

TITLE III: ADMINISTRATION

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ADMINISTRATION

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ADMINISTRATION

CHAPTER 30: COMMISSION PLAN

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§ 30.01 FORM OF GOVERNMENT.

The form of government provided in this chapter shall be known as the "Commission Plan."
(KRS 83A.140 (1))

§ 30.02 GOVERNING OFFICERS.

(A) The city shall be governed by an elected officer who shall be called Mayor and by elected legislative body members who shall be called City Commissioners and which together shall be known as the City Commission and by such other officers and employees as may be provided for by statute or city ordinance. (KRS 83A.140 (2))

(B) The City Commission shall be composed of the Mayor and four Commissioners. (KRS 83A.030 (2))

COMMISSION PLAN

CHAPTER 31: CITY OFFICIALS AND EMPLOYEES

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GENERAL PROVISIONS

§ 31.01 OATH; BOND.

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

(B) Certification of oath. The person administering an oath of office to an elected officer shall certify in writing that the oath of office was administered, and the date of its administration. The written certification shall be filed in accordance with the mandates of KRS Chapter 62.

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

§ 31.02 COMPENSATION.

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

(1) In order to equate the compensation of the Mayor and Commissioners with the purchasing power of the dollar, the Department for Local Government computes by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky, which provides that the Mayor in cities of 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 Commissioners shall be paid at a rate no greater than \$7,200 per annum.

(2) The Commission shall set the compensation of these officers in accordance with KRS 83A.070 at a rate no greater than that stipulated by the Department for Local Government.

(B) The Commission shall establish the compensation of city employees and nonelected city officers in accordance with the personnel and pay classification plan ordinance of the city.

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

(KRS. 83A.070)

Statutory reference:

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

§ 31.03 REMOVAL FROM OFFICE.

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

(B) Nonelected officers. Nonelected city officers may be

removed by the Commission at will, unless otherwise provided by state law or ordinance.

Statutory reference:

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

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

ELECTED OFFICIALS

§ 31.20 ELECTION PROCEDURE.

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

(B) The city may change the manner of election of city officers within the provisions of division (A) of this section by ordinance, except that no change shall be made earlier than 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 or elected city office existing on July 15, 1980, shall continue until abolished by ordinance, except that the offices of Mayor and Commissioners may not be abolished.

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

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

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

Statutory reference:

Election of city officers, see KRS 83A.050

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

§ 31.21 MAYOR; MAYOR PRO TEM.

(A) Election; term of office. The Mayor of the city shall be elected by the voters of the city at a regular election. A candidate for mayor shall be a resident of the city for not less than one year prior to his or her election. His 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. If a person is elected or appointed as mayor in response to a vacancy and serves less than four calendar years, then that period shall not be considered for purposes of reelection a term of office.

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

(C) Vacancy. If a vacancy occurs in the office of Mayor, the Commission 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 Commission may vote for himself. (KRS 83A.040 (2)(b))

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

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

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

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

(D) Powers and duties.

(1) The Mayor shall preside at all meetings of the Commission and may vote in all proceedings.

(2) All bonds, notes, contracts, and written obligations of the city authorized by ordinance or resolution shall be executed by the Mayor on behalf of the city.

(E) Mayor Pro-Tem.

(1) The Commission shall designate one City Commissioner to serve as Mayor Pro-Tem. The Mayor Pro-Tem shall act for the Mayor whenever the Mayor is unable to attend to the duties of his office and he shall then possess all rights, powers, and duties of Mayor.

(2) If the disability of the Mayor to attend to his duties continues for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Commission membership, and the provisions of division (C) above shall apply (KRS 83A.140 (4))

§ 31.22 COMMISSIONERS.

For provisions concerning the City Commission, see Chapter 32.

§ 31.23 NONPARTISAN PRIMARY ELECTION ELIMINATED.

(A) As of January 13, 1989 the nonpartisan primary election for the nomination of candidates to elected city offices is hereby eliminated as authorized by KRS 83A.045(2)(b).

(B) All candidates for elected city offices shall file their nomination papers with the County Clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot, and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office.

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

(D) The election of candidates to all elected city offices shall be governed by the provisions of this section and by the applicable provisions of KRS Chapter 83A and Chapters 116 and 121.
(Ord. 178-89, passed 1-2-89; Am. Ord. 2001, passed 1-30-20)

NONELECTED CITY OFFICIALS

§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.

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

(1) Title of office;

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

(B) All nonelected city officers shall be appointed by the Commission.

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

(D) The following is a nonelected city office: City Clerk/Treasurer.
(KRS 83A.080)

Statutory reference:

Nonelected city offices, see KRS 83A.080 (1), (3), (4)

§ 31.36 CITY CLERK/TREASURER.

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

(B) The duties and responsibilities of the City Clerk/Treasurer shall include, but are not limited to, the following:

- (1) Maintenance and safekeeping of the permanent records of the city;
- (2) Performance of the duties as 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;
- (4) Act as Tax Collector pursuant to Chapter 36;
- (5) Act as the Code Enforcement/Citation/Safety Officer as described in Chapter 35.
- (6) No later than January 31st of each year, mail to the Department for Local Government a list containing current city information including, but not limited to, the following:

- (a) The correct name of the Mayor, City Commission members, City Clerk, City Treasurer, City Manager, City Attorney, Finance

Director, Police Chief, Fire Chief, and Public Works Director serving as of January 1 of each year;

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

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

(7) Performance of all other duties and responsibilities required of the City Clerk or City Treasurer by statute or ordinance.

(C) Compensation shall be in the amount as set by the City Commission.

(D) No person shall be appointed or act as City Clerk/Treasurer unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky. The city shall secure and cover all costs related to securing a bond, in the minimum amount of \$100,000 for the Clerk/Treasurer duties, with a corporate surety authorized to transact business in Kentucky, and conditioned upon the performance of the duties specified herein.
(Am. Ord. 1504, passed 9-14-15)

Statutory reference:
KRS 83A.085

CITY EMPLOYEES

§ 31.45 POLICE CHIEF.

For provisions concerning the Police Chief, see § 35.031.

§ 31.46 SUPERINTENDENT OF WATERWORKS.

For provisions concerning the Superintendent of Waterworks, see § 51.69.

§ 31.47 CITY ATTORNEY.

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

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

§ 31.48 BUILDING INSPECTOR.

For provisions concerning the City Building Inspector, see Ch. 152.

CHAPTER 32: CITY COMMISSION

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- 32.02 Vacancies
- 32.03 Powers and duties
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- 32.47 Legislative immunity

GENERAL PROVISIONS

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

(A) Each Commissioner shall be elected at large by the voters of the city at a regular election. A candidate for the Commission shall be a resident of the city for not less than one year prior to his or her election. His or her term of office shall begin on the first day of January following his or her election and shall be for two years, except as provided by KRS 83A.050.

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

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

§ 32.02 VACANCIES.

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

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

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

(B) Failure to fill vacancies. If for any reason, any vacancy in the Commission 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(5))

Statutory reference:

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

Cross reference:

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

§ 32.03 POWERS AND DUTIES.

(A) All legislative, executive, and administrative authority of the city is hereby vested in and exercised by the Commission. The Commission shall enforce the Commission Plan, ordinances and orders of the city, and all applicable statutes.

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

(2) The Commission shall supervise all departments of city government and the conduct of all city officers and employees under its jurisdiction and may require each department to make such reports to it as it finds necessary.

