code.

(D) *Lot coverage.* The combined area occupied by all principal and accessory buildings shall not exceed 50% of the total lot area.

(E) *Off-street parking.* Off-street parking shall be provided on-site only. All parking areas shall be hard-surface concrete or asphalt and shall provide one and one-half spaces per dwelling unit.

(F) *Procedure.*

(1) An applicant, before applying for a zoning permit or beginning construction, shall prepare a plan or sketch showing lot dimensions and bearings of the parcel intended to be developed, the location, the intended general layout and design and improvements to be installed on the land. The proposal may be reviewed by the Planning Commission.

(2) Before approving the intended development plan, the Planning Commission may make conditional requirements pertaining to landscaping, screening, road requirements, open space or any other similar requirements. These requirements shall be made part of the plan before approval is given to the plat. Once approval is received, a zoning permit may be issued.

(Prior Code, § 152.077) Penalty, see § 152.999

#### **§ 152.078 JUNK YARDS.**

(A) Junk yards are not permitted within the city limits. The junk yards that may exist do so as nonconforming uses only.

(B) All junk yards shall comply with the following regulations.

(1) All junk yards must be completely screened from the surrounding property with the screening being not less than eight feet in height. The Planning Commission shall be required to approve the type of screening used.

(2) Any junk yard located closer than 2,000 feet from a center line of any public road must comply with KRS Chapter 177. The Administrative Officer shall ensure that all junk yards comply with county and state regulations.

(3) No junk shall be left outside of the screened area for more than 24 hours.

(4) No junk yard shall be within 2,000 feet of any Residential Zone.

(5) The Board of Adjustment shall have the power to determine if a parcel is being used for a junk yard or not. An occupational license, sign, words or written agreements shall not be evidence alone as to whether a parcel of a land is being used for a junk yard.

(6) As junk yards can be a threat to the public health and safety through groundwater contamination, insect breeding grounds, eyesores and the like, any junk yard must meet federal and state standards in order to continue to operate. Those found to be in violation shall be notified and be instructed to be brought into compliance.

(Prior Code, § 152.078) Penalty, see § 152.999

#### **§ 152.079 FENCES, WALLS AND OBSTRUCTION TO VIEW REGULATIONS.**

(A) *Fence permit.* Any property owner desiring to erect a fence on any property within the boundaries of the city is required to obtain a fence permit in accordance with the provisions and procedures set forth in this subchapter.

(B) *Fence permit application.* Application for the fence permit shall be made to the City Clerk/Treasurer on a form furnished by the City Clerk/Treasurer, and shall be accompanied by a permit fee set forth in the fee schedule. Each application for a fence permit shall also be accompanied by a scaled drawing showing the intended fence location in relation to all physical structures, streets, sidewalks and property lines. The application will further describe the type of material to be used in the fence as well as the height of the intended fence.

(C) *Fence restrictions.* The following fence restrictions will apply to all residential properties within the city boundaries.

(1) *Front yard fences.* A front yard is that property that lies between the front of the house/improvement and the property line. Front yard fences must adhere to the following criteria. Both street frontages shall be deemed the front lot in the case of a corner lot:

(a) Must be a picket fence, either wood or vinyl, or wrought iron and in compliance with division (D)(2) below and must be a minimum of 40% open;

(b) Can be no taller than 48 inches in height;

(c) Must be no closer than one foot to the property line or public sidewalk; and

(d) If the fence completely encloses the yard with gates closed, the property's United States Postal mailbox must be located at the fence line.

(2) *Side and rear yard fences.*

(a) May be made of any material in division (D)(1) below;

(b) May be on the property line when dividing individual lots;

(c) Must be one foot from any property line adjoining a street, alley or public sidewalk;

(d) Chain link fences must not exceed 48 inches in height; and

(e) Iron, brick, stone and solid wood fences must not exceed 72 inches.

(3) *Prohibited.* No fence will be erected on a dedicated right-of-way or easement.

(D) *Classification of fences and walls.*

(1) No fence will be erected which is made of any material other than:

(a) Wire must be either chain link or double picket wire;

(b) Wood must be picket or purchased wood fencing. No other combination of new and/or used boards of different width, size and thickness except repeating patterns or two widths of new boards will be allowed;

(c) Brick or stone will be secured by mortar between each brick or stone;

(d) Hedges;

(e) Ornamental iron: 80% open;

(f) Plastic designed to appear as painted wood;

(g) Solid fences: Wood or other materials less than 50% open; or

(h) Vinyl or composite material intended to be used as fencing.

(2) All posts will be manufactured post made for fencing and shall be no more than one inch taller than the fence attached thereto. No retainer wall shall be higher than six inches above the ground it is to retain.

(E) *Vision clearance at corners and railroad crossing.* Except as herein provided, no hedge or other structure, or obstruction above a height of 36 inches as measured above the curb level shall be erected, placed, maintained or continued in any zone with that triangular portion of a corner lot formed by measuring 50 feet from the intersection of the right-of-way lines of two streets or the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line. No type of tree, planting or other obstruction shall be planted, placed, maintained or continued in such a manner which would obstruct vision clearance at corners and railroad crossings.

(F) *Commercial and Industrial Zones.* Fences and/or wall within all Commercial and Industrial Zones, including those permitted with all conditionally permitted used in this zone, shall conform to the following requirements:

(1) Except as provided for in division (E) above, fences of all classes in division (D) above may be erected in side and rear yards of Commercial Zones, up to a maximum height of 96 inches. In the case of corner lots, as governed by division (E) above, fences of class A and E only may be erected up to a maximum height of 96 inches. In minimum front yards, fences of classes A, B, C, D, E and F may be erected up to a maximum height of 48 inches, except as governed by division (E) above.

(2) Where a lot in a Residential or Commercial Zone abuts a publicly dedicated alley, a wall or fence shall be permitted to be located on the property line in the yard that abuts the alley, provided any gate swings in toward the property. Except as noted in division (E) above, fences of all classes may be erected up to a maximum height of 96 inches in all Industrial Zones in side and rear yards and not more than 48 inches in height in the minimum front yard depth. Classes A and E fences may be erected up to a maximum height or 96 inches in the minimum front yard depth in all Industrial Zones.

(3) Walls and fences shall be permitted in any yard in an Industrial Zone. There shall be no height restriction placed on any wall or fence erected or maintained in Industrial Zones, and any barbed wire construction shall be not less than six feet above the ground.

(G) *Agricultural Zones.* Fences and/or walls within the Agricultural Zones shall conform to the following requirements:

(1) Except as provided for in division (E) above, class A and E fences may be erected in front yards up to a maximum height of 96 inches;



(2) Side and rear yard class A, B, C, D, E, F and G fences and/or walls may be erected up to a maximum height of 96 inches;

(3) Earthen or concrete walls shall be permitted but shall conform to requirement of the Corps of Engineers and/or City or County Engineer whichever is applicable; and

(4) Barbed wire may be used.

(H) *Measurement of all fence and/or wall heights and/or locations.*

(1) All fences and/or wall heights shall be measured along the fence or wall locations.

(2) All locations for distance measurements shall be measured from lot lines.

(3) All fence heights measured are determined to be from ground level to the highest point of the fence.

(I) *Height of any sharp pointed fences.* In all zones, sharp pointed fences, where permitted, the pointed or sharp portion of the fence must be a minimum of 60 inches above ground level except in Agricultural Zones.

(J) *Height of fences atop retaining walls.* Combination fence and retaining wall may be erected. The retaining wall portion may be erected up to no higher than six inches above the level of the higher finished grade. The fence portion must be of the class and height permitted within this chapter for the applicable zone. This measurement shall be made at and along the location of the fence and retaining wall.

(K) *Electrified fences.* No fence carrying an electrical charge shall be permitted in any zone except when such fence is used in conjunction with an agricultural use.

(L) *Structural elements of fences.* Fences shall be constructed so that all structural members shall be located on the side which faces the owner's property, but not applicable to Agricultural Zones.

(M) *Existing fences.* All existing fences erected prior to the passage of the ordinance from which this section was derived which may be in violation of any part of this chapter's provisions may remain as a non-conforming fence if in good condition. When destroyed, damaged and/or replaced, a permit as stated in division (A) above will apply for the erection of a replacement fence, but must comply with all other divisions of this section.

(N) *Unsound fences.* All fences and/or walls shall be kept in state of good repair. Decrepit, rundown, decaying, ramshackle, falling down, falling to pieces, falling apart and unsound fences will be cited.

(O) *Violations.*

(1) Any property owner or other person violating any of the provision of this section, including but not limited to the failure to obtain a permit prior to commencing construction, shall become a lien against such property.

(2) Upon a determination of a violation by the Code Enforcement Board or a court of competent jurisdiction. Unless, within ten days thereof, the subject fence has been removed, the city may remove it.

(3) Removal costs to be access against the subject property, upon which the fence has been erected or is in disrepair. These costs shall become a lien against such property.

(P) *Vicious dog fencing.* In a case of a fence for a vicious dog situation, see and comply with §§90.25 through 90.27 of this code. Setback lines, corner clearances and placements of this section would apply.

(Ord. 2021-05, passed 6-14-2021) Penalty, see § 152.999

## **§ 152.080 EXCEPTIONS.**

(A) *Use exceptions.* Several types of structures and uses are permitted in all districts even though they are not listed as permitted uses under the zoning district regulations. No zoning permit or certificate of compliance is required for the following structures and uses:

(1) A local public utility distributing and collecting structures, such as pipe and transmission lines, transformers and meters;

(2) Public streets and all official appurtenances necessary for traffic direction and safety. All streets and traffic control signs shall conform to the code established and adopted by the state's Department of Transportation;

(3) Private drive, private parking areas and the parking of vehicles incidental to the principal use on the same premises;

(4) Real estate signs or subdivision signs advertising property for sale or rent with less than an area of 12 square feet; and

(5) Signs not over two square feet in area identifying permitted home occupations or the renting of sleeping rooms on the same premises in Residential Zones.

(B) *Height exceptions.* Height regulations apply to buildings occupied regularly by persons or their activities. They do not apply to structures or portions of buildings such as radio towers, ornamental spires, water towers, smoke stacks, silos and flag poles which are not occupied regularly by persons except for maintenance, unless otherwise stipulated in this chapter. The Board of Adjustment shall interpret whether or not height regulations apply upon application by the Administrative



Officer in doubtful cases. The state's Airport Zoning and FAA height regulations in the vicinity of an airport shall take precedence over all other height regulations.

(C) *Lot of record.* Where the owner of a lot of official record, which at the time of the adoption of this chapter, does not include sufficient land to conform to the yard or other requirements of this chapter, an application may be submitted to the Board of Zoning Adjustment for a variance from the terms of this chapter in accordance with provisions of § 152.106 of this code. The lot may be used as a building site provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Adjustment.

(Prior Code, § 152.080) Penalty, see § 152.999

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 152.095 ADMINISTRATIVE DUTIES OF PLANNING COMMISSION.**

The Planning Commission and its authorized agent or inspector shall administer and enforce this chapter. The Commission and its authorized agent or inspector shall have the authority to make inspection of buildings or premises necessary to carry out their duties in administration and enforcement of this chapter.

(Prior Code, § 152.095)

### **§ 152.096 PLANNING COMMISSION.**

The Planning Commission (hereinafter referred to as "Commission") as constituted at the time of this chapter shall continue in its authority. There shall be seven members appointed by the Mayor and City Council for two-year terms ending on December 31 of the designated year. Terms shall be staggered so that the terms of no more than three members expire in a year. Vacancies on the Planning Commission shall be filled within 60 days. If the vacancy is not filled within that time, the Commission shall fill the vacancy.

(A) *General.* The Commission shall appoint or hire persons in order to fulfill its required duties under its bylaws, this chapter and KRS Chapter 100.

(B) *Proceedings.* The Commission shall conduct regular meetings in accordance with the rules and regulations of its bylaws.

(C) *General powers.* The Commission shall have all the powers as allowed under the KRS and the United States and Kentucky Constitutions, which include, but are not limited to:

(1) The right to employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties;

(2) To receive, hold and spend funds which it may legally receive from any and every source in and out of the commonwealth;

(3) To prepare a Comprehensive Plan which shall serve, as a guide for public and private actions in decisions to assure the development of public and private property in the most appropriate relationships;

(4) To prepare the text and map of all zoning regulations which shall divide the city into zones on an interim or permanent basis to promote public health, safety, morals and general welfare of the city, to facilitate orderly and harmonious development in the visual or historic character of the unit, to regulate the density of population and intensity of land use in order to provide adequate light and air;

(5) To adopt regulations for the subdivision of land within its boundaries;

(6) To prepare and adopt an official zoning district map; and

(7) To review proposals for amendments to the zoning regulation.

(Prior Code, § 152.096)

### **§ 152.097 BOARD OF ZONING ADJUSTMENT.**

(A) *Members.* The Board of Zoning Adjustment (hereinafter referred to as the "Board") as constituted at the time of the adoption of this chapter shall continue in power. There shall be five members appointed by the Mayor with the approval of the City Council for four-year terms ending on December 31 of the designated year. The terms shall be staggered so that the terms of no more than two members expire in any year. Vacancies on the Board shall be filled within 60 days. If the vacancy is not filled at that time, the Commission shall fill the vacancy.

(B) *Proceedings.* The Board shall conduct proceedings in accordance with statutory requirements and its adopted bylaws.

(C) *Powers.* The Board shall have the following powers as allowed under the Kentucky Constitution and KRS Chapter 100, including but not limited to:

(1) The right to employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties;

(2) To receive, hold and spend funds which it may legally receive from any and every source in and out of the commonwealth;

(3) To issue subpoenas, and to hear and decide applications for conditional use permits, variances and nonconforming uses; and

(4) To review administrative action in enforcement of this chapter.

(Prior Code, § 152.097)

#### **§ 152.098 CLARIFICATION OF ADMINISTRATIVE JURISDICTIONS.**

The following is a recapitulation of the administrative agencies, with jurisdiction and the extent of their jurisdictions concerning the administration of this chapter.

(A) The Administrative Officer has initial authority for the literal enforcement of this chapter. He or she has no discretionary authority to allow any departure from the literal conformance with this chapter.

(B) The Board of Zoning Adjustments has authority to hear appeals from decisions by the Administrative Officer and to make literal interpretations of the pertinent provisions to correct any possible misinterpretation by the Administrative Officer. The Board also has the authority to make only those departures from a literal conformance which is specifically delegated to it.

(C) The City Council has jurisdiction to determine all questions and issues properly brought before it on appeal from the decisions of the Board of Zoning Adjustment or the Planning Commission.

(Prior Code, § 152.098)

#### **§ 152.099 BUILDING PERMITS REQUIRED.**

It shall be unlawful to commence the demolition, excavation for or the construction or placement of any building, including signs, accessory buildings or fences or to commence the moving or exterior alteration of any buildings, including accessory buildings, until the Planning Commission or its authorized agent or inspector has issued a permit for the work.

(Prior Code, § 152.099) Penalty, see § 152.999

#### **§ 152.100 BUILDING PERMIT ISSUANCE AND FEE.**

(A) In applying to the Planning Commission and its authorized agent or inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating lot dimensions, the shape, size, height and location of all buildings to be erected, altered or moved and of any building already on the lot or parcel. It shall be stated as to the existing and intended use of all buildings and supply such other information as may be required by the Commission and its authorized agent or inspector for determining whether the provisions of this chapter are being observed and upheld.

(B) If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this chapter and other ordinances of the city then in force, the authorized agent or inspector shall issue a permit for the excavation. If a building permit is refused, the authorized agent or inspector shall state the refusal in writing, with the cause, and shall immediately thereupon mail notice of the refusal to the applicant at the address indicated on the application. The authorized agent or inspector shall grant or deny the permit within a reasonable time from the date the application is submitted.

(C) The issuance of a permit shall, in no case, be construed as waiving any provision of this chapter.

(D) A building permit shall become void six months from the date of issuance unless substantial progress has been "exercised" by that date on the project described therein.

(E) (1) Application for a building permit shall be accompanied by a fee as required.

(2) The fee shall be paid into the General Fund of the city to be used to help defray the costs of inspections and processing of applications. The fee schedule shall be set by the Planning Commission and City Council.

(Prior Code, § 152.100)

#### **§ 152.101 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS.**

Nothing in this section or other sections of this chapter shall be construed to exempt any applicant for a permit from compliance with all local, state and federal codes, statutes and regulations.

(Prior Code, § 152.101)

#### **§ 152.102 CERTIFICATE OF OCCUPANCY.**

(A) (1) No person shall use or permit the use of any structure or premises or part thereof, hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy has been issued by the Planning Commission's authorized agent or inspector.

(2) The certificate shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformance with the provisions of this chapter.

(3) It shall be the duty of the Mayor's office to oversee the issuance of the certificates by the authorized agent or inspector if it is found that all provisions of this chapter have been met, and to withhold the certificates unless all requirements of this chapter have been met.

(B) No person shall allow occupancy of any building until the Planning Commission has been notified by the appropriate agencies that the private details of water, electricity and where applicable, sanitary sewer and natural gas are completed in a fashion that the private utilities are available for use on the property in question.

(C) Upon request from the owner or tenant, and upon inspection, the Planning Commission or its authorized agent or inspector shall issue a certificate of occupancy for any building, premises or use that is in conformity with the provisions of this chapter or, that a legal nonconformity exists as specified in the certificate.

(Prior Code, § 152.102)

#### **§ 152.103 AUTHORIZED USE.**

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Planning Commission, its authorized agent or inspector authorize only the use, arrangement or construction set forth in the permits, plans and certificates and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

(Prior Code, § 152.103)

#### **§ 152.104 COMPLAINTS REGARDING VIOLATIONS.**

Any person may file a written complaint alleging violation of the provisions of this chapter. The complaint shall state fully the cause and base thereof and shall be filed with the Planning Commission, its authorized agent or inspector. The Planning Commission shall properly record the complaint and investigate and take action thereon as provided by this chapter to cite the violator into district court.

(Prior Code, § 152.104)

#### **§ 152.105 MAP AMENDMENT PROCEDURES.**

(A) *General provisions.* A proposal for amendments to the zoning district map may originate only with the Planning Commission, the City Council, the owner of the subject property or a person having written authorization from the owner of the subject property. Regardless of the origin of the proposed amendment, an application must be filed with the Commission requesting the proposed amendment in such form and accompanied by information as required by this chapter and the bylaws of the Planning Commission. At the time of filing the amendment, a non-returnable filing fee shall be required as set forth in this chapter; however, there shall be no filing fee for amendment requested by the City Council, Commission or any other governmental agency. Upon filing of an application for a map amendment by a governmental body, the Commission shall promptly notify the owner of the subject property as required by KRS Chapter 100.

(B) *Pre-application conference.* Prior to filing an application for a zoning map amendment, the applicant is encouraged to meet with the Planning Commission to discuss the proposed amendment. The purpose of this conference is to discuss, at the earliest stages, the requirements, procedures and issues related to the proposed amendment. It is intended that this conference will help to alleviate possible conflicts by early recognition of existing conditions, necessary facilities, recommendations of the adopted Comprehensive Plan and other issues related to the proposed amendment.

(C) *Notice.* All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation (KRS Chapter 100), except as provided below:

(1) Notice of the time, place and reason for public hearing shall be given at least 14 days in advance of the hearing by first class mail, with certification by the Commission Secretary or other officer of the Planning Commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed; and

(2) It shall be the duty of the person or persons proposing the map amendment to furnish the Planning Commission the names and addresses of the owners of all adjoining property, including tracts across a road or street. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and address of the owner.