(3) The Commission shall report to the public on the condition and needs of the city government as provided by ordinance, but not less than annually.
(KRS 83A.140(3))

(B) In carrying out its duty to supervise the departments of city government and the conduct of all city officers and employees under its jurisdiction, the Commission may require any city officer or employee to prepare and submit to it sworn statements regarding the performance of his official duties.
(KRS 83A.140(5))

(C) The Commission shall by ordinance 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.140(8))

(D) The Commission shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute, ordinance, or order.
(KRS 83A.140(8))

(E) The Commission shall by ordinance provide for sufficient revenue to operate city government and shall appropriate such funds in a budget which shall provide for the orderly management of the city's resources.
(KRS 83A.140(8))

§ 32.04 EACH COMMISSIONER TO SUPERINTEND SPECIFIC CITY DEPARTMENTS.

(A) All administrative and service functions of the city shall be classified under departments created by ordinance which shall prescribe the functions of the department and the duties and responsibilities of the department head and his employees.

(B) The Commission shall at its first regular meeting in each year designate the Commission member to have superintendence over each department established under this section; however, the Commission may delegate responsibility for overall supervision of any or all departments to a City Administrative Officer established pursuant to KRS 83A.090.
(KRS 83A.140(6))

(C) The City Commission is required by KRS 83A.140 to classify all administrative and service functions of the city under departments. The

following departments are hereby created, with the functions thereof and the duties and responsibilities of the department heads as follows.

(1) Administration. The function of this department shall be to oversee the day-to-day operations of the city, and shall include all aspects as related to the functions of city personnel, compliance of all city ordinances, city budget, city boards, and liaison with all city boards, committees and community partners.

(2) Public Safety. The function of this department shall be to oversee the Fire Department, police services, address all issues of public safety, and shall act as a liaison with agencies in regards to the general welfare and safety.

(3) Streets, Maintenance, Sanitation. The function of this department shall be to oversee the city's public works as it relates to the city streets, city building maintenance, and sanitation issues. This will include city street repairs, sidewalks, building issues and repairs, and sanitation-related issues. It shall act as a liaison with agencies, contractors or vendors in regards to dealing with issues regarding streets, maintenance and sanitation.

(4) Economic Development. The function of this department shall be to oversee the city's areas in regards to economic and tourism interest. This shall include serving as the city's representative and/or liaison with agencies, local committees or other interested parties in regards to economic development and tourism within the city.

(5) Parks and Public Grounds. The function of this department shall be to oversee the city's areas in regards to the city-owned properties. This would include city parks, the veterans' memorial, and cemetery. This shall include overseeing improvements, activities, and repairs made within the public areas and/or buildings.
(Am. 1701, passed 2-6-17)

RULES OF PROCEDURE

§ 32.20 MAYOR AS PRESIDING OFFICER.

The Mayor shall preside at all meetings of the Commission and may vote in all proceedings.
(KRS 83A.140(4))

Cross-reference:

Vacancy in office of Mayor; Mayor Pro Tem, see § 31.21(C), (E)

§ 32.21 MEETINGS.

(A) Regular meetings.

(1) Regular meetings of the Commission shall be held on the first Monday of each month at 7:00 p.m., unless:

(a) The first Monday of the month is a holiday; or

(b) The first Monday of the month falls within the scheduled spring or fall break of the Barren County School System.

(2) In the event that the first Monday of the month falls on a holiday then the commission meeting will be held on the first Tuesday after the first Monday of the month.

(3) In the event that the first Monday falls in the week of the scheduled spring or fall break of the Barren County School System then the Commission meeting will be held on Monday of the following week. If the following Monday is a holiday then the commission meeting will be held on Tuesday of the week following spring or fall break.

(4) Meetings not held on the first Monday will be announced at the Commission meeting the preceding month.

(B) Special meetings may be called by the Mayor or a majority of the City Commissioners. In the call, the Mayor or City Commissioners shall designate the purpose, time, and place of the special meeting with sufficient notice for the attendance of Commission members and for compliance with KRS Chapter 61 and Chapter 34A.

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

(D) The minutes of every meeting shall be signed by the City Clerk/Treasurer and by the officer presiding at the meeting.
(KRS 83A.140(7)) (Ord. 6-2003, passed 5-5-03)

§ 32.22 QUORUM.

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

(KRS 83A.060(6))

ORDINANCES

§ 32.35 ONE SUBJECT; TITLE.

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

§ 32.36 INTRODUCTION; ENACTING CLAUSE.

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

§ 32.37 FORM OF AMENDMENT.

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

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

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

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Commission may suspend the requirements of second reading and publication to provide for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of § 32.42 shall be complied with within ten (10) days of the enactment of the emergency ordinance.
(KRS 83A.060(4), (7))

§ 32.39 ADOPTION OF STANDARD CODES BY REFERENCE.

The Commission 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 if by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.
(KRS 83A.060(5))

§ 32.40 OFFICIAL CITY RECORDS.

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

(B) The Commission has provided, under the provisions of § 31.36(C) and 32.41, for the maintenance and safekeeping of the permanent records of the city. The City Clerk/Treasurer and the presiding officer shall sign the official record of each meeting.
(KRS 83A.060(8))

§ 32.41 INDEXING AND MAINTENANCE REQUIREMENTS.

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

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

(B) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and maintained in this code of ordinances.
(KRS 83A.060(8))

§ 32.42 PUBLICATION REQUIREMENTS.

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

(B) The publication requirements for all ordinances may be satisfied by publication in full or in summary as designated by the Commission.

(C) The Commission authorizes the City Clerk to publish ordinances in summary form in accordance with the provisions of this section.
(Res. 115-93, passed 8-2-93)

(D) The requirements for summary publication may be satisfied by publication of the title, a brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and the full text of each section that imposes taxes or fees. The summary shall be prepared or certified by an attorney licensed to practice law in the Commonwealth of Kentucky.

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

§ 32.43 ADDITIONAL REQUIREMENTS FOR ADOPTION MAY BE ESTABLISHED BY CITY.

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

§ 32.44 PERIODIC REVIEW REQUIRED.

At least once every five years all ordinances in this code of ordinances shall be examined for consistency with state law and with one another and shall be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.
(KRS 83A.060(11))

§ 32.45 MUNICIPAL ORDERS.

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

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

§ 32.46 PROVED BY CITY CLERK/TREASURER; RECEIVED IN EVIDENCE.

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

§ 32.47 LEGISLATIVE IMMUNITY.

For anything said in debate, City Commissioners shall be entitled to the same immunities and protections allowed to members of the General Assembly.
(KRS 83A.060(15))

Statutory reference:

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

CHAPTER 33: FINANCE AND REVENUE

Section

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- 33.11 Financing of improvements
- 33.12 Apportionment of cost
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- 33.16 Affected owner may contest
- 33.17 When city may proceed; assessment constitutes lien
- 33.18 Effect of additional property or change in financing

FINANCIAL ADMINISTRATION

§ 33.01 DEFINITIONS.

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

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

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

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

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

"GENERALLY ACCEPTED GOVERNMENTAL AUDITING STANDARDS." Those standards for audit of governmental organizations, activities, and functions issued by the Comptroller General of the United States. (KRS 91A.010(6))

"GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING." Those standards and procedures promulgated and recognized by the Governmental Accounting Standards Board. (KRS 91A.010(7))

§ 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

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

(1) Determine compliance with statutory provisions; and

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

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

(KRS 91A.020)

§ 33.03 ANNUAL BUDGET ORDINANCE.

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

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

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

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

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

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

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

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

(J) The Commission may amend the budget ordinance after the ordinance's adoption, if 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 Commission. That responsibility includes the preparation and submission to the Commission 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.

(M) No city agency, or member, director, officer, or employee of a city agency may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements, and obligations, express or implied, beyond any existing appropriations are void; nor shall any city officer issue any bond, certificate, or warrant for the payment of money by the city in any way to any extent, beyond the balance of any appropriation made for the purpose. (KRS 91A.030)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) A city with a population equal to or less than 1,000 based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year in the following manner:

(1) After the close of each odd-numbered fiscal year, the city shall for that odd-numbered 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 to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than March 1 immediately following the fiscal year being audited; and

(2) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(B) If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.