(D) *Posting subject property.*

(1) When a map amendment (zone change) is proposed, an appropriate sign stating the proposed amendment and the time, date and location of the public hearing shall be posted on the property in question, or where more than one piece of property is involved, the sign shall be posted in a central and conspicuous location.

(2) The sign shall be posted at least 14 days before the public hearing by the Secretary of the Planning Commission or a person appointed by the Planning Commission.

(E) *Public hearing.* Upon receipt of a completed application, receipt of fee, notice of map amendment on the subject property and notification of interested parties, the Commission shall hold a public hearing on the proposed amendment, per

KRS Chapter 100.

(F) *Recommendation of Planning Commission for zoning district map amendments.*

(1) Before making recommendations to the City Council on a proposed map amendment, the Planning Commission shall make findings of fact, as required by KRS Chapter 100. Findings of fact made by the Commission shall be recorded in the minutes and records of the Planning Commission.

(2) After voting to recommend that an application for an amendment to the zoning map be granted or denied, the Commission shall forward its findings of fact and recommendation in writing to the City Council.

(1) Before any map amendment is granted, the Planning Commission or the City Council must find that the map amendment is in agreement with the community's Comprehensive Plan, or, in the absence of such a finding, that one or more of the following apply and the finding shall be recorded in the minutes and records of the Planning Commission or the legislative body:

(a) The original zoning classification given to the property was inappropriate or improper; and/or

(b) There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the community's Comprehensive Plan and which have substantially altered the basic character of the area.

(2) (a) The Planning Commission or legislative body must make findings to support these conclusions, i.e., a simple restatement of the above conditions does not constitute a proper findings of fact.

(b) The evidence adduced at the public hearing must support the findings of the Planning Commission or legislative body.

(Prior Code, § 152.105)

**§ 152.106 ZONING TEXT AMENDMENTS.**

Amendments to this chapter shall be performed in the same manner as adoption of the original ordinance and in conformance with KRS Chapter 100.

(Prior Code, § 152.106)

**§ 152.107 ZONING DISTRICT FOR ANNEXED TERRITORY.**

(A) After the City Council has established territory to be annexed, and has published an ordinance of intent to annex, the Planning Commission shall hold a public hearing prior to final action upon the ordinance of annexation, to determine the appropriate zoning district or districts for the territory.

(B) The Planning Commission shall send its report containing the findings of fact, summary of evidence and recommendation for zoning district classifications to the City Council.

(Prior Code, § 152.107)

**§ 152.108 SCHEDULE OF FEES, CHARGES AND EXPENSES.**

(A) *Schedule of fees, charges and expenses.*

(1) (a) A schedule of fees, charges and expenses and a collection procedure for appeals from Board of Zoning Adjustment action, variances, conditional use permits, zoning/building permits, certificates of compliance and requests for zone changes, may be established by the City Council.

(b) No conditional use permit or variance or other change shall not be granted nor shall any action be taken on proceedings before the Board of Zoning Adjustment unless or until preliminary charges and fees have been paid in full.

(2) Planning Commission and Board of Adjustment requests must be accompanied by the County Clerk/Treasurer filing fee of \$20 to file the certificate of land use restriction.

(B) *Rezoning request.*

<b>Rezoning of Any District</b>	
0-5 acres	\$75
6+ acres	\$75 + \$5 per additional acre (not to exceed \$500)

(C) *Building permit.*

<b>Building/Construction Permit Fees</b>
<b>New Buildings</b>

<b>Building/Construction Permit Fees</b>	
<b>New Buildings</b>	
Above-ground pool	\$150
Accessory buildings (greater than 200 sq. ft.)	\$25
Accessory buildings (less than 200 sq. ft.)	\$25
Commercial or industrial buildings	\$400 minimum \$0.16 per sq. ft. up to 10,000 sq. ft. \$0.10 sq. ft. remainder
Fences	\$25
Garages (attached or detached)	\$150
In-ground pool	\$250
Mobile homes	\$75
Modular homes	\$325
Multi-family dwelling (per unit)	\$200
Other car ports, decks, sign and the like	\$25
Relocated single-family dwelling	\$325
Single-family dwelling	\$425
<b>Additions to Existing Buildings</b>	
Greater than 200 sq. ft.	\$300
Less than 200 sq. ft.	\$150

(D) *Conditional use permit.*

<b>Conditional Use Permit</b>	
Cost	\$100

(E) *Variance request.*

<b>Variance Request</b>	
Cost	\$35

(Prior Code, § 152.108) (Ord. 2018-13, passed 11-12-2018; Ord. 2021-06, passed 6-14-2021)

**§ 152.109 VIOLATIONS.**

In case any building or structure is, or is proposed to be erected, constructed, reconstructed, repaired, converted or maintained or any building, structure or land is, or is proposed to be used in violation of this chapter, the Administrative Officer or any other appropriate party who would be damaged by the violation, in addition to other remedies, may institute an injunction, mandamus or other appropriate action or proceeding to prevent the work or occupancy of the building, structure or land, in any court of competent jurisdiction.

(Prior Code, § 152.109)

**§ 152.999 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements (including violation of the conditions and safeguards established in connection with granting of variances or conditional uses) shall constitute a violation of this chapter. Any person, or groups of persons, including members of legislative and administrative bodies of the city violating any provision of this chapter or failing to comply with any of its requirements shall, upon conviction thereof, be fined not less than \$10 dollars but not more than \$500 for each offense. Each day of violation shall constitute a separate offense. Any person shall, upon conviction, be fined not less than \$50 but not more than \$500 for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer, where the sale or transfer, or contract therefore, constitutes a violation of this chapter.

(Prior Code, § 152.999)

## Section

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**Cross-reference:**

*Water, generally, see Chapter 52*

**GENERAL PROVISIONS****§ 153.01 STATUTORY AUTHORIZATION.**

The state legislature has in KRS Chapter 100 delegated to local government units the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council hereby adopts the following floodplain management ordinance, as follows.

(Ord. 2007-01, passed 4-9-2007)

**§ 153.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the city are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood



protection and relief and impairment of the tax base, all which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.03 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private loss due to flooding by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers which accommodate or channel floodwaters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.04 OBJECTIVES.**

The objectives of this section are to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard;

(F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood-blighted areas caused by flooding;

(G) Ensure that potential home buyers are on notice that property is in a special flood hazard area; and

(H) Ensure that those who occupy a special flood hazard area assume responsibility for their actions.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.05 DEFINITIONS.**

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

**A ZONE.** Portions of the special flood hazard area (SFHA) in which the principal source of flooding is runoff from rainfall, snowmelt or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE).** A structure located on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns and hay sheds.

**ACCESSORY USE.** A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

#### **ADDITION TO AN EXISTING STRUCTURE.**

(1) Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall.

(2) Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-

bearing walls, is new construction.

**A1-30 AND AE ZONES.** Special flood hazard areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

**AH ZONE.** An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are shown.

**AO ZONE.** An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are shown.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

**AR/A1-A30, AR/AE, AR/AH, AR/AO and AR/A ZONES.** Special flood hazard areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

**A99 ZONE.** The part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a federal flood protection system under construction. No base flood elevations are determined.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**B and X ZONES (SHADED).** Areas of the 0.2% annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood.

**BASE FLOOD.** A flood which has a 1% chance of being equaled or exceeded in any given year. (Also called the **100-YEAR FLOOD**.) **BASE FLOOD** is the term used throughout this chapter.

**BASE FLOOD ELEVATION (BFE).** The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH and AR/AO that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

**BASEMENT.** The portion of a structure having its floor subgrade (below ground level) on all four sides.

**BUILDING.** A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank or other human-made facility or infrastructure. See **STRUCTURE**.

**C AND X (UNSHADED) ZONES.** Areas determined to be outside the 500-year floodplain.

**COMMUNITY.** A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**COMMUNITY RATING SYSTEM (CRS).** A program developed by the Federal Insurance Administration to provide incentives to those communities in the regular program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

**COMMUNITY FLOOD HAZARD AREA (CFHA).** An area that has been determined by the Floodplain Administrator (or other delegated, designated or qualified community official) from available technical studies, historical information and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

**CRITICAL FACILITY.** Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. **CRITICAL FACILITIES** include, but are not limited to: Housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools; nursing homes; hospitals; police; fire and emergency response installations; vehicle and equipment storage facilities; emergency operations centers likely to be called upon before, during and after a flood; public and private utility facilities important to maintaining or restoring normal services before, during and after a flood; and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

**D ZONE.** An area in which the flood hazard is undetermined.

**DEVELOPMENT.** Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials or equipment.

**ELEVATED STRUCTURE.** A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls or breakaway walls. (See freeboard requirements for residential and nonresidential structures.)

**ELEVATION CERTIFICATE.** A statement certified by a registered professional engineer or surveyor on the FEMA-

approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

**EMERGENCY PROGRAM.** The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**ENCLOSURE.** The portion of a structure below the base flood elevation (BFE) used solely for parking of vehicles, limited storage or access to the structure.

**ENCROACHMENT.** The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EXISTING CONSTRUCTION.** Any structure for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the city based on specific technical base flood elevation data which established the area of special flood hazards.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

**500-YEAR FLOOD.** The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

**FLOOD, FLOODING or FLOODWATER.**

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows). See **MUDSLIDES**.

(2) The condition resulting from flood-related erosion. See **FLOOD-RELATED EROSION**.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).** A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and the regulatory floodway.

**FLOOD HAZARD BOUNDARY MAP (FHBM).** A map on which the boundaries of the flood, mudslide (i.e., mudflow) and flood-related erosion areas having special hazards have been designated as Zones A, M and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).

**FLOOD INSURANCE RATE MAP (FIRM).** A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.

**FLOOD INSURANCE STUDY.** The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the Flood Insurance Rate Map (FIRM) and/or the Flood Boundary Floodway Map (FBFM) and the water surface elevation of the base flood.

**FLOODPLAIN OR FLOOD-PRONE AREA.** Any land area susceptible to being inundated by floodwaters from any source.

**FLOODPLAIN ADMINISTRATOR.** The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODPROOFING.** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**FLOODPROOFING CERTIFICATE.** A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a nonresidential structure, together with attendant utilities and sanitary facilities, is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the **REGULATORY FLOODWAY**.

**FLOODWAY FRINGE.** The area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

**FREEBOARD.** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. **FREEBOARD** must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components and the like.

**FRAUD** and **VICTIMIZATION.** As related in § 153.63 of this code, means that the variance granted must not cause **FRAUD** on or **VICTIMIZATION** of the public. In examining this requirement, the City Council will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage and can be insured only at very high flood insurance rates.

**FUNCTIONALLY DEPENDENT USE FACILITY.** A facility, structure or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

**GOVERNING BODY.** The local governing unit, i.e., county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

**HAZARD POTENTIAL.** The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The **HAZARD POTENTIAL CLASSIFICATION** of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**INCREASED COST OF COMPLIANCE (ICC).**

- (1) Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with state or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a standard flood insurance policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish or remove the building.
- (2) ICC coverage is available on residential and nonresidential buildings (this category includes public or government buildings, such as schools, libraries and municipal buildings) insured under the NFIP.

**KENTUCKY REVISED STATUTE 151.250.** Plans for dams, levees and the like to be approved and permit issued by cabinet (Environmental and Public Protection Cabinet).

(1) Notwithstanding any other provision of law, no person and no city, county or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream or in the floodway of any stream,

unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the cabinet and a permit issued. However, the cabinet by regulation may exempt those dams, embankments or other obstructions, which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

(2) No person, city, county or other political subdivision of the state shall commence the filing of any area with earth, debris or any other material, raise the level of any area in any manner or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the cabinet and a permit issued as required in division (1) of this definition above.

(3) (a) Nothing in this definition is intended to give the cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified.

(b) The Department for Natural Resources through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

**LETTER OF MAP CHANGE (LOMC).** An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps and Flood Insurance Studies. **LOMCS** include the following categories.

(1) **LETTER OF MAP AMENDMENT (LOMA).** A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A **LOMA** amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

(2) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that, usually due to human-made changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations and planimetric features.

(3) **LETTER OF MAP REVISION-FILL (LOMR-F).** A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SFHA.

**LEVEE.** A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM.** A flood protection system that consists of a levee(s) and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices. For a **LEVEE SYSTEM** to be recognized, the following criteria must be met:

(1) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised); and

(2) All operations must be under the jurisdiction of a federal or state agency, an agency created by federal or state law or an agency of a community participating in the NFIP.

**LIMITED STORAGE.** An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood-resistant material, void of utilities except for essential lighting and cannot be temperature controlled.

**LOWEST ADJACENT GRADE.** The elevation of the sidewalk, patio, deck support or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, structure access or storage in an area other than a basement area is not considered a structure's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**. See **RECREATIONAL VEHICLE**.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MAP.** The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**MAP PANEL NUMBER.** The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

**MARKET VALUE.** The structure value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of structure (actual cash value) or adjusted assessed values.

**MEAN SEA LEVEL (MSL).** The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the **MSL** is used as a reference for establishing various elevations within the floodplain as shown on a community's FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.

**MITIGATION.**

- (1) Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects.
- (2) The purpose of **MITIGATION** is twofold:
  - (a) To protect people and structures; and
  - (b) To minimize the costs of disaster response and recovery.

**MUDSLIDE (MUDFLOW).** Describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A **MUDSLIDE** (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

**MUDSLIDE (MUDFLOW) AREA MANAGEMENT.** The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works and floodplain management regulations.

**MUDSLIDE (MUDFLOW) PRONE AREA.** An area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD).** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRMs. Refer to FIRM legend panel for correct datum.)

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the city's floodplain management regulations and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the city's adopted floodplain management ordinances.

**NONRESIDENTIAL.** Structures that are not designed for human habitation, including but is not limited to small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses and hotels or motels with normal room rentals for less than six months duration.

**NORTH AMERICAN VERTICAL DATUM (NAVD).** As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRMs and Digitally Referenced FIRMs (DFIRMs).) (Refer to FIRM or DFIRM legend panel for correct datum.)

**OBSTRUCTION.** Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.

**100-YEAR FLOOD.** The flood that has a 1% or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the **100-YEAR FLOOD**. Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA. See **BASE FLOOD**.

**PARTICIPATING COMMUNITY.** A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.



**PRE-FIRM CONSTRUCTION.** Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**POST-FIRM CONSTRUCTION.** Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

**PROBATION.** A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of **PROBATION**, each insurance policy is subject to a \$50 surcharge.

**PROGRAM DEFICIENCY.** A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 C.F.R. §§ 60.3, 60.4, 60.5 and/or 60.6.

**PUBLIC SAFETY AND NUISANCE.** Anything which is injurious to safety or health of an entire community or neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

**RECREATIONAL VEHICLE.** A vehicle that is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable to a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**REGULAR PROGRAM.** The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**REGULATORY FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See **BASE FLOOD**.

**REMEDY A VIOLATION.** The process by which a community brings a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impact of noncompliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations or reducing state or federal financing exposure with regard to the structure or other development.

**REPAIR.** The reconstruction or renewal of any part of an existing structure.

**REPETITIVE LOSS.** Flood-related damages sustained by a structure on two or more separate occasions during a ten-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of \$1,000 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

**RIVERINE.** Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

**SECTION 1316.** The section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**SHEET FLOW AREA.** See **AREA OF SHALLOW FLOODING**.

**SPECIAL FLOOD HAZARD AREA (SFHA).** The portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, AI through A30, AH, AO or AR.

**START OF CONSTRUCTION.** Includes substantial improvement and other proposed new development. The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

**STRUCTURE.** A walled and roofed building that is principally above ground, including manufactured homes, gas or liquid storage tanks or other human-made facilities or infrastructures. See **BUILDING**.

**SUBDIVISION.** Any division, for the purposes of sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two or more lots or parcels.

**SUBROGATION.** An action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

**SUBSTANTIAL DAMAGE.**

(1) Any damage to a building for which the cost of repairs equals or exceeds 50% of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

(2) For the purposes of this definition, **REPAIR** is considered to occur when the first repair or reconstruction of any wall, ceiling, floor or other structural part of the building commences. The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**SUBSTANTIAL IMPROVEMENT.**

(1) Means any combination of reconstruction, alteration or improvement to a building, taking place during a one-year period in which the cumulative percentage of improvement equals or exceeds 50% of the current market value of the building.

(2) For the purposes of this definition, an **IMPROVEMENT** occurs when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions;

(b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

(c) Any building that has been damaged from any source or is categorized as repetitive loss.

**SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS.** Repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equaling or exceeding 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**SUSPENSION.** Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

**UTILITIES.** Includes electrical, heating, ventilation, plumbing and air conditioning equipment.

**VARIANCE.** Relief from some or all of the requirements of this chapter.

**VIOLATION.**

(1) Failure of a structure or other development to fully comply with this chapter.

(2) A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in **VIOLATION** until such time as that documentation is provided.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

**WATER SURFACE ELEVATION.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WATERSHED.** All the area within a geographic boundary from which water, sediments, dissolved materials and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake or underlying aquifer.

**X ZONE.** The area where the flood hazard is less than that in the SFHA. Shaded **X ZONES** shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% probability of being equaled or exceeded (the 500-year flood) in any year. Unshaded **X ZONES** (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

**ZONE.** A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(Ord. 2007-01, passed 4-9-2007)

## **ADMINISTRATION**

### **§ 153.20 DESIGNATION OF LOCAL ADMINISTRATOR.**

The City Council hereby appoints the Mayor and/or his or her designee to administer, implement and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.21 PERMIT PROCEDURES.**

(A) A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 153.56 of this code. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of the Floodplain Administrator is required before a state floodplain construction permit can be processed.

(B) Specifically, the following information is required.

(1) *Application stage.*

(a) Proposed elevation in relation to mean sea level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade;

(b) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

(c) All appropriate certifications from a registered professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in §§ 153.36 and 153.38 of this code; and

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) *Construction stage.*

(a) Upon placement of the lowest floor, and before construction continues, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the state a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. In AE, A1-30, AH and A Zones where the community has adopted a regulatory base flood elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(b) When floodproofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.22 DUTIES AND RESPONSIBILITIES OF LOCAL ADMINISTRATOR.**

(A) The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(B) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(1) *Permit review.* Review all development permits to ensure that:

(a) Permit requirements of this chapter have been satisfied;

(b) All other required state and federal permits have been obtained; advise permittee that additional federal or state permits may be required; and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;

(c) Flood damages will be reduced in the best possible manner; and

(d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, **ADVERSELY AFFECTS** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) *Review and use of any other base flood data.* When base flood elevation data has not been provided in accordance

with § 153.56 of this code, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal or state agency or other source, in order to administer §§ 153.35 through 153.41 of this code. Any such information shall be submitted to the City Council for adoption;

(3) *Notification of other agencies.*

(a) Notify adjacent communities, the state's Division of Water and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;

(b) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA); and

(c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) *Documentation of floodplain development.* Obtain and maintain for public inspection and make available as needed the following:

(a) Certification required by § 153.36 of this code as shown on a completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 153.21 of this code;

(b) Certification required by § 153.36 of this code as shown on a completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 153.21 of this code;

(c) Certification required by § 153.36(C) of this code;

(d) Certification of elevation required by § 153.39(A) of this code;

(e) Certification required by § 153.36(E) of this code;

(f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(g) Review certified plans and specifications for compliance; and

(h) Take action to remedy violations of this chapter as specified in §153.62 of this code.