(C) The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under division (A) of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.

(D) The city, required by this section to conduct an annual or biennial audit, shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

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

(2) The auditor include in the annual or biennial city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495, and include a certification with the annual or biennial 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 include such tests of the accounting records and such auditing procedures as considered necessary under the circumstances; where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

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

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

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

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

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

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

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

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

(1) The auditor's opinion letter;

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

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

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

(5) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page; and

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

(G) Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject 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 or owner of real property within the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident or property owner bringing the action, shall be assessed against the unsuccessful party.

(H) In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in division (A) of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local Government shall approve the request if it is submitted on or before the applicable deadline, and in the judgment of the Department for Local Government the request is warranted by extenuating circumstances beyond the control of the city. Extensions granted under this division shall not exceed nine (9) months from the original due date of the audit or financial statement. If the Department for Local Government approves an extension for a city and the city fails to complete and submit the required audit or financial statement in compliance with that extended deadline, then the provisions of division (I) of this section shall apply.

(I) If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in divisions (A) and (H) of this section, the Department for Local Government shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of divisions (A) and (H) of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.

(J) Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work

performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours and total costs for the entire audit or examination.
(KRS 91A.040)

Statutory reference:

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

§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

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

(B) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the Commission 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)

IMPROVEMENTS

§ 33.10 DEFINITIONS.

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

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

"BENEFITS RECEIVED BASIS." The apportionment of cost of an improvement according to equitable determination by the Commission of the special benefit received by property from the improvement, including assessed value basis, front foot basis, and square foot basis, or any combination thereof, and may include consideration of assessed value of land only, graduation for different classes of property based on nature and extent of special benefits received, and other factors affecting benefits received.

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

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

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

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

"PROPERTY." Any real property benefited by an improvement.

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

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

§ 33.11 FINANCING OF IMPROVEMENTS.

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

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

(C) The city may provide for lump sum or installment payment of assessments or for bond or other long-term financing, and for any improvement may afford property owners the option as to method of payment or financing.
(KRS 91A.220)

§ 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious, or charitable organization. The Commission may assess such property in the same manner as for privately owned property or it may pay the costs so apportioned out of general revenues.
(KRS 91A.230)

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

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

(A) The nature of the improvement;

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

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

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

(F) Such other information as may further explain material aspects of the improvement, assessments, or financing.
(KRS 91A.240)

§ 33.14 PUBLIC HEARING REQUIRED.

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

(A) The nature of the improvement;

(B) Description of area of the improvement;

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

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

(E) Time and place of the hearing.

(KRS 91A.250)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

Within 90 days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed shall adopt an ordinance so stating and containing all necessary terms, including the items referred to in § 33.13 and a description of all properties. Promptly upon passage the city shall publish such ordinance pursuant to KRS Chapter 424 and shall mail by certified mail to each affected property owner a notice of determination to proceed with the project, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio the cost to each property owner bears to the total cost of the entire project.

(KRS 91A.260)

§ 33.16 AFFECTED OWNER MAY CONTEST.

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

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

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

(KRS 91A.270)

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

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

(B) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, constitutes a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien takes precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and is not defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Commission shall exempt any benefited property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

(KRS 91A.280)

§ 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that §§ 33.13 through 33.17 applies if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other

sections if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance if all property owners of the improvement consent.

(KRS 91A.290)

CHAPTER 34: PUBLIC RECORDS

Section

General

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GENERAL

§ 34.01 DEFINITIONS.

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

"CITY." The city government of this city.

"COMMERCIAL PURPOSE." The direct or indirect use of any public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee. "COMMERCIAL PURPOSE" shall not include publication or related use of a public record by a newspaper or periodical; use of a public record by a radio or television station in its news or other informational programs; or use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

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

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

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

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

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

"PUBLIC AGENCY." Every city government board, commission, and authority; every city council and council board, commission and committee; every school district board, special district board, and municipal corporation; every city government agency, including the policy-making board of an institution of education created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act; any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government; any entity when the majority of its governing body is appointed by a "public agency", as defined by this section; a member or employee of a "public agency", a state or local officer, or any combination thereof; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, or controlled by a "public agency" as defined in this section; an interagency body of two (2) or more public agencies where each "public agency" is defined in this section.
(KRS 61.870)

"PUBLIC RECORDS." All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, or retained by a public agency. "PUBLIC RECORDS" shall not include any records owned or maintained by or for a body referred to in subsection (1) (h) of KRS 61.870 that are not related to functions, activities, programs, or operations funded by state or local authority nor any records that may be excluded by § 34.12.

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

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

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

(KRS 61.870)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) As defined in § 34.01, and subject to the limitations set forth in § 34.12, any person desiring to inspect or copy the public records of the city shall make a request or complete a written application for such records at the office of the City Clerk/Treasurer during regular office hours, except during legal holidays. The written application shall be hand delivered, mailed, sent via facsimile, or e-mailed to the City Clerk/Treasurer's office.

(KRS 61.872(2))

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

(KRS 61.872(1))

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

(KRS 61.872(3))

(D) The applicant shall have the right to make abstracts of the public records and to obtain copies of all public records not exempted by this chapter. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee as defined in § 34.01.

(KRS 61.874(1))

(E) Nonexempt public records used for noncommercial purposes shall be available for copying in either standard electronic or standard hard copy format, as designated by the party requesting the records, where

the agency currently maintains the records in electronic format. Nonexempt public records used for noncommercial purposes shall be copied in standard hard copy format where agencies currently maintain records in hard copy format. Agencies are not required to convert hard copy format records to electronic formats.

(F) The minimum standard format in paper form shall be defined as not less than 8½ inches x 11 inches in at least one (1) color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public records may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.
(KRS 61.874(2)(b))

(G) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee. The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requestor stating the commercial purpose for which they shall be used, and may require the requestor to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee. The fee may be based on the cost to the public agency of media, mechanical processing and staff required to produce a copy of the public record or records or the cost to the public agency of the creation purchase, or the acquisition of the public records.
(KRS 61.874(4))

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

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

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

(3) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.
(KRS 61.874(5))

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

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

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

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

§ 34.06 REFERRAL TO PROPER CUSTODIAN.

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

(KRS 61.872(4))

§ 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

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

(KRS 61.872(5))

§ 34.08 REFUSAL OF UNREASONABLE REQUESTS.

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

§ 34.09 TIME LIMITATION; DENIAL OF INSPECTION.

(A) The official custodian, upon any request for records made under this chapter, shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of any request whether to comply with the request and shall notify in writing the person making the request within the three-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing

the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under the official custodian's authority and shall constitute final agency action.
(KRS 61.880)

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

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

§ 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

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

§ 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of this chapter. (KRS 61.884)

§ 34.12 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

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

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

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

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

(b) Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained (i) in conjunction with an application or the administration of a loan or grant; (ii) in conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154; (iii) in conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or (iv) for the grant or review of a license to do business. These exemptions shall not, however, apply to records the disclosure or publication of which is directed by other statutes.

(4) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within, or expanding within the Commonwealth. This exemption shall not include those records pertaining to applications to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in division (A) (3) above.

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

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

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

(8) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of

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

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

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

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

(12) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190.

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

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

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

6. The following records when their disclosure will expose a vulnerability referred to in this division: detailed drawings, schematics, maps, or specifications of structural elements,

floor plans, and operating, utility or security systems of any building or facility owned, occupied, leased or maintained by a public agency; and

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

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

1. Intimidate or coerce a public agency or all or part of the civilian population;
2. Disrupt a system identified in division (a)5.; or
3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

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

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

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

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

(B) No exemption under this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person. In addition, if any public record contains material which is not excepted under this section, the city shall

separate the excepted and make the nonexcepted material available for examination, subject to the possible applicability of § 34.08.