(5) *Map determinations.* Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 153.63 of this code.

(b) When base flood elevation data or floodway data have not been provided in accordance with §153.56 of this code, then the Floodplain Administrator shall obtain, review and reasonable utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of §§ 153.35 through 153.41 of this code.

(c) When floodproofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 153.36 of this code, a floodproofing certificate.

(d) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(6) *Right of entry.*

(a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this chapter.

(b) If such structure or premises are occupied, he or she shall first present proper credentials and request entry. If such building, structure or premises are unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

(c) If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.

(d) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this chapter.

(7) *Stop work orders.* Upon notice from the Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(8) *Revocation of permits.*

(a) The Administrator may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(9) *Liability.* Any officer, employee or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render himself or herself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer, employee or member because of such act performed by him or her in the enforcement of any provision of this chapter shall be defended by the Department of Law until the final termination of the proceedings.

(10) *Expiration of floodplain construction permit.* A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within 180 calendar days from the date of its issuance by the Floodplain Administrator.

(Ord. 2007-01, passed 4-9-2007)

## **FLOOD HAZARD REDUCTION**

### **§ 153.35 GENERAL STANDARDS.**

In all special flood hazard areas, the following provisions are required.

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or fume ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air condition equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(J) Any alteration, repair, reconstruction or improvements to a structure, which is not in compliance with the provisions of this subchapter shall meet the requirements of a new construction as defined in § 153.05 of this code.

(K) Any alteration, repair, reconstruction or improvements to a structure, which is not in compliance with the provisions of this subchapter, shall be undertaken only if said nonconformity is not furthered, extended or replaced.

(Ord. 2007-01, passed 4-9-2007)

### **§ 153.36 SPECIFIC STANDARDS.**

In all special flood hazard areas where base flood elevation data have been provided, as set forth in §153.56 of this code, the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured

home) shall have the lowest floor, including basement, mechanical equipment and ductwork elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of division (C) below.

(1) In an AO Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

(2) In an A Zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated one foot above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data and best supportable and reasonable judgement in the event no data can be produced. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, § 5(5)a, states as a part of the technical requirements for a state floodplain permit. The applicant shall provide cross sections for determining floodway boundaries (and thereby base flood elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than one-half feet. Cross section elevations shall be taken at points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other Zones, elevated one foot above the base flood elevation. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential structure (including manufactured homes used for nonresidential purposes) shall be elevated to conform with division (A) above, or together with attendant utility and sanitary facilities:

(1) Be floodproofed below an elevation one foot above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Have the lowest floor, including basement, mechanical equipment and ductwork, elevated no lower than one foot above the level of the base flood elevation;

(4) A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification shall be provided to the official as set forth in § 153.21 of this code;

(5) Manufactured homes shall meet the standards in division (D) below; and

(6) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage and which are subject to flooding, shall be constructed of flood-resistant materials below an elevation one foot above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:

(a) Be certified by a registered professional engineer or architect; and

(b) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(C) *Elevated structures.* New construction or substantial improvements of elevated structures on columns, posts or pilings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Opening sizes for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or



limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms.

(D) *Standards for manufactured homes and recreational vehicles.*

(1) All new or substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring.

(a) Locations include:

1. On individual lots or parcels;
2. In expansions to existing manufactured home parks or subdivisions;
3. In new manufactured home parks or subdivisions;
4. In substantially improved manufactured home parks or subdivisions;
5. Outside of a manufactured home park or subdivision; and
6. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood.

(b) All manufactured homes must be:

1. Elevated on a permanent foundation;
2. Have its lowest floor elevated no lower than one foot above the level of the base flood elevation; and
3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either:

(a) The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

(3) All recreational vehicles placed on sites located within A, A1-30, AO, AH and AE on the community's Flood Insurance Rate Map (FIRM) must either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the permit requirements for new construction of this subchapter, including anchoring and elevation requirements for manufactured homes.

(4) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the state's motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(E) *Floodways.* Located within areas of special flood hazard established in §153.56 of this code are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments, unless certification (with supporting technical data) by a registered professional engineer is provided, demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge; and

(2) If this division (E) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of §§ 153.35 through 153.41 of this code.

(F) *Standards for utilities.*

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(a) Infiltration of floodwaters into the systems; and

(b) Discharge from the systems into floodwaters.

(2) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.37 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS.**

Located within the special flood hazard areas established in §153.56 of this code, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply.

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or floodproofed to elevations established in accordance with § 153.56 of this code.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.38 STANDARDS FOR SHALLOW FLOODING ZONES.**

(A) Located within the special flood hazard areas established in §153.56 of this code are areas designated as shallow flooding areas.

(B) These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply.

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(b) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 153.36 of this code.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.39 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided.

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.40 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER A.**

For all accessory structures in special flood hazard areas designated "A," the following provisions shall apply:

(A) Structure must be non-habitable;

(B) Must be anchored to resist floatation forces;

(C) Will require flood openings/vents no more than one foot above grade, total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls;

(D) Built of flood-resistant materials below a level one foot above the base flood elevation;

(E) Must elevate utilities above the base flood elevation;

(F) Can only be used for storage or parking; and

(G) Cannot be modified for a different use after permitting.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.41 CRITICAL FACILITIES.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, it may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 2007-01, passed 4-9-2007)

### **ENFORCEMENT**

#### **§ 153.55 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all special flood hazard areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated or qualified community official as determined by the City Council from available technical studies, historical information and other available and reliable sources, areas within the jurisdiction of the City Council which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare of the citizens of the city.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.56 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

(A) The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for the county, dated August 16, 2007, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by the city, and for those land areas acquired by the city through annexation.

(B) This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator and are enacted by the City Council pursuant to statutes governing land use management regulations.

(C) The FIS and/or FIRM are permanent records of the city and are on file and available for review by the public during regular business hours at the City Hall at 509 Elm Street.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.57 ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 153.21 of this code for instructions and explanation. Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.58 COMPLIANCE.**

(A) No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable state regulations.

(B) Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

(C) Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 2007-01, passed 4-9-2007) Penalty, see § 153.99

#### **§ 153.59 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.60 INTERPRETATION.**

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.61 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This subchapter shall not create liability on the part of the City Council, any officer or employee, the commonwealth, the Federal Insurance Administration or the Federal Emergency Management Agency, thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.62 ENFORCEMENT, VIOLATION AND CITATION NOTICES.**

(A) *Civil offense.* If, at any time, development occurs which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil offense.

(B) *Notice of violation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed.

(C) *Notice of citation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(Ord. 2007-01, passed 4-9-2007) Penalty, see § 153.99

#### **§ 153.63 APPEALS AND VARIANCE PROCEDURES.**

(A) *Nature of variances.*

(1) The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

(2) It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the

implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(B) *Designation of Variance and Appeal Board.* The City Council shall establish an Appeal Board consisting of the City Council.

(C) *Duties of Variance and Appeals Board.*

(1) The Appeal Board shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(2) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the local district court, as provided in state statutes.

(D) *Appeals/variance procedures.* In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the:

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger to life and property due to flooding or erosion damage;
- (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- (4) Importance to the community of the services provided by the proposed facility;
- (5) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;
- (6) Availability of alternative locations which are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
- (9) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) Expected height, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.

(E) *Conditions for variances.* Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(1) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard. In the instance of an historical structure, a determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.

(4) Variances shall only be issued upon:

- (a) A showing of good and sufficient cause;
- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant (as specified in division (A)(1) above); and
- (c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in § 153.05 of this code), cause fraud or victimization of the public (as defined in § 153.05 of this code) or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the Federal Insurance Administration (FIA) upon request.

(7) Variances may be issued for new construction, substantial improvement and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 6.3 A through 6.3 E are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(F) *Variance notification.* Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the city's Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

(3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(G) *Historic structures.* Variances may be issued for the repair or rehabilitation of historic structures, as defined in § 153.05 of this code, upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(H) *No impact certification within the floodway.* Variances shall not be issued within any mapped or designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. 2007-01, passed 4-9-2007)

#### **§ 153.99 PENALTY.**

Each and every day that the violation or noncompliance continues shall constitute a separate and distinct offense. Any person violating this chapter may also be found guilty of a civil offense. The civil fine shall be no less than \$10, no more than \$1,800. The civil fine shall be paid directly to the city. If the fine is not paid within 30 days from the date of notification, then the city may recover the fine in a civil action in a court of proper jurisdiction. The city may also obtain injunctions or abatement orders to ensure compliance with these chapters or pursue administrative remedies when appropriate, including injunctions and abatement proceedings.

(Ord. 2007-12, passed 11-15-2007)

## **CHAPTER 154: SHORT-TERM RENTALS**

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### Section

- 154.01 Purpose
- 154.02 Definitions
- 154.03 Annual registration required
- 154.04 Annual registration; fee
- 154.05 Limitation to the number of registrations
- 154.06 Compliance with federal, state and local laws and regulations
- 154.07 General requirements
- 154.08 Duties of a host
- 154.09 Enforcement
- 154.10 Levy of gross receipts tax
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#### **§ 154.01 PURPOSE.**

The purpose of this chapter is to establish a set of regulations applicable to the short-term rental of private residences.



Special regulation of short-term rentals (STR) is necessary to ensure that they will be compatible with surrounding residential uses and will not act to harm or alter the neighborhoods they are located within while also recognizing the diversity of the short-term rental market.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.02 DEFINITIONS.**

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

**BEDROOM.** A room that is fully enclosed conditioned space within a dwelling unit or accessory structure; and meets the following criteria:

- (1) Is located along at least one exterior wall;
- (2) Is at least 70 square feet in size and not less than seven feet in any horizontal dimension;
- (3) Has a minimum ceiling height of seven feet (if the ceiling is sloped, 50% of it can be less than seven feet, but no part of it should be less than five feet);
- (4) Has a built-in closet or storage area; and
- (5) Has at least one window or door exiting directly to the outside for ingress or egress that meets the Building Code requirements for light, ventilation and fire escape.

**HOST.** Any person who is the owner of record of residential real property, or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short-term rental.

**HOSTING PLATFORM.** An internet-based platform that generally allows an owner or tenant to advertise the dwelling unit through a website and provides a means for potential transient users to arrange short-term rental and payment through the hosting platform.

**SHORT-TERM RENTAL.** A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

**TRANSIENT USER.** A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive days duration.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.03 ANNUAL REGISTRATION REQUIRED.**

No person, firm or corporation shall own or operate a short-term rental on any premises within the city unless the short-term rental has been registered annually with the city.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.04 ANNUAL REGISTRATION; FEE.**

(A) Each annual registration for a short-term rental shall be per the procedure prescribed by the City Council or its agent. It may be available in hard copy or paperless, online registration upon the effective date of this chapter. The registration form, at a minimum, shall include the following:

- (1) The name, address, phone number and email address of the host and of a person residing or located within the city limits of the short-term rental that shall be responsible for addressing any maintenance or safety concerns;
- (2) The location of the short-term rental;
- (3) A site plan identifying at least the location of structures, on-site parking, trash receptacles and access to the parcel; and
- (4) A floor plan of the structure attesting to the number of bedrooms. The floor plan does not have to be professionally drawn but must be reasonably accurate, especially concerning the bedrooms.

(B) A nonrefundable fee of \$50 shall accompany the registration of a short-term rental.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.05 LIMITATION TO THE NUMBER OF REGISTRATIONS.**

In order to maintain the culture and aesthetics of the city, the number of accepted and applicable short-term rental registrants is hereby limited to 25. Applicants beyond 25 may appeal to the City Council for an increase in the limitation. No registrations will be approved beyond 25 without the amendment of this chapter by the City Council.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.06 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.**

Each separate short-term rental shall be in compliance with any currently applicable laws and regulations of the federal, state or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical and other applicable laws.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.07 GENERAL REQUIREMENTS.**

(A) *Taxes.* Every short-term rental will be subject to the gross receipts tax as defined in §154.10 of this code.

(B) *Advertising.* All advertising for any short-term rental shall include the short-term rental permit number assigned to the host by the city, the number of approved bedrooms, the maximum occupancy and all associated fees.

(C) *Building type.* Short-term rentals shall be allowed only in legally established residential structures, or a portion thereof, except that no accessory dwelling unit shall be used as a short-term rental at any time. Short-term rentals shall not be permitted in any non-habitable structure, tent, yurt, RV or any other provision intended for temporary occupancy.

(D) *Occupancy.*

(1) Occupancy shall be limited to a maximum of two adults per approved bedroom plus two additional people.

(2) Allowed occupancy may be adjusted for dwellings with unusual features by application for a conditional use permit approved by the City Council.

(E) *Parking.*

(1) A minimum of one off-street parking space shall be provided for each approved bedroom offered for rent.

(2) All required parking spaces shall be located on-site.

(3) Parking on any neighboring property or in front of any other house, or in such a manner as to block access to the short-term rental unit or any other house or property is prohibited.

(F) *Safety.*

(1) The rental unit shall meet all applicable building, health, fire and related safety codes at all times, including provisions of a working smoke detector in compliance with current Building Code and at least one carbon monoxide detectors.

(2) Emergency evacuation routes and instructions, including emergency ingress/egress routes to and from the property, shall be posted in a conspicuous place in the rental unit and within each guest bedroom.

(G) *House policies.* House policies shall be included in each rental agreement. It shall be the responsibility of the host to enforce all of the criteria of the zoning permit and house policies. At minimum, the house policies shall:

(1) Establish noise limits of 55 dB maximum during daytime hours (7:00 a.m. to 10:00 p.m.) and 50 dB maximum during nighttime hours (10:00 p.m. to 7:00 a.m.) by establishing outdoor "quiet hours" to minimize disturbance to neighboring residences;

(2) Establish on-site parking policies and identify designated parking areas;

(3) Establish policies and provide information regarding the location of trash receptacles and the trash pick-up schedule;

(4) Policies regarding no open burning and all other burn restrictions; and

(5) Provide the name, address, telephone number and e-mail address of the local contact person who shall be responsible for responding to questions or concerns regarding the operation of the short-term rental. This information shall be updated as necessary to remain current, included in every rental agreement and posted in a conspicuous location within the short-term rental. The local contact person shall be available 24 hours a day to accept telephone calls and respond physically to the short-term rental within 60 minutes of a call.

(H) *Signs.* On-site short-term rental advertising signs or other displays are prohibited.

(I) *Special events.* No short-term rental property shall be used to conduct non-owner related weddings, parties or other similar events.

(J) *Neighbor notification.*

(1) Each host shall complete a neighbor notification form prescribed by the city and shall provide the completed form to properties within a 200-foot radius of the proposed short-term rental measured as a straight-line distance from the nearest exterior property lines.

(2) The neighbor notification form shall include notice that the property has been approved as a short-term rental and

shall include the name, address, telephone number and e-mail address of the local contact person who shall be responsible for responding to questions or concerns regarding the operation of the short-term rental. This information shall be updated as necessary to remain current, included in every rental agreement and posted in a conspicuous location within the vacation rental dwelling. The local contact person shall be available 24 hours a day to accept telephone calls and respond physically to the vacation rental within 60 minutes of a call.

(3) A copy of the notice and a list of the property owners notified shall be supplied to the city within 21 days of the short-term rental approval and prior to occupancy by any renter.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.08 DUTIES OF A HOST.**

It shall be the duty of a host under this chapter to ensure that:

(A) The short-term rental meets the smoke detector requirements set forth in current Building Code and that a clearly marked evacuation plan is posted on the premises;

(B) There shall be no more than one contract per short-term rental at a time;

(C) At no time shall more persons reside in the short-term rental than two times the number of bedrooms plus two individuals; and

(D) There is no signage on the premises of the short-term rental advertising or identifying the short-term rental.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.09 ENFORCEMENT.**

In addition to the penalties provided in §154.99 of this code, the City Council is authorized to enforce the provisions of this chapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.10 LEVY OF GROSS RECEIPTS TAX.**

There is hereby imposed and levied a gross receipts tax of 5% of the total rent collected for every occupancy of a suite, room or rooms or home earned in the activity of a short-term rental.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.11 PAYMENT OF TAX.**

(A) The short-term rental gross receipts tax imposed by §154.10 of this code shall apply to the rent for every occupancy by transient guests who occupy one or more suites, rooms, home or portion thereof.

(B) All persons, companies, corporations or other like or similar persons, groups or organizations doing business as a short-term rental business shall pay the tax imposed by § 154.10 of this code to the city or such other agent as may be designated by the Mayor. The City Council is authorized to adopt appropriate regulations pertaining to the implementation and enforcement of the taxes imposed by § 154.10 of this code and to take all appropriate actions to collect and enforce payment of the taxes.

(C) The payment of taxes imposed by §154.10 of this code shall be reported and paid on a quarterly basis on a form prescribed by this chapter and shall be submitted, for the quarterly periods, ending on the final day of each quarter of the calendar year.

(D) The quarterly reporting form and all moneys due shall be submitted and paid to the City Clerk/Treasurer no later than 15 days after the end of each quarter.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.12 LATE PAYMENT PENALTY.**

(A) Any person who is required hereby to pay the short-term rental gross receipts tax imposed by §154.10 of this code on rents charged for occupancies who fails to pay the taxes on or before the date due shall be assessed a penalty of 5% of the unpaid amount of the tax whether or not the required return for the applicable period has been timely filed and, in addition, shall pay simple interest at the rate of 12% per annum calculated on a daily basis from the date the payment was due until the date of payment.

(B) In addition, any person who fails to file the quarterly return required hereby shall be charged a penalty of 5% per month or fraction of a month of the amount of the unpaid tax which said return, if properly completed and filed, would have shown to be due, provided, however, that the penalty shall not exceed 25% of the amount of the unpaid taxes.

(Ord. 2018-17, passed 1-14-2019)

#### **§ 154.99 PENALTY.**

(A) Any person who shall knowingly make any incomplete, false or fraudulent return or who shall willfully fail to timely make any return required by § 154.11 of this code, shall be guilty of a misdemeanor punishable by a fine not to exceed \$100. The City Council, acting through its designee is authorized to initiate criminal action, when appropriate, against any person, corporation or entity that withholds gross receipt taxes and fails to remit such withheld tax to the city. The penalty imposed by this section shall be in addition to any penalties imposed by § 154.12 of this code.

(B) Any person who violates any provision of this chapter shall receive a notice of violation as a warning for a first offense. A second offense will be subject to a civil penalty of not less than \$100 and no more than \$500 as imposed by the Code Enforcement Board. A third offense within three years of the first offense will be subject to a civil penalty of not less than \$500 and no more than \$1,000 as imposed by the Code Enforcement Board and the revocation of the short-term rental permit. Any person who receives a citation for violating this chapter may appeal the violation to the Code Enforcement Board.

(Ord. 2018-17, passed 1-14-2019)

## CHAPTER 155: TELECOMMUNICATIONS

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Section

### *General Provisions*

155.01 Cellular antenna towers; taxation and business license fees

### *Cell Phone Towers*

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### *GENERAL PROVISIONS*

#### **§ 155.01 CELLULAR ANTENNA TOWERS; TAXATION AND BUSINESS LICENSE FEES.**

(A) Taxation and business license fees shall be applicable, as with any other business. An application fee to construct a cellular antenna tower and to issue any necessary permits, including any required building permit, shall be \$2,500, pursuant to KRS 100.986.