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

(D) No exemption under this section shall be construed to deny, abridge, or impede the right of a municipal employee, an applicant for employment, or an eligible person on an employment register to inspect and copy any record, including preliminary and other supporting documentation, that relates to that person. Such records shall include, but not be limited to work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A municipal employee, applicant, or eligible person on an employment register shall not have the right to inspect or copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency. (KRS 61.878)

CHAPTER 34A: PUBLIC MEETINGS

Section

General

34A.01 Definitions

Public Meeting Requirements

- 34A.05 Meetings open to the public
- 34A.06 Requirements for closed sessions
- 34A.07 Public meeting schedules
- 34A.08 Special meetings
- 34A.09 Video teleconferences
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GENERAL

§ 34A.01 DEFINITIONS.

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

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

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

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

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

hoc committee, advisory committee, council or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, or controlled by a "public agency" as defined in this section; an interagency body of two (2) or more public agencies where each "public agency" is defined in this section.
(KRS 61.805(2))

"VIDEO TELECONFERENCE." One (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.
(KRS 61.805(5))

PUBLIC MEETING REQUIREMENTS

§ 34A.05 MEETINGS OPEN TO THE PUBLIC.

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

(1) Deliberations for decisions of the Kentucky Parole Board;

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

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

(4) Grand and petit jury sessions;

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

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

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

(8) State and local cabinet meetings and executive cabinet meetings;

(9) Committees of the General Assembly other than standing committees;

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

(11) Meetings which federal or state law require to be conducted in privacy;

(12) Meetings which the Constitution provides shall be held in secret;

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

(14) Meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract.

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

§ 34A.06 REQUIREMENTS FOR CLOSED SESSIONS.

(A) The following requirements shall be met as a condition for conducting closed sessions by those public agencies authorized by § 34A.05(A) (1) and (4) except as (4) relates to students:

(1) Notice shall be given in regular open meetings of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of § 34A.05 authorizing the closed session;

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

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

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

(B) Public agencies and activities identified in § 34A.05(A) paragraphs (2), (3), (4), but only so far as (4) relates to students, (5), (6), (7), (8), (9) and (10) are excluded from the requirements of subsection (A) of this section.
(KRS 61.815)

§ 34A.07 PUBLIC MEETING SCHEDULES.

(A) All meetings of all public agencies of this city, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public. In considering locations for public meetings, the agency shall evaluate space requirements, seating capacity, and acoustics.

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

§ 34A.08 SPECIAL MEETINGS.

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

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

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

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

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

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

(F) In the case of an emergency which prevents compliance with the notice requirements in this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (A) (1) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with the notice requirements of this section. These comments shall appear in the minutes. Discussion and action at the emergency meeting shall be limited to the emergency for which the meeting is called.
(KRS 61.823)

§ 34A.09 VIDEO TELECONFERENCES.

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

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

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

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

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

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

§ 34A.10 ENFORCEMENT.

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

Cross-reference:

Rules of Procedure, see §§ 32.20 - 32.22

CHAPTER 35: DEPARTMENTS, COMMISSIONS, AND COMMITTEES

Section

Cemetery Commission

35.001 Establishment

Industrial Committee

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Joint City-County Planning Commission

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35.056 Fire Chief; Assistant Fire Chief

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CEMETERY COMMISSION

§ 35.001 ESTABLISHMENT.

For provisions concerning the Cemetery Commission, see § 95.02.

INDUSTRIAL COMMITTEE

§ 35.010 ESTABLISHMENT.

There is hereby established an Industrial Committee consisting of five members.

(Res. 87-86, passed 1-6-86)

JOINT CITY-COUNTY PLANNING COMMISSION

§ 35.020 ESTABLISHMENT.

For provisions concerning the Joint City-County Planning Commission, see § 152.01.

POLICE DEPARTMENT

§ 35.030 ESTABLISHMENT.

There is hereby established a Police Department in the city.

§ 35.031 POLICE CHIEF; POLICE OFFICERS.

(A) The Police Department shall consist of a Chief of Police and regular police officers as may be authorized by the City Commission.

(B) The Police Chief and all police officers shall be appointed by the Commission at will, and may be removed by the Commission 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 or a regular police officer unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky.

(D) Qualifications, training, and compensation shall be as established by ordinance of the City Commission.

§ 35.032 LAW ENFORCEMENT FOUNDATION PROGRAM.

(A) The City of Park City, Kentucky, hereby declares its intention to participate in the Law Enforcement Foundation Program established by KRS 15.410 through 15.520.

(B) Each officer of the city Police Department shall be paid from city funds an annual salary of at least \$4,350 based on a standard work year of 2,080 hours beginning no later than July 1, 1973.

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

(D) Each officer, whether originally employed before or after July 14, 1992, shall successfully complete each year an in-service training course of 40 hours' duration appropriate to his rank and responsibility at a school certified or recognized by the Department of Criminal Justice Training. Each officer shall receive in each calendar year five days time off with pay for the purpose of taking the required in-service training.

(E) No officer shall have his base salary reduced or be denied a normal salary increase to which he is otherwise entitled because of the salary incentive payments provided by the State Crime Commission under KRS 15.410 through 15.520.

(F) The Police Department and each officer thereof shall comply with all provisions of law applicable to local police, including the transmission of data to the Bureau of Criminal Information and Statistics as required by KRS 17.150.

(G) The Chief of the Police Department shall prepare or cause to be prepared such quarterly and other reports as may be reasonably required by the State Crime Commission to facilitate administration of the fund and further the purposes of KRS 15.410 through 15.520.

(H) The Police Department and each officer thereof shall further comply with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the State Crime Commission to facilitate the administration of the fund and further the purposes of KRS 15.410 through 15.520.

(I) The City Clerk/Treasurer shall deposit in an appropriate account which can be identified separately from all other sources all monies received under KRS 15.410 through 15.520. Forthwith upon

receipt of any monies under KRS 15.410 through 15.520 the City Clerk/Treasurer shall pay to each police officer the full amount received on behalf of that officer, giving to each officer a check stub or receipt on which the gross amount of monies paid to him under KRS 15.410 through 15.520 is included and identified. All financial records relating to monies received under KRS 15.410 through 15.520 shall be retained for a period of three years and until the completion of an audit approved by the State Crime Commission and the United States Law Enforcement Assistance Administration.
(Res. 47, passed 8-12-74)

VACANT PROPERTY REVIEW COMMISSION

§ 35.045 ESTABLISHMENT.

For provisions concerning the Vacant Property Review Commission, see § 151.02.

VOLUNTEER FIRE DEPARTMENT

§ 35.055 ESTABLISHMENT.

A Fire Department is hereby established in the city to be known as the Park City Volunteer Fire Department.

§ 35.056 FIRE CHIEF; ASSISTANT FIRE CHIEF.

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

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

(C) The Volunteer Fire Department shall operate pursuant to rules and regulations promulgated by the Volunteer Fire Department and approved by the City Commission.

§ 35.057 USE OF FIRE EQUIPMENT.

(A) The Fire Chief (or assistant) of the City Volunteer Fire Department shall have the authority to dispatch any or all equipment of the Volunteer Fire Department anywhere that it is needed or dispatched within the city fire protection area.

(B) The Fire Chief (or assistant) of the City Volunteer Fire Department shall have the authority to dispatch any or all equipment of the City Volunteer Fire Department anywhere that it is requested within the limits of the fire-fighting area with which the city has a mutual aid agreement or is dispatched by 911.

(C) The Fire Chief (or assistant) of the city volunteer fire department shall insure that back up units from other fire fighting areas with which exists a mutual aid agreement (namely Rocky Hill, Cave City, Mammoth Cave, South Barren and Smiths Grove) are to be on standby in the event an emergency call is received while the city's units are outside the city limits.

(D) The Fire Chief (or assistant) shall have the authority to send vehicles or equipment where needed for maintenance or to appear in special community events.

(Ord. 166-88, passed 2-1-88; Am. Ord. 95-225, passed 3-6-95)

WATER COMMISSION

§ 35.065 ESTABLISHMENT.

For provisions concerning the Water Commission, see §§ 51.65 through 51.69.

BOARD OF ETHICS

§ 35.075 ESTABLISHMENT.

For provisions concerning the Board of Ethics, see § 38.40.

TOURIST AND CONVENTION COMMISSION

§ 35.085 ESTABLISHMENT.

(A) The Commission of the city hereby creates and establishes the Tourist and Convention Commission for the purpose of promoting convention and tourist activity within the city and the surrounding area. The Tourist and Convention Commission shall be governed by KRS 91A.350(1) and other applicable provisions of the Kentucky Revised Statutes as they now exist and as they may hereafter be amended, and said Commission shall have all the authority, powers, duties and obligations granted to it by these statutes.

(B) The territory covered by this section shall be all of that territory within the city.

(C) All references to the Commission shall refer only to the Tourist and Convention Commission.

(D) The Tourist and Convention Commission shall be composed of seven members to be appointed by the Mayor of the city in compliance with KRS 91A.360 (1).

(E) The Commission shall elect from its membership a chairman in compliance with KRS 91A.360(4).

(F) A Commissioner may be removed from office, by action of the Commission as provided by KRS 65.007, as it now exists and as it may hereafter be amended.
(Ord. 2-2003, passed 3-3-03)

Cross-reference:

Transient room taxes, see § 36.04

CODE ENFORCEMENT BOARD

§ 35.095 DEFINITIONS.

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

"CODE ENFORCEMENT BOARD." An administrative body created and acting under the authority of the City of Park City.

"CODE ENFORCEMENT OFFICER." A safety officer, citation officer or other public law enforcement officer with the authority to issue a citation.
(Ord. 1101, passed 2-10-11)

§ 35.096 CREATION AND MEMBERSHIP.

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 a code enforcement board which shall be composed of three members, all of whom shall be residents of the City of Park City for a period of at least one year prior to the creation of the board and shall reside in the city throughout their term of office.
(Ord. 1101, passed 2-10-11)

§ 35.097 POWERS.

(A) The Code Enforcement Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing the City of Park 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 the violation of which constitutes an offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

(C) The City of Park City's Code Enforcement Board shall have the following powers and duties:

(1) To adopt rules and regulations to govern its operations and the conduct of its hearing;

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

(3) To subpoena alleged violators, witnesses and evidence to its hearings, subpoenas issued by the Board may be served by a Code Enforcement Officer;

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

(5) To make findings of fact and issue orders necessary to remedy any violation of a city ordinance which the Board has jurisdiction.

(Ord. 1101, passed 2-10-11)

§ 35.098 APPOINTMENT OF MEMBERS; TERMS OF OFFICE, REMOVAL FROM OFFICE; OATH.

(A) Members of the Code Enforcement Board shall be appointed by the Mayor and subject to the approval of the City Commission.

(B) One member of the Board shall initially be appointed to a one-year term; one member shall initially be appointed to a two-year term; and one member shall initially be appointed to a three-year term. All subsequent appointments shall be for a term of three years. A member may be reappointed subject to the approval of the City Commission.

(C) The Mayor may appoint, subject to the approval of the City Commission two alternate members to serve in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Board.

(D) Any vacancy on the Board shall be filled by the Mayor subject to approval of the City Commission within 60 days of the vacancy.

(E) A Board member may be removed from office by the Mayor with City Commission approval for misconduct, inefficiency or willful neglect of duty.

(F) All members of the Board must, before entering into office, take the oath of office prescribed by Section 228 of the Kentucky Constitution, said oath shall be administered by the Mayor of Park City or his or her designee.

(G) No member of the Board may hold any elected or non-elected office, paid or unpaid, or any position of employment with the City of Park City.

(Ord. 1101, passed 2-10-11)

§ 35.099 ORGANIZATION OF BOARD; QUORUM.

(A) The Board shall annually elect a chair from among its members. The Chairperson shall be the presiding officer and a full voting member of the Board.

(B) The Board may elect to hold regular meetings of the Board each month. Meetings other than established regular meetings shall be special meetings held in accordance with the Kentucky Open Meetings Act.

(C) All meetings and hearings of the Board shall be held in accordance with the requirements of KRS 65.8815 (5) and the Kentucky Open Meetings Act.

(D) The affirmative vote of the majority of the quorum of the Board shall be necessary for any official action to be taken.

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

(Ord. 1101, passed 2-10-11)

§ 35.100 CONFLICT OF INTEREST.

Any member of the Board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and 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. 1101, passed 2-10-11)

§ 35.101 JURISDICTION.

The Board shall have jurisdiction to enforce and shall enforce those city ordinances which specifically provide for Code Enforcement Board.

(Ord. 1101, passed 2-10-11)

§ 35.102 ENFORCEMENT PROCEEDINGS.

(A) Enforcement proceedings shall only be initiated by the issuance of a citation by a Code Enforcement Officer.

(B) When a Code Enforcement Officer believes, based on higher personal observation or investigation, that a person has violated a city ordinance, the Code Enforcement Officer is authorized to issue citations. In lieu of immediately issuing a citation he or she may issue a notice of violation to the offender allowing the offender a specified period of time to remedy the violation without fine. The time allowed by the Code Enforcement Officer shall depend on the nature of

the violation and the time necessary to remedy the violation. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

(C) 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. Also, nothing in this subchapter shall prohibit the city from correcting the violation through self help and to file liens on the real and personal property to recover the city's costs.

(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;
- (3) The date and time of offense;
- (4) The facts constituting the offense;
- (5) The name of the Code Enforcement Officer;
- (6) The section of the ordinance or other code violated;
- (7) The civil fine that will be imposed for the violation if the person does not contest the citation;
- (8) The maximum civil fine that may be imposed if the person elects to contest the citation;
- (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 pays the civil fine set forth in the citation or fails to contest the citation within the time allowed, the person shall be deemed as having waived the right to a hearing before the Code Enforcement Board and the determination that a violation was committed shall be final.

(E) After issuing a citation to an alleged violator, the Code Enforcement Officer shall deliver a copy to the City Clerk.

(F) The alleged violator 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

before the Code Enforcement Board 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.

(G) If the alleged violation does not contest the citation within the time prescribed, the Code Enforcement Board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.
(Ord. 1101, passed 2-10-11)

§ 35.103 HEARING; NOTICE; AND FINAL ORDER.

(A) When a hearing has been requested, the Board shall schedule a hearing for the next regular meeting of the Board that will permit adequate notification to be made to all parties.

(B) Not less than seven days before the date of the hearing, the Board shall notify the requestor of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested, by 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 before the Board who fails to appear at 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. The Board shall enter a final order determining the violation was committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

(D) All testimony shall be taken under oath and recorded, testimony shall be taken from the Code Enforcement Officer, 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.

(E) The Board shall, based on the evidence, determine whether a violation was committed. If it determines that no violation was committed, an order dismissing the citation shall be entered. If it determines that a violation was committed, an order shall be issued upholding the citation and either imposing a fine up to the maximum authorized or requiring the offender to remedy a continuing violation, or both.

(F) Every final order of the Board shall be reduced to writing, which shall include the date the order was issued. A copy shall be

furnished to the person named in the citation. If the person named is not present when the final order is issued, the order shall be delivered in accordance with the procedures set forth above.
(Ord. 1101, passed 2-10-11)

§ 35.104 LEGAL COUNSEL.

Each case before the Board shall be presented by an attorney selected by the city or by a Code Enforcement Officer of the city. If the Board determines that it needs the City Attorney present at the hearing, the City Attorney may either be counsel to the Board or may present the cases before the Board, but in no case shall the City Attorney serve in both capacities.
(Ord. 1101, passed 2-10-11)

§ 35.105 APPEALS; FINAL JUDGMENT.