(B) Additional limits and restrictions are set forth as to application processing, filing with the chairperson of the Planning Commission, the City Clerk/Treasurer and duties of Planning Commission of the City Council, lighting and supporting emergency power provisions.

(Ord. 2010-06, passed 6-14-2010)

### *CELL PHONE TOWERS*

#### **§ 155.15 DEFINITIONS.**

**COLLOCATION.** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**LATTICE TOWER.** A support structure constructed of vertical metal struts and cross braces forming a triangular or square, structure, which often tapers from the foundation to the top.

**MONOPOLE.** A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**OPEN SPACE.** Land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped (may be specified on a zoning map).

**TELECOMMUNICATION.** The technology, which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

**WIRELESS TELECOMMUNICATIONS ANTENNA.** The physical device through which electromagnetic, wireless

telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER.** The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

**WIRELESS TELECOMMUNICATIONS FACILITY.** A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

**WIRELESS TELECOMMUNICATIONS TOWER.** A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

(Ord. 2009-06, passed 9-16-2009)

#### **§ 155.16 INTENT.**

(A) Wireless telecommunications facilities are either permitted or conditional uses in variety of zoning districts contingent upon a number of requirements being met.

(B) These criteria are in place in an attempt to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction and reduction of the need for new towers.

(Ord. 2009-06, passed 9-16-2009)

#### **§ 155.17 USE REGULATIONS.**

Wireless telecommunications facilities are permitted under varying conditions dependent upon their form and the zoning district in which they are to be located. The following sections spell out these conditions.

(Ord. 2009-06, passed 9-16-2009)

#### **§ 155.18 GENERAL USE.**

The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with specific regulations for nonresidential and residential districts set forth in §§ 155.20 and 155.21 of this code.

(A) When the proposed wireless telecommunications facility is to include a new tower, a plot plan at a scale of not less than one inch is equal to 100 feet shall be submitted. This plot plan shall indicate all building uses within 300 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.

(B) The location of the tower and equipment shelter shall comply with all natural resource protection standards established in the zoning code, including those for floodplain, wetlands and steep slopes.

(C) Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires, either completely or individually as determined by the Planning Commission.

(D) The following buffer plantings may be located around the perimeter of the security fence as deemed appropriate by the Planning Commission. An evergreen screen shall be planted that consists of either a hedge, planted three feet on center maximum, or row of evergreen trees planted five feet of center maximum.

(E) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

(F) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the City Council as a means of demonstrating the need for the tower.

(G) Any application to locate an antenna on a building or structure that is listed on an historic register, or is in an historic district shall be subject to review by the municipality's Building Commissioner.

(H) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the FCC or FAA. No advertising is permitted anywhere on the facility, with the exception of identification signage.

(I) (1) All providers utilizing towers shall present a report to the Building Commissioner notifying them of any tower facility located in, the municipality, whose use will be discontinued and the date this use will cease.

(2) If at any time the use of the facility is discontinued for 180 days, a designated local official may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.)

(3) The facility's owner/operator will receive written notice from the Building Commissioner and instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility.

(4) If reactivation or dismantling does not occur, the municipality will remove or will contract to have removed the facility and assess the owner/operator the costs.



(J) All towers above 100 feet shall be artificially lighted. In addition, all FAA regulations addressing safety marking and obstruction lighting shall be followed when necessary. Security lighting around the equipment shelter is permitted.

(K) "No trespassing" signs shall be posted around the facility with a telephone number to contact in the event of an emergency.

(L) Applicant will provide evidence of legal access to the tower site thereby maintaining this access regardless of other developments that take place on the site.

(M) A conditional use permit must be approved by the Planning Commission and the City Council with a subsequent building permit issued by the Building Commissioner for the construction of towers in nonindustrial districts. Collocation of antennas on a single tower, antennas attached to existing structures/buildings, towers located in industrial districts or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the conditional use permitting process.

(N) Any decision to deny a request to place, construct or modify a wireless telecommunications antenna and/or tower shall be in writing and supported by evidence contained in a written record of the proceeding of the Planning Commission.

(O) Underground equipment shelters are encouraged, especially in nonindustrial districts, and may be requested by the Planning Commission.

(P) The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross sales.

(KRS 67.753(4)(d)) (Ord. 2009-06, passed 9-16-2009)

### **§ 155.19 PROCESSING OF APPLICATION.**

Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services on new sites shall be processed as follows.

(A) At least one public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven calendar days, not more than 21 calendar days before the occurrence of such hearing.

(B) Notice of the hearing shall be posted conspicuously on the property in question, for 14 consecutive days immediately prior to the hearing. The posting shall consist of one or more signs, constructed of durable material and clearly depicting the following information: (Name of utility) proposes to construct a telecommunications ("tower" or "monopole") on this site (a minimum of one inch high lettering); and address, including telephone number, of the Planning Commission where additional information regarding hearing may be obtained.

(C) (1) Notice of the hearing shall be given at least 14 days in advance of the hearing, by first class mail, with certification by the Commission Secretary, or other officer of the Planning Commission, that the notice was mailed to an owner of every parcel of property within 500 feet of the base of the proposed tower or monopole.

(2) It shall be the duty of the persons(s) proposing the facility to furnish to the Planning Commission the names and addresses of said property owners. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

(D) Upon holding such hearing, the Planning Commission shall, within 60 days, commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. The Planning Commission shall submit to the Public Service Commission, along with its action, the basis for its decision. If the Planning Commission fails to issue a final decision within 60 days, and if there is no written agreement between the Planning Commission and the utility to a specific date for the Planning Commission to issue a decision, it is presumed that the Planning Commission has approved the utility's uniform application.

(E) All new structures are required to purchase a construction permit of not less than \$5,000.

(Ord. 2009-06, passed 9-16-2009)

### **§ 155.20 NONRESIDENTIAL DISTRICT USE.**

Wireless telecommunications facilities proposed for the following zoning districts: Industrial, Commercial and Institutional (as determined by the municipality) are subject to the following conditions:

(A) *Sole use on a lot.*

(1) *Minimum lot size.* Include minimum lot size allowable for the district;



(2) *Minimum yard requirements.*

(a) Tower: The minimum distance to any single-family or two-family residential use or district lot line shall be 300 feet; and

(b) Equipment shelter: Include the minimum setbacks/yard requirement for the district.

(3) *Maximum height.*

(a) Tower: 200 feet (includes antenna); and

(b) Equipment shelter: 30 feet.

(4) *Maximum size of equipment shelter.* 300 square feet for a shingle shelter, or if there is more than one, 750 total square feet.

(B) *Combined with another use.* A wireless telecommunications facility is permitted on a property with an existing use subject to the following conditions.

(1) *Existing use.* The existing use on the property may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider. The wireless telecommunications facility will not be considered an addition to the structure or value of a nonconforming use.

(2) *Facility.* The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).

(3) *Minimum lot area.* The minimum lot area shall be the area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing and buffer planting.

(4) *Minimum yard requirements.*

(a) Tower: The minimum distance to any single-family or two-family residential use or district lot line shall be 300 feet; and

(b) Equipment shelter: Shall comply with the minimum setback requirements for the primary lot.

(5) *Access.* The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

(6) *Maximum height.* Tower: 200 feet (includes antenna).

(7) *Maximum size of equipment shelter.* 300 square feet, or if there is more than one, 750 square feet.

(Ord. 2009-06, passed 9-16-2009)

**§ 155.21 RESIDENTIAL DISTRICT USE.**

(A) Wireless telecommunications facilities that include towers are not permitted, in single-family or two-family residential districts with the exception, of placement on any property with an institutional use (e.g., church, park, library, municipal/government, hospital, school, utility) located in, either of these two districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate Nonresidential Zone.

(B) Once those efforts have been exhausted, a wireless telecommunications facility may be located in a residential district subject to the following conditions:

(1) *General.* The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This shall apply to divisions (B)(2), (B)(3) and (B)(4) below.

(2) *Combined with a nonresidential use.* An antenna may be attached to a nonresidential building or a structure that is a permitted use in the district, including, but not limited to, a church, a municipal or governmental building or facility, agricultural building and a building or structure owned by a utility. The following conditions shall be met:

(a) Maximum height, 20 feet above the existing building or structure; and

(b) If the applicant proposes to locate the telecommunications equipment in a separate shelter, the shelter shall comply with the following:

1. The shelter shall comply with the minimum setback requirements for the subjects zoning district;

2. The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 square feet;

3. A buffer yard shall be planted in accordance with §155.18(D) of this code; and

4. Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

(3) *Located on a nonresidential use property.* A tower to support an antenna may be constructed on a property with a

nonresidential use that is a permitted use within the district, including but not limited to a church, hospital, school, municipal or government building, facility or structure, agricultural use and utility use, subject to the following conditions:

- (a) The tower shall be set back from any property line abutting a single-family or two-family residential lot by 300 feet;
- (b) Maximum height:
  1. Tower: 200 feet (including antenna); and
  2. Equipment shelter: 30 feet.

(c) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet;

(d) Vehicular access to the tower and equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use; and

(e) In order to locate a telecommunications facility on a property that is vacant or with an agricultural use the tract shall be at least two and one-half acres.

(3) *Located on a residential building.* An antenna for a wireless telecommunications facility may be attached to a mid-rise or high-rise apartment building subject to the following conditions:

(a) Maximum height: 20 feet above the existing building; and

(b) If the applicant proposed to locate the telecommunications equipment in a separate shelter (not be located in, or attached to, the building), the shelter shall comply with the following:

1. The shelter shall comply with the maximum setback requirements for the subjects zoning district;
2. The maximum size of the equipment shelter shall not exceed 300 square feet, or it there is more than one, 750 total square feet;
3. A buffer yard shall be planted in accordance with § 155.185(D) of this code; and
4. Vehicular access to the shelter shall, if at all possible, use the existing circulation system.