An appeal from any final order of the Board may be made to District Court within 30 days of the date the order was issued. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as may civil action under the Kentucky Rules of Civil Procedure. If no appeal of the final order of the Board is filed within the time allowed, the Board's order shall be deemed final for all purposes.
(Ord. 1101, passed 2-10-11)

§ 35.106 ORDINANCES FINE SCHEDULE.

Violations of ordinances that are enforced by the City Code Enforcement Board shall be subject to the following schedule of civil fines.

(A) If a citation for a violation of an ordinance is not contested by the person charged with the violation, the maximum penalties below shall apply; however, the Board may waive any or all of a penalty for an uncontested violation if in its discretion, the Board determines that such waiver will promote compliance with the ordinance in issue.

(B) The penalties listed below are for each day a violation continues beginning on the eighth day after the date the citation was issued. A second offense is an offense that occurs within five years of the determination by the Code Enforcement Board of a prior offense. All others are those that occur within five years of the determination by the Code Enforcement Board of two or more offenses.

Ordinance Violation	1st offense	2nd offense	3rd offense
Ordinance # 1004 (Inter. Prop. Maint. Code)	\$100.00 + court cost	\$200.00 + court cost	\$500.00 + court cost
Ordinance 92.20 - 92.23	\$100.00 + court cost	\$200.00 + court cost	\$500.00+ court cost

Ordinance Violation	1st offense	2nd offense	3rd offense
Ordinance 93.35 - 93.99 (Open burning)	\$100.00 + court cost	\$200.00 + court cost	\$500.00+ court cost

If the citation is contested and a hearing before the Board is required, the above penalties will apply.

(Ord. 1101, passed 2-10-11)

§ 35.107 LIEN; FINES; CHARGES; AND FEES.

(A) The city shall possess a lien on property owned by the person found by a final, nonappealable order of the Board, or by a final judgment of the court to have committed a violation of a city ordinance for all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of the ordinance.

(B) The lien shall be recorded in the office of the County Clerk and shall be notice to all persons from the time of its recording and shall bear interest until paid.

(C) The lien shall take precedence over all other subsequent liens except state, county, school board and city taxes and may be enforced by judicial proceedings.

(D) In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement 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. 1101, passed 2-10-11)

§ 35.108 CITATION OFFICERS.

(A) Citation officers shall not have the powers of peace officers to make arrests or carry deadly weapons, but may issue citations as authorized upon observation of violations of city ordinances.

(B) The procedure for citations issued by citation officers shall be provided in KRS 431.015 and by the Code Enforcement Board. Citation officers shall carry identification identifying themselves as citation officers and shall so identify themselves immediately to any member of the public while enforcing any ordinance of the city.

(C) The Mayor may designate certain city as well as any other persons with the approval of the City Commission, to issue citations with respect to the ordinances expressly set out herein.

(D) This section shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005. This subchapter shall not be the exclusive means for enforcement of city ordinances and citation officers are not limited to use of a criminal citation, but may swear to a complaint in lieu of citation and may issue citations for civil violations of city ordinances.

(E) The provisions of this subchapter are hereby declared to be severable and, if any section, phrase or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of the subchapter.

(F) All prior city ordinances or parts of any city ordinance in conflict herewith are hereby repealed.
(Ord. 1101, passed 2-10-11)

CHAPTER 36: TAXATION

Section

- 36.01 Ad valorem taxes on motor vehicles and boats
- 36.02 Ad valorem taxes on property
- 36.03 Occupational tax on wages
- 36.04 Transient room tax
- 36.05 Restaurant tax

§ 36.01 AD VALOREM TAXES ON MOTOR VEHICLES AND BOATS.

(A) There is hereby levied an ad valorem tax of thirty-two cents (.32) for every one hundred dollars (\$100.00) of the assessed valuation of motor vehicles and boats having situs in the city as of January 1, 2001, and for each year thereafter as listed in the Tax Assessment Ledger compiled by the Property Valuation Administrator of Barren County.

(B) All monies collected from the tax levied in this section shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Commission.

(C) In accordance with KRS 132.487 and KRS 134.800-134.820, the aforesaid tax shall be assessed under a centralized tax system, and collected by the Clerk of Barren County. It is further provided that for the collection of this tax on behalf of this city, the County Clerk shall be paid four percent (4%) of monies collected on vehicle taxes. Payment to the city by the Clerk shall be as governed by KRS 134.815 and other applicable statutes.

(Ord. 183-89, passed 9-15-89; Am. Ord. 187-90, passed 9-17-90; Am. Ord. 194-91, passed 10-8-91; Am. Ord. 203-92, passed 11-9-92; Am. Ord. 211-93, passed 10-4-93; Am. Ord. 222-94, passed 11-7-94; Am. Ord. 228-95, passed 9-14-95; Am. Ord. 232-96, passed 8-7-96; Am. Ord. 241-97, passed 10-10-97; Am. Ord. 246-98, passed 9-15-98; Am. Ord. 253-99, passed 9-14-99; Am. Ord. 257-00, passed 9-27-00)

Cross reference:

Ad Valorem taxes, see T.S.O. IX

§ 36.02 AD VALOREM TAXES ON PROPERTY.

(A) An ad valorem tax on each one hundred dollars (\$100.00) worth of property is hereby levied on all lands and improvements held or owned by any person, firm, or corporation in any name or as agent and subject to taxation under the laws of Kentucky.

(B) For each calendar year, the assessment date for all property located within the corporate limits of the city shall be January 1.

(C) The assessment of said property shall be performed by the Barren County Valuation Administrator. These assessments as equalized by the County Board of Supervisors and certified by the County Clerk shall be the basis for this ad valorem tax levied in the city.

(D) The City Clerk/Treasurer shall obtain from the office of the Barren County Valuation Administrator that portion of the records which

represents the assessment of property within the city and shall prepare the tax bills based on said assessment.

(E) The taxes hereby levied are due and payable on November 1 of each year. If paid on or before December 1, there will be a two percent (2%) discount; however, there is no discount for payments between December 1 through December 31. If any tax bill is not paid on or after December 31, the tax shall be declared delinquent, and shall bear interest at the rate of six percent (6%) per annum, or one half percent (.5%) per month until paid, and in addition thereto a penalty of ten percent (10%) of the amount of tax shall be added to said bill and collected, being the penalty for non-payment when due.

(F) The collection of all ad valorem tax delinquencies, interest, and penalties shall be the duty of the City Clerk/Treasurer, who shall report to the City Commission as to his progress in the collection of taxes for the previous month.

(Ord. 184-89, passed 9-15-89; Am. Ord. 188-90, passed 9-24-90, Am. Ord. 195-91, passed 10-8-91; Am. Ord. 215-93, passed 12-7-93; Am. Ord. 223-94, passed 10-19-94; Am. Ord. 229-95, passed 10-3-95; Am. Ord. 238-96, passed 12-5-96; Am. Ord. 242-97, passed 10-10-97; Am. Ord. 248-98, passed 10-16-98; Am. Ord. 254-99, passed 9-14-99; Am. Ord. 258-00, passed 9-27-00; Am. Ord. 6-2001, passed 10-1-01)

Cross reference:

Ad Valorem taxes, see T.S.O. IX

§ 36.03 OCCUPATIONAL TAX ON WAGES.

(A) There is hereby imposed a tax on all wages and income from employment earned in the city at a rate of one percent (.01) on such wages or income.

(B) All employers in the city shall withhold one percent (.01) from the wages or pay due an employee each pay period.

(1) On a calendar quarter basis, and on or before the last day of the month following the end of a calendar quarter, the employer shall remit the tax withheld to the City Clerk/Treasurer. Along with the tax remittance, the employer shall report to the City Clerk/Treasurer the gross amount of wages or income paid to each employee during the reporting period.

(2) The City Clerk/Treasurer will supply forms on which the wages and taxes are to be paid and reported to the City Clerk/Treasurer.

(3) An employer who has no employees and consequently no tax liability is required to file a quarterly report with the City Clerk/Treasurer. A notation "no employees and no tax withheld" should be made on the face of the signed and dated return before it is mailed to the City Clerk/Treasurer's office each quarter. Failure to file a report under this subsection shall be subject to the penalties as set out in subsection (H).

(Ord. 212-93, passed 9-13-93)

(C) Businesses will be taxed at a rate of one percent (.01) of their net profit as determined by their Federal Tax Return as filed.

(D) An employer who fails to remit the tax withheld when due shall be assessed a penalty of ten percent (10%) of the tax due. If the tax withheld is not paid on the 30th day after due date, an additional penalty of five percent (5%) of the tax due shall be assessed for each day thereafter that the tax payment is delinquent.

(E) (1) Revenue collected from Occupational Tax on wages shall be deposited into the general fund as it is collected.

(2) Revenue collected from the Occupational Tax on wages shall be appropriated in the same manner as all other city revenues through the use of an annual budget.

(F) The employer shall exclude from taxable compensation all wages paid for services rendered outside the city, provided that this information is documented and available for inspection.

(G) A calendar quarter is three (3) calendar months which commences on January 1, April 1, July 1, and October 1 of each year.

(H) (1) Any person violating subsection (D) of this section and upon receiving a citation for the violation may, at the option of the person receiving the citation, pay a fine of ten dollars (\$10.00) at the City Clerk/Treasurer's Office, providing the amount is paid within seventy-two (72) hours of issuance of the citation. In the event a person receiving a citation for violation of any provision of this section does not make payment at the City Clerk/Treasurer's Office within seventy-two (72) hours as provided for above, then the citation shall be prosecuted in the Barren County District Court, Glasgow, Kentucky, and shall be a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or by imprisonment for not more than thirty (30) days, or by both fine and imprisonment, plus court costs incurred. Violation of subsection (D) of this section shall be designated and declared to be a misdemeanor.

(2) The offender shall be subject to a civil penalty of one hundred dollars (\$100.00), plus court costs and reasonable attorney's fees, for each violation and offense, which shall be recovered by the city in a civil action in the nature of debt, if not paid by the offender within thirty (30) continuous calendar days after citation for the violation, offense or other failure to comply with the provisions of this code of ordinances.

(Ord. 200-92, passed 10-12-92; Am. Ord. 205-92, passed 12-14-92; Am. Ord. 213-93, passed 10-4-93; Am. Ord. 220-94, passed 10-3-94; Am. Ord. 5-2003, passed 5-5-03; Am. Ord. 4-2003, passed 3-3-03)

§ 36.04 TRANSIENT ROOM TAX.

(A) The Tourist and Convention Commission shall annually submit to the city a request for funds for the operation of the commission for the ensuing year or for the balance of the fiscal year of the initial adoption of this section and \$ 35.085. The Commission of the city shall include the Commission in its annual budget (or in an amended budget for the balance of the fiscal year of initial adoption of this section) and shall provide funds for the operation of the commission by imposing a transient room tax of up to 3 % of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. The transient room tax imposed by this section shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself as exclusively providing apartments. For the purposes of this section, apartment means a room or set of rooms, in an apartment building or other multiple-family structure, fitted especially with a kitchen and usually leased as a dwelling for a minimum of 30 days or more.

(B) A portion of the money collected from the imposition of this tax, as determined by the City Commission of the city may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums and public parks. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350, as it now exists and as it may hereafter be amended. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the Tourist and Convention Commission during any fiscal year shall be used to make up a part of the Commission's budget for its next fiscal year.

(C) The fiscal year of the Tourist and Convention Commission shall begin July 1 and end on June 30 of each year.

(D) All persons, firms, organizations or other like or similar persons, groups or organization doing business as motor courts, motels, hotels, inns, or other like or similar accommodations businesses shall collect and pay transient room tax to the City Clerk of the city on a monthly basis on or before the fifteenth of the next month immediately following the month in which the transient room taxes are collected and at the same time shall file a return on a form provided by the Commission for such purpose.

(E) The Mayor or their duly authorized agents, are empowered to examine the books, papers, and records of any person, firm, organization or other like or similar accommodation business required herein to file a return. Said examination shall be permitted in order to determine the accuracy of any return made, or if no return was made to determine the amount of room tax due and owing.

(F) Any transient room tax imposed by this section remaining unpaid after it becomes due shall bear interest at the rate of 10% of

the amount of the unpaid tax. In addition, any person who shall fail, neglect or refuse to properly complete and file a return as required herein or pay the tax imposed herein, or any portion thereof, shall be subject to a fine of not less than \$25, no more than \$100, or imprisonment of not more than 30 days, or both fine and imprisonment.

(G) All base amounts collected by the city shall be deposited into a special account for this commission. This deposit shall be made on a monthly basis.

(Ord. 2-2003, passed 3-3-03)

Cross reference

Tourist and Convention Commission, see § 35.085

§ 36.05 RESTAURANT TAX.

(A) Pursuant to KRS 91A.400, there is levied upon the retail sale of all food and beverages by restaurants in the city a tax of 1.5% of the gross amount of such sales, which shall be passed on to the customer or ultimate consumer.

(B) Payment of tax; delinquency penalty.

(1) On or before the fifteenth day of each calendar month, each restaurant operator shall report to the City Clerk, on forms provided by the city, the gross sales of that restaurant from food and beverages for the preceding calendar month, and calculate the tax due for that month by computing 1.5% of its gross sales from food and beverages, and the operator shall remit with the form the tax due to the city. Any taxes collected in excess of the computation herein provided shall be retained by the restaurant operator as a collection fee.

(2) For each day the report and the tax, or either, is past due, there shall be added as a penalty 1% of the tax due.

(C) Disbursement of monies; limitations on expenditure.

(1) At least on a monthly basis the collections for this tax shall be deposited into a special account for the Tourism and Convention Commission.

(2) The City Board of Commissioners shall specify an amount annually to be retained in the General Fund for administrative costs associated with collecting and recording this tax.

(3) The Tourism and Convention Commission shall only expend the money transferred to it within the guidelines of KRS 91A.390.
(Ord. 3-2003, passed 3-3-03)

Cross reference

Tourist and Convention Commission, see § 35.085

Section

Affirmative Action Plan

- 37.01 Statement of Policy
- 37.02 Personnel Actions
- 37.03 Workforce Analysis
- 37.04 Implementation
- 37.05 Grievance Procedures

§ 37.01 STATEMENT OF POLICY.

(A) The affirmative action policy of the city is to promote equal employment opportunity; to prohibit discrimination in city employment on account of race, color, religion, national origin, sex, age, or disability status; and to bring about a fair representation and utilization of females and minorities on all levels of city employment.

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

(Res. 114-93, passed 3-1-93)

§ 37.02 PERSONNEL ACTIONS.

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

(Res.114-93, passed 3-1-93)

§ 37.03 WORKFORCE ANALYSIS.

(A) Survey of Labor Market

The city has determined that the labor market in which it operates is Barren County, Kentucky. The latest reliable data that shows the utilization of females and minorities by job category is the 1980 general census.

(B) Workforce

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

(C) Goals and Timetables

The city examined each category in which the number of females and minorities were fewer than the number required for fair selection. Appropriate goals for women and for minorities were established to bring the city's utilization to a level comparable to the community workforce. Timetables were based on the anticipated annual job openings in each category. Where a disparity exists between the percentage of a protected group in the community population and the percentage in the community workforce, the goals are adjusted to overcome this disparity. The goal of fair utilization of minorities and females in each category is to be met within the next five (5) years through the personnel procedures established by this subchapter without discrimination of any kind. The maintenance of this policy will be a continuing effort.