(4) *Located in open spaces.* A wireless telecommunications facility is permitted on land that has been established as permanent open spaces, or a park subject to following conditions:

(a) The open space, shall be owned by the municipality, county or state government, a homeowners association, charitable organization or a private, non-profit conservation organization;

(b) Maximum height:

1. Tower: 200 feet (including antenna); and
2. Equipment shelter: 30 feet.

(c) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet; and

(d) The tower shall be set back from any single-family property line 300 feet.

(Ord. 2009-06, passed 9-16-2009)

#### **§ 155.22 USE T-1: WIRELESS TELECOMMUNICATIONS FACILITY.**

(A) A wireless telecommunications facility, which includes a tower, may be permitted as a conditional use in a multi-family residential, institutional or commercial district or located on an institutionally used property in any residential district. In order to be considered for review, the applicant must prove that a newly-constructed tower is necessary in that opportunities for collocation on an existing tower is not feasible.

(B) The following steps must also be taken for the application to be considered for review in this category:

(1) The applicant shall present a landscaping plan that indicated how the wireless telecommunications facility, will be screened from adjoining uses;

(2) The applicant shall demonstrate that the telecommunications tower must be located where it is proposed in order to service that applicant's service area. There shall be an explanation of why a tower and this proposed site is technically necessary;

(3) Where the telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility; and

(4) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be

presented to the Planning Commission as a means of demonstrating the need for a new tower.

(C) A report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design and proof of compliance with nationally accepted structural standard published by the American National Standards Institute/Electronic Industry Association § 222-F, as amended.

(D) A soil report complying with the standards of ANSI/ETA 222-F (Annex I: Geotechnical Investigations for Towers), as amended, shall be submitted to the Building Department to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.

(E) Wireless telecommunications towers and antennae shall be designed to withstand sustained winds of at least 80 mph.

(F) The ANSI/ETA section 222-F (Annex H: Commentary on Ice Design Criteria for Communications Structures) shall be consulted for ice load specifications.

(G) Elevations of existing and proposed structures showing width, depth and height of the telecommunications facility as well as the specifications of the antenna and support structure shall be present.

(H) The applicant shall present documentation that the tower is designed in accordance with the standards established in § 155.17 of this code.

(I) The applicant shall demonstrate that the proposed tower complies with all FAA regulations concerning safety.

(J) The applicant shall demonstrate that the proposed tower complies with all FCC regulations concerning safety.

(K) When the proposed facility is to include a new tower, a plot plan, including all building uses within 300 feet, shall be required at a scale not less than one-inch equal to 100 feet. Aerial photos and/or renderings may augment the plot plan.

(L) All applicants shall be required to construct or locate on a base tower structure and structure foundation that is designed to be buildable up to 200 feet above the finished grade. Although the initial capacity may be for one antenna, the structure shall be designed to serve as a base for a reconstructed tower with the capacity for three providers when constructed to the maximum allowable height.

(M) Underground equipment shelters are encouraged, especially in nonindustrial areas, and may be requested by the Building Commissioner.

(Ord. 2009-06, passed 9-16-2009)

## TABLE OF SPECIAL ORDINANCES

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- VII. STREET SYSTEM
- VIII. ZONING MAP CHANGES

### TABLE I: ANNEXATIONS

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
1956.5	9-4-1952	Annexing a tract of land containing 38 acres, and running parallel southward with the Old Dixie Highway
1966.4	9-6-1966	Annexing a tract of land intersecting the right-of-way line on west side of Kentucky State Route 835
1967.1	1-3-1967	Annexing a tract of land along the Ohio River 382 feet above sea level northwest of the city limits

1972.1	4-3-1972	Annexing a tract of land where the Bee Branch empties into the Salt River
2013-01	9-10-2013	Adopt legal description of territory previously annexed by Ord. 1956.5
2013-02	9-10-2013	Adopt legal description of territory previously annexed by Ord. 1972.1
2013-03	9-10-2013	Adopt legal description of territory previously annexed by Ord. 1976.1
2013-04	9-10-2013	Adopt legal description of territory previously annexed by Ord. 1978.1
2013-05	10-14-2013	Adopt legal description of territory previously annexed by Ord. 1956.5
2013-06	10-14-2013	Adopt legal description of territory previously annexed by Ord. 1972.1
2013-07	10-14-2013	Adopt legal description of territory previously annexed by Ord. 1976.1
2013-08	10-14-2013	Adopt legal description of territory previously annexed by Ord. 1978.1

**TABLE II: BOND ISSUES**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
1936.11	10-14-1936	Authorizing the issuance of \$31,000 of waterworks revenue bonds
1938.6	8-23-1938	Authorizing the issuance of \$35,000 of waterworks revenue bonds
1938.9	12-5-1938	Waterworks revenue bonds (supplementing Ord. 1938.6)
1948.2	10-1-1948	Authorizing the issuance of \$32,000 of school building revenue bonds
-	5-21-1981	Authorizing the issuance of \$100,000 of water and sewer revenue bonds
-	11-16-1983	Authorizing the issuance of \$150,000 of school building revenue bonds

**TABLE III: CONDEMNATIONS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
1957.1	2-4-1957	Authorizing condemnation of Lot #__ owned by David Wood, Recorded in Deed Book 16, p. 28 on 4-11-1867 in Hardin County Clerk's offices
1961.1	3-14-1961	Condemnation proceedings authorized to secure certain properties:
		(1) Property beginning at a point in the east property line of Eula Hart the point being N 35 deg 24' W 48.6 feet to a corner post, and N 35 deg 24' W 1794 feet, more or less, from the center line of the pavement of Old Dixie Highway
		(2) Property beginning at an iron stake, the stake being S 79 deg 53' W 248.60 feet from point in the east property line of Eula Hart, as above described and located

		(3) Property beginning at a point in the north line of the aforedescribed plant site, the point being 100 feet from the northeast corner
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#### **TABLE IV: EASEMENTS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	-	Sewer line through Hart/Moore
-	-	Water line
1942.2	5-9-1942	Granting perpetual easement to the United States for construction and maintenance of sewers in streets, alleys and public ways of the city

#### **TABLE V: FRANCHISES**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	-	Cell service franchise
1934.5	7-12-1934	Creating a gas franchise
1941.9	12-1-1941	Creating an electric franchise
1942.5	7-6-1942	Granting a gas franchise to Louisville Gas and Electric Company
-	9-7-1949	Creating a gas franchise
1952.3	8-4-1952	Creating a ferry franchise
1962.1	1-11-1962	Creating an electric and gas franchise
2-82	--1982	Creating a CATV franchise
-	4-5-1982	Creating a gas and electric franchise
-	--1999	
2003-07	11-10-2003	Creating a gas and electric franchise
2005-05	6-27-2005	Amending cable television franchise fees ordinance to establish a franchise fee via compensation to the city
2005-07	9-12-2005	Amending Ord. 2005-05 relating to cable television franchise fees
2015-01	5-21-2015	Creating a franchise for electric and natural gas facilities

#### **TABLE VI: INTERLOCAL COOPERATION AGREEMENTS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	-	Agreement between Fire Department and Police Department
1994-19	12-19-1994	Authorizing participation in an interlocal cooperation agreement with the cities of Vine Grove, Radcliff, Elizabethtown, and the County of Hardin concerning the implementation and operation of the Hardin County Board of Ethics

#### **TABLE VII: STREET SYSTEM**

**TABLE VII: STREET SYSTEM**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
1956.4	8-20-1956	Closing of Second Street from Main Street to Dixie Highway
1994-10	3-21-1994	Designating Fort Hill Trail and the road known as Fort Duffield Trail, a city street and incorporating said street into the city road system for maintenance
1996-09	9-23-1996	1) Acknowledging and recording South Street as a public way and adding the street to the city street system
		2) Also renaming the street now known as South Street extending from Fifth Street to Sixth Street on the north side of the Paducah and Louisville Railroad tracks, so that it shall be known as South Alley
1999-01	1-4-1999	Renaming South Street from Dixie Highway to Fourth Street as Lillie Lewis Way
2020-01	7-29-2020	Adding list of roads maintained by the city to the street system

**TABLE VIII: ZONING MAP CHANGES**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
2003-06	12-8-2003	Rezoning one acre of the property located along Hart Lake at the west end of Elm Street, from Agriculture-1 (A-1) to Residential-1 (R-1)

**PARALLEL REFERENCES**

References to Kentucky Revised Statutes

References to Prior Code

References to Resolutions

References to Ordinances

References to Municipal Orders

**REFERENCES TO KENTUCKY REVISED STATUTES**

<i>KRS Cites</i>	<i>Code Section</i>
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42.450 through 42.495	33.04
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446.010(28)	10.02
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446.010(31)	10.02
446.010(33)	10.02
446.010(37)	10.02
446.010(39)	10.02
446.010(43)	10.02
446.010(46)	10.02
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446.010(55)	10.02
446.020(1)	10.03
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446.030	10.04
446.050	10.05
446.060	10.06
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446.080(3)	10.03
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33.17	33.27
33.18	33.28
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34.14	34.24
34.15	34.25
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34.17	34.27
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35.09	35.009
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93.01	93.01
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118.03	118.03
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130.03	130.03
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150.02	150.02
150.03	150.03
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152.006	152.006
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152.037	152.037
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152.051	152.051
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152.054	152.054
152.055	152.055
152.056	152.056
152.057	152.057
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152.061	152.061
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152.077	152.077
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152.080	152.080
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152.099	152.099
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-	8-8-2005	97.01
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2009-03	7-13-2009	35.027

2021-01	8-9-2021	35.080
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