(Res. 114-93, passed 3-1-93)

§ 37.04 IMPLEMENTATION.

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

(A) Responsibility

The city administrator/coordinator shall be responsible for implementation of this subchapter and shall have authority to require department heads to furnish the information necessary to keep current forms and reports.

(B) Duties

The administrator/coordinator shall disseminate the city's equal employment opportunity policy as set forth in this subchapter; maintain current job classifications and minimum requirements based on the tasks to be performed by each position, an up-dated workforce analysis, and applicant flow chart and job roster; and prepare a consolidated report for the entire City government.

(C) Reports

The administrator/coordinator shall monitor the operation of this subchapter and shall prepare a consolidated annual progress report together with indications of problem areas and recommendations for solutions for the city council.

(Res. 114-93, passed 3-1-93)

§ 37.05 GRIEVANCE PROCEDURES.

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

(A) An employee who has a grievance regarding his employment by the city may discuss the grievance with his/her supervisor.

(B) If, following the discussion, the decision of the supervisor regarding the grievance does not satisfy the employee, he may discuss it with the administrator/coordinator.

(C) If the decision of the administrator/coordinator does not satisfy the employee, he may request a hearing with the city council by submitting a written request for the hearing. The decision of the city council regarding the grievance shall be final.

(D) In discussing the grievance, the employee may designate any person of his choice to appear with him and participate in the discussion. The city council may require the supervisor to participate in the discussion of the grievance when it brought before them.

(E) Any prospective employee or applicant for employment who is denied employment with the city and believes that denial was based in whole or in part on his race, religion, sex, age, or physical condition may file a written complaint with the administrator/coordinator who shall make every effort to resolve the matter impartially and expeditiously. The appeal procedure as set out in subsections (A)-(D) is also available to a grievant.

(Res. 114-93, passed 3-1-93)

CHAPTER 38: CODE OF ETHICS

Section

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- 38.01 Purpose and authority
- 38.02 Definitions

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- 38.10 Conflicts of interests in general
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- 38.20 Who must file
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- 38.30 Nepotism prohibited

Enforcement

- 38.40 Board of Ethics
- 38.41 Reprisals against persons disclosing violations prohibited
- 38.99 Penalties

GENERAL PROVISIONS

§ 38.01 PURPOSE AND AUTHORITY.

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

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

Assembly.

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.
(Ord. 221-94, passed 11-7-94)

§ 38.02 DEFINITIONS.

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

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

"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.

"CITY." The city of Park City, Kentucky.

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

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

"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:

- (A) The mayor.
- (B) A legislative body member.
- (C) The city clerk.
- (D) Any person who occupies a non-elected office created under KRS 83A.080.
- (E) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.
(Ord. 221-94, passed 11-7-94)

STANDARDS OF CONDUCT

§ 38.10 CONFLICTS OF INTEREST IN GENERAL.

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

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

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

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

(1) The officer or employee.

(2) An immediate family member.

(3) An outside employer.

(4) Any business in which the officer or employee, or any immediate family member has a financial interest.

(5) Any business with which the officer or employee or any immediate family member is negotiating or seeking prospective employment or other business or professional relationship.

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

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

the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

(Ord. 221-94, passed 11-7-94)

§ 38.11 CONFLICTS OF INTEREST IN CONTRACTS.

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

(1) The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was filed as a candidate for a city office, before an appointment officer as appointed to a city or agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city, or 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 subsection (A) of this section shall apply to the renewal of the contract.

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

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

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

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

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

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

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

(Ord. 221-94, passed 11-7-94)

§ 38.12 RECEIPT OF GIFTS.

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

(Ord. 221-94, passed 11-7-94)

§ 38.13 USE OF CITY PROPERTY, EQUIPMENT AND PERSONNEL.

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

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

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

(Ord. 221-94, passed 11-7-94)

§ 38.14 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.

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

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

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

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to,

or accepted by the officer, whether directly or indirectly, in return for the inquiry.

(Ord. 221-94, passed 11-7-94)

§ 38.15 MISUSE OF CONFIDENTIAL INFORMATION.

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

(Ord. 221-94, passed 11-7-94)

§ 38.16 POST-EMPLOYMENT RESTRICTION.

No officer or employee of the city or any city agency shall appear or practice before the city or any city agency with respect to any matter on which the officer or employee personally worked while in the service of the city or city agency for a period of one (1) year after the termination of the officer's or employee's service with the city or city agency.

(Ord. 221-94, passed 11-7-94)

FINANCIAL DISCLOSURE

§ 38.20 WHO MUST FILE.

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

(A) Elected city officials.

(B) All candidates for elected city office.

(Ord. 221-94, passed 11-7-94; Am. Ord. 236-96, passed 10-7-96)

§ 38.21 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) Pursuant to the memorandum of agreement between the city and the Barren River Area Development, the initial statements of financial interests required by this section shall be filed with the Barren River Regional Board of Ethics, c/o Barren River Area Development District Records Administrator no later than 3:00 p.m. March 1, 1995. All subsequent statements of financial interest shall be filed no later than 3:00 p.m. on March 1 each year provided that:

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

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

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

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

(Ord. 221-94, passed 11-7-94)

§ 38.22 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

The statement of financial interests shall be filed on a form prescribed by the Barren River Regional Board of Ethics. The Board shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than February 15 of each year. The failure of the Board or the designated administrative official to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Ord. 221-94, passed 11-7-94)

§ 38.23 CONTROL AND MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.

(A) The Barren River Regional 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, or the Records Administrator designated by the Board as the "custodian", of public documents, available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board, or the "custodian," for a period of five (5) years after filing; provided that:

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

(2) Upon the expiration of three (3) years after any election at which a candidate for elected city office was not elected or nominated, the Board of Ethics shall cause to be destroyed any statements of financial interests or copies of those statements filed by

the person.

(Ord. 221-94, passed 11-7-94)

§ 38.24 CONTENTS OF THE FINANCIAL INTERESTS STATEMENT.

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

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

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

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

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5,000) during the preceding calendar year and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.)

(5) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year.

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

(Ord. 221-94, passed 11-7-94)

§ 38.25 NONCOMPLIANCE WITH FILING REQUIREMENTS.

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

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

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

(Ord. 221-94, passed 11-7-94)

NEPOTISM

§ 38.30 NEPOTISM PROHIBITED.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

(1) employment;

(2) appointment;

(3) promotion;

(4) advancement of an immediate family member to an office or position of employment with the city or a city agency.

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

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

(D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibitions, but which existed prior to January 1, 1995.

(Ord. 221-94, passed 11-7-94)

ENFORCEMENT

§ 38.40 BOARD OF ETHICS.

Pursuant to the memorandum of agreement setting forth the Barren River Regional Board of Ethics, all authority for the establishment of procedures for formation and maintenance of the Barren River Board of Ethics appropriate thereto are hereby delegated provided:

(A) that the Board shall comply with all terms and conditions as set forth in the Act establishing a Code of Ethics for cities;

(B) that any hearings or related procedures shall comply with the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence;

(C) that any regulations adopted by the Board of governing its procedures shall be consistent with the Kentucky Open Records Law and;

(D) that the city shall bear its proportionate share of any costs for investigations, hearings, preparation of findings, and the issuance of any advisory opinions by the Board; and

(E) that no member of the Regional Board of Ethics shall hold a position in any local government or be subject to the terms of this chapter.

(Ord. No. 221-94, passed 11-7-94)

§ 38.41 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

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

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he knows:

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

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

(c) Is confidential under any other provision of law.
(Ord. 221-94, passed 11-7-94)

§ 38.99 PENALTIES.

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

(B) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or any city agency who

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

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

(Ord. 221-94, passed 11-7-94)